



# **GRETA**

Group of Experts on Action  
against Trafficking in Human Beings

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## **Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova**

First evaluation round

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## Preamble

As the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) and the monitoring mechanism to evaluate its implementation are relatively new, it is appropriate to set out their salient features at the beginning of the first report to each Party to the Convention.

The Convention was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008. It is a legally binding instrument which builds on already existing international instruments. At the same time, the Convention goes beyond the minimum standards agreed upon in other international instruments and aims at strengthening the protection afforded by them.

The main added value of the Convention is its human rights perspective and focus on victim protection. The Convention clearly defines trafficking as being first and foremost a violation of human rights and an offence to the dignity and integrity of the human being; greater protection is therefore needed for all of its victims. The Convention also has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

As trafficking in human beings is a worldwide phenomenon, one of the express purposes of the Convention is to promote international co-operation in the efforts to combat trafficking. In this context, it is noteworthy that the Convention is not restricted to Council of Europe member states; non-member states and the European Union also have the possibility of becoming Parties.

To be effective, and given the nature of the phenomenon, a strategy for combating trafficking in human beings must adopt a co-ordinated and multidisciplinary approach, incorporating prevention, protection of victims’ rights and prosecution of traffickers. The Convention contains various provisions in each of these three areas, placing obligations on States to take appropriate measures, in partnership with civil society and in co-operation with other States.

The measures provided for by the Convention in the area of prevention include awareness-raising for persons vulnerable to trafficking; economic and social initiatives to tackle the underlying causes of trafficking; actions aimed at discouraging demand; and putting in place border control measures to prevent and detect trafficking in human beings.

The Convention also provides for a series of measures to protect and promote the rights of victims. Victims of trafficking must be identified and recognised as such in order to avoid police and public authorities treating them as “irregular migrants” or criminals. Victims should be granted physical and psychological assistance and support for their reintegration into society. Further, by virtue of the Convention, victims are entitled to a minimum of 30 days to recover and escape from the influence of the traffickers and to take a decision about their possible co-operation with the authorities. A renewable residence permit should be granted if their personal situation so requires and/or if their continued presence is needed in order to co-operate in a criminal investigation. In addition, the Convention establishes the right of victims to receive compensation and provides for measures for their repatriation and return with due regard to the rights, safety and dignity of the victims.

In the area of substantive and procedural criminal law, the Convention places on Parties a series of obligations aimed at enabling the effective prosecution of traffickers and ensuring that they are punished in a proportionate and dissuasive manner. Particular attention is paid to the issue of victim and witness protection during investigation and court proceedings. Parties should also provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

GRETA is composed of fifteen independent and impartial experts chosen for their recognised competence in the fields of human rights, assistance and protection of victims, and action against trafficking in human beings, or because of their professional experience in the areas covered by the Convention. The task of GRETA is to evaluate the implementation of the Convention by the Parties, following a procedure divided into rounds. At the beginning of each round, GRETA defines autonomously the provisions to be monitored and determines the most appropriate means to carry out the evaluation, being guided by the Rules of procedure for evaluating implementation of the Convention adopted at GRETA's 2nd meeting (16-19 June 2009). GRETA has decided that the duration of the first evaluation round shall be four years starting at the beginning of 2010 and finishing at the end of 2013.

In carrying out its monitoring work, GRETA has the right to avail itself of a variety of means for collecting information. As a first step, GRETA sends a detailed questionnaire to the authorities of the Party undergoing evaluation. It may also make additional requests for information. By virtue of the Convention, Parties are obliged to co-operate with GRETA in providing the requested information. Another important source of information is civil society and, indeed, GRETA maintains contacts with non-governmental organisations which can provide relevant information. In addition, GRETA may decide to carry out a visit to the country concerned in order to collect additional information or to evaluate the practical implementation of the adopted measures. This visit allows for direct meetings with the relevant bodies (governmental and non-governmental) and is also an occasion for GRETA to visit facilities where protection and assistance are provided to victims of trafficking and other related structures. Furthermore, GRETA may decide to organise hearings with various actors in the field of action against trafficking in human beings.

GRETA's evaluation reports are thus the result of information gathered from a variety of sources. They contain an analysis of the situation in each Party regarding action taken to combat trafficking in human beings and suggestions concerning the way in which the country may strengthen the implementation of the Convention and deal with any problems identified. In its assessment, GRETA is not bound by the case-law of judicial and quasi-judicial bodies acting in the same field, but may use them as a point of departure or reference. The reports are drawn up in a co-operative spirit and are intended to assist States in their efforts; they can offer support for the changes on which the national authorities have already embarked, and lend legitimacy to the direction of national policies. Because of its multidisciplinary and multinational composition, and as a consequence of its independent approach, GRETA provides a professional and impartial international voice in this process.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each Party in plenary session. The report is sent to the relevant government for comments, which are taken into account by GRETA when establishing its final report. This final report is adopted by GRETA in a plenary session and transmitted to the Party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month for the Party to make comments, the report and conclusions by GRETA, together with eventual comments made by the national authorities, are made public and sent to the Committee of the Parties. In the context of the first evaluation round, this completes GRETA's task in respect of the Party concerned, but it is only the first stage in an on-going dialogue between GRETA and the authorities.

The second pillar of the monitoring mechanism, the Committee of the Parties, is composed of the representatives in the Committee of Ministers of the Parties to the Convention and of representatives of Parties non-members of the Council of Europe. On the basis of GRETA's reports, the Committee of the Parties may adopt recommendations addressed to a Party concerning the measures to be taken to implement GRETA's conclusions.

## Executive summary

Following ratification of the Council of Europe Anti-Trafficking Convention, the Moldovan authorities have taken a number of steps to prevent and combat trafficking in human beings. In addition to the National Committee for Combating Trafficking in Human Beings, which was established with the aim of co-ordinating anti-trafficking activities in the country, territorial commissions for combating trafficking in human beings and multidisciplinary teams have been set up at regional level to co-ordinate the provision of assistance to victims. Further, the National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking, which was launched in 2006 in five districts of the country, currently covers the whole territory of the Republic of Moldova.

Awareness raising and education have played a key part of the action taken by the Moldovan authorities, in partnership with international organisations and non-governmental organisations. That said, GRETA considers that the authorities should take steps to design and implement preventive measures for groups particularly vulnerable to trafficking. Further, GRETA urges the authorities to strengthen the element of prevention through social and economic measures addressing the identified causes of human trafficking, such as poverty, inadequate education and absence of employment opportunities.

GRETA also urges the Moldovan authorities to develop and implement further measures to identify victims and potential victims of trafficking. Particular attention should be paid to groups vulnerable to trafficking, such as women from socially disadvantaged families, women subjected to domestic violence, children left without parental care and children placed in state institutions. The authorities should step up efforts to detect cases of human trafficking within the Republic of Moldova. In this respect, regular training should be provided to members of the multidisciplinary teams, labour inspectors, border guard staff, social workers, staff working in special institutions for children and other relevant professionals.

As regards assistance to victims, GRETA considers that there is need for further measures, such as providing the necessary human and financial resources to the agencies involved in the provision of assistance measures, as well as ensuring that the local authorities effectively participate in the operation of the National Referral System. Further, GRETA urges the Moldovan authorities to consider setting up a State compensation scheme accessible to victims of human trafficking, as well as to provide better information to victims on the right to compensation and ways to access it. The Moldovan authorities should also develop co-operation arrangements with States from which Moldovan nationals are repatriated with a view to facilitating the identification of potential victims of trafficking.

Concerning the application of anti-trafficking legislation, the investigation of trafficking cases should be improved with a view to ensuring that THB offences are prosecuted effectively and lead to proportionate and dissuasive sanctions. In this context, particular attention should be paid to cases of THB allegedly involving public officials. Further, better protection and assistance should be provided to victims and witnesses of trafficking during criminal proceedings. GRETA urges the Moldovan authorities to ensure that judges, prosecutors and other legal professionals receive regular training on aspects of human trafficking and the situation of victims.

Finally, GRETA notes the publication of a report on the implementation of the 2010 National Plan for preventing and combating human trafficking and considers that the implementation of anti-trafficking measures should also be the subject of a periodic independent evaluation.

## I. Introduction

1. The Republic of Moldova deposited the instrument of ratification<sup>1</sup> of the Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) on 19 May 2006, becoming the first country to ratify it. The Convention as such entered into force on 1 February 2008, following its 10th ratification.

2. As established in Article 36(1) of the Convention, the Group of Experts on Action against Trafficking in Human Beings (“GRETA”) monitors the implementation of the Convention by the Parties. GRETA does so in conformity with the procedure laid down in Article 38 of the Convention and the Rules on the evaluation procedure of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties. For the first evaluation round, GRETA drew up a monitoring timetable according to which the Parties to the Convention were divided into groups, the Republic of Moldova being in the first group of 10 Parties to be evaluated in 2010-2011.

3. In accordance with Article 38 of the Convention, GRETA proceeded with the examination of the measures taken by the Republic of Moldova to implement the provisions set out in the Convention. The “Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties – first evaluation round” was sent to the Republic of Moldova on 11 February 2010. The deadline for submitting the reply to the questionnaire was 1 September 2010. The Republic of Moldova submitted its reply on 3 September 2010.

4. In preparation of the present report, GRETA used the reply to the questionnaire by the Republic of Moldova, other information collected by GRETA and information received from civil society. A country visit to the Republic of Moldova took place from 10 to 13 May 2011. It was carried out by a delegation composed of:

- Ms Nell Rasmussen, member of GRETA
- Ms Diana Tudorache, member of GRETA
- Mr David Dolidze, Administrator at the Secretariat of the Council of Europe Convention on Action against Trafficking in Human Beings.

5. During the country visit, the GRETA delegation held meetings with representatives of relevant ministries and other public bodies (see Appendix II). These meetings took place in a spirit of close co-operation.

6. The GRETA delegation held separate meetings with representatives of non-governmental organisations (NGOs) and civil society active in the field of action against trafficking in human beings (THB). Furthermore, the delegation visited the Centre for assistance and protection of victims and potential victims of trafficking in human beings in Chişinău and a shelter for victims of trafficking in human beings in Căuşeni district.

7. GRETA wishes to place on record the excellent assistance provided to its delegation by the contact person appointed by the Moldovan authorities, Ms Carolina Miscoi, Chief specialist in the International Co-operation and European Integration Division in the Ministry of Internal Affairs.

8. The draft version of the present draft report was adopted by GRETA at its 11th meeting (20-23 September 2011) and was submitted to the Moldovan authorities on 28 October 2011 for comments. The authorities’ comments were received on 28 November 2011 and were taken into account by GRETA when drawing up the final evaluation report, which was adopted at GRETA’s 12th meeting (6-9 December 2011).

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<sup>1</sup> At the time of ratification of the Council of Europe Anti-Trafficking Convention, the Moldovan authorities declared that “until the full re-establishment of the territorial integrity of the Republic of Moldova, the provisions of the Convention shall be applied only on the territory controlled effectively by the authorities of the Republic of Moldova”.



## **II. National framework in the field of action against trafficking in human beings in the Republic of Moldova**

### **1. Overview of the current situation in the area of trafficking in human beings in the Republic of Moldova**

9. According to the Moldovan authorities, the Republic of Moldova is primarily a country of origin and, to a certain extent, of transit for victims of human trafficking. According to statistical information provided by the Ministry of the Interior, 158 victims of trafficking were identified in 2008, 159 in 2009 and 181 in 2010. Practically all of them were Moldovan nationals (there was only one identified foreign victim of trafficking in 2008, and two in 2009). The vast majority of identified victims (127 in 2008, 137 in 2009 and 168 in 2010) were subject to transnational trafficking. Among the victims identified in 2010, there were 105 women, 49 men and 27 children. Although the main purpose of trafficking was sexual exploitation (111 victims in 2008, 90 in 2009, 108 in 2010), a considerable number of cases of trafficking for labour exploitation were also detected (44 in 2009, 56 in 2010). Further, cases of trafficking for the purpose of removal of organs (five in 2008, one in 2009) and the exploitation of begging (five in 2010) were also identified.

10. The country's difficult economic situation, high rate of unemployment (especially in rural areas) and the problem of violence against women are among the main push factors contributing to the Republic of Moldova being a country of origin of victims of trafficking. When it comes to trafficking for the purpose of sexual exploitation, the main destinations are Cyprus, Turkey, Ukraine, the United Kingdom and the United Arab Emirates. The Russian Federation is a major destination for Moldovan men trafficked for the purpose of labour exploitation and children trafficked for the purpose of exploitation of begging.

11. It should be noted that the official statistics do not give an accurate picture of the full extent of trafficking in human beings in the Republic of Moldova. It is commonly acknowledged that the actual number of victims could be higher, bearing in mind that over the last decade the nature of human trafficking in the Republic of Moldova has changed and it has become more difficult to detect. There are also indications that the Republic of Moldova is increasingly being used as a country of transit for victims of trafficking.

12. GRETA takes note of the declaration made by the Republic of Moldova at the time of ratifying the Convention, which concerns the Transnistrian region, currently outside the effective control of the Moldovan authorities. This prevents GRETA from covering the situation concerning trafficking in human beings in the Transnistrian region. During the country visit to the Republic of Moldova, the GRETA delegation was informed by Moldovan officials and representatives of NGOs and international organisations that the Transnistrian region remained highly problematic as regards human trafficking. Many victims of trafficking, including children, are reportedly recruited there and the Transnistrian region is also often used as a transit route for victims from the Republic of Moldova. Even though there are some isolated cases of communication between NGOs, co-operation in the anti-trafficking field is very difficult. GRETA finds that it has a duty to express its concern regarding the consequences of the Transnistrian region being outside the effective control of the Moldovan Government as regards prevention of THB, protection of victims and prosecution of traffickers. GRETA encourages the Moldovan authorities and all the parties concerned, to look for pragmatic solutions in the interest of combating trafficking in human beings.

## 2. Overview of the legal and policy framework in the field of action against trafficking in human beings

### a. Legal framework

13. Apart from the Council of Europe Anti-Trafficking Convention, the Republic of Moldova is Party to the United Nations Convention against Transnational Organised Crime and its Protocols, the United Nations Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the relevant Council of Europe Conventions concerning co-operation in criminal matters<sup>2</sup>. The Republic of Moldova is also Party to the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography.

14. The national legal framework to prevent THB, assist and protect victims and prosecute traffickers is set out in the Law on Preventing and Combating Trafficking in Human Beings (hereinafter "Anti-Trafficking Law"), adopted on 20 October 2005. The law covers prevention, assistance and protection of victims (with special attention to child victims), liability of physical and legal persons for committing trafficking-related offences, co-operation between public authorities, NGOs and other representatives of civil society, as well as co-operation with other States and international organisations.

15. In addition, provisions defining THB as a criminal offence are contained in the Criminal Code (CC), in particular Article 165 entitled "trafficking in human beings" and Article 206 entitled "trafficking in children". There are several other provisions in the CC which relate to THB, such as Article 207 (illegal transportation of children abroad), Article 208<sup>1</sup> (child pornography), Article 220 (pimping), Article 361 (fabrication, possession, sale or use of false official documents) and Article 362<sup>1</sup> (organisation of illegal migration).

16. In terms of secondary legislation, the following Government decisions regulate institutional and substantive arrangements of action against trafficking in human beings:

- Government Decision No. 472 of 26 March 2008 on approval of the nominal composition of the National Committee to Combat Trafficking Human Beings, the Regulation of the National Committee for Combating Trafficking in Human Beings and the National Plan to Prevent and Combat Human Trafficking for 2008-2009, as amended by Government Decision No. 795 of 3 December 2009 (creating the Secretariat of the National Committee for Combating Trafficking in Human Beings) and Government Decision No. 835 of 13 September 2010 on the approval of the National Action Plan for Preventing and Combating Trafficking in Human Beings in 2010-2011;
- Government Decision No. 1170 of 21 December 2010 approving the Additional National Plan for Preventing and Combating Trafficking in Human Beings for 2010-2011;
- Government Decision No. 234 of 29 February 2008 regarding the approval of the framework of territorial commissions to combat trafficking;
- Government Decision No. 948 of 8 July 2008 regarding the approval of the Regulation on the procedure for repatriation of children and adults victims of human trafficking, smuggling of migrants and unaccompanied children;
- Government Decision No. 1362 of 29 November 2006 on the approval of the Framework Regulation on the organisation and operation of assistance and protection centres for victims of trafficking in human beings;
- Government Decision No. 847 of 11 July 2008 on the creation of assistance and protection centres for victims and potential victims of trafficking in human beings;

<sup>2</sup> European Convention on Mutual Assistance in Criminal Matters and its Additional Protocol; Convention on Cybercrime; Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism; Criminal Law Convention on Corruption and its Additional Protocol.

- Government Decision No. 122 of 4 March 2011 on the approval of the National Action Plan between the Republic of Moldova and the European Union on visa liberalisation regime, which contains a chapter dedicated to preventing and combating organised crime, including trafficking in human beings;
- Parliament Decision No. 257 of 5 December 2008 on the Approval of the Strategy of the National Referral System to Protect and Assist Victims and Potential Victims of Trafficking in Human Beings and the Action Plan for the implementation of this Strategy for 2009-2011.

17. In addition, certain provisions relevant to combating THB and protecting victims of trafficking are contained in the Law on the Protection of Witnesses and Other Participants in Criminal Proceedings<sup>3</sup> and the Code of Criminal Procedure (CCP), in particular Articles 110 and 111 concerning special procedures and protection of witnesses.

b. National Plan for Combating Trafficking in Human Beings

18. The anti-trafficking policy in the Republic of Moldova is set out in the National Plan for Preventing and Combating Trafficking in Human Beings. The current National Plan, covering the period 2010-2011, is the fourth of this type adopted by the Moldovan Government since 2005. It covers four main areas: management and co-ordination of activities; assistance and protection of victims and witnesses, including identification, repatriation, rehabilitation and reintegration; prosecution of traffickers, including proactive investigation and compensation of victims; and international cooperation, including police co-operation. The main responsibility for the implementation of the National Plan lies with the National Committee for Combating Trafficking in Human Beings.

### **3. Overview of the institutional framework for action against trafficking in human beings**

a. National Committee for Combating Trafficking in Human Beings

19. The National Committee for Combating Trafficking in Human Beings ("the National Committee") was established in 2001. It is a permanent consultative body of the Moldovan Government, created with the aim of co-ordinating the activities of relevant bodies. Amongst the functions of the National Committee are: making policy proposals to the Government concerning combating THB; supervision of the implementation of the activities included in the National Plan; collection and analysis of information concerning the scale and trends of THB; drafting proposals for legal improvements; organising awareness-raising campaigns; and co-ordinating the activities of the territorial commissions. The National Committee periodically evaluates the implementation of the National Plan and reports to the Government.

20. The composition of the National Committee was approved by Government Decision No. 472 of 26 March 2008. It is currently chaired by the Deputy Prime Minister of the Republic of Moldova and is composed of representatives of the following bodies:

- Ministry of Labour, Social Protection and Family
- Ministry of Foreign Affairs and European Integration
- Ministry of the Interior
- Ministry of Justice
- Ministry of Culture
- Ministry of Health
- Ministry of Education
- Ministry of Youth and Sport
- Ministry of Information Technologies and Communications
- Office of the Prosecutor General

<sup>3</sup> In force since 27 September 2008.

- President's Office of the Republic of Moldova
- Information and Security Service
- Border Guard Service
- Licensing Chamber
- Administrative Territorial Unit of Gagauz-Yeri.

21. The National Committee meets at least once a month. Representatives of NGOs and international organisations active in the anti-trafficking field may participate in the meetings of the National Committee with a consultative vote. Thus meetings of the National Committee have been attended by representatives of the Organisation for Security and Co-operation in Europe (OSCE), the International Organisation for Migration (IOM), the United Nations Children's Fund (UNICEF), and the NGOs "La Strada" Moldova and "Terre des Hommes" Moldova. All these organisations are consulted by the Government when adopting anti-trafficking legislation and other important initiatives.

22. Further, in accordance with Article 11(7) of the Anti-Trafficking Law, a Co-ordinating Council of law enforcement bodies was established in June 2007 in order to supervise the implementation of criminal legislation related to THB and submit annual reports to the Prosecutor General and the National Committee.

b. Centre for Combating Trafficking in Persons

23. The Centre for Combating Trafficking in Persons (CCTP) was established in 2006 under the Ministry of the Interior with a view to improving the investigation and prosecution of cases of human trafficking. It is composed of officials assigned by the Ministry of the Interior, the Prosecutor General's Office, the Customs Service, the National Migration Bureau, the Border Guard Service, the Information and Security Service, and the Centre for Combating Economic Crimes and Corruption. The purpose of bringing together representatives of these bodies is to increase the effectiveness of investigations and prosecutions of trafficking offences. The CCTP has 40 staff members in Chisinau and one law enforcement officer in each district of the Republic of Moldova.

c. Territorial commissions for combating THB

24. Anti-trafficking action at the local level is co-ordinated by territorial commissions for combating trafficking in human beings, which are set up in each region as well as in each administrative district of Chişinău. The territorial commissions are subordinated to the National Committee and are financed by the local authorities' budgets.

25. The composition of the territorial commissions is approved by the Chairman of the local authority. The commissions are chaired by the Deputy Chairman of the local authority and are composed of local representatives of the ministries and other public authorities with competence in the field of preventing and combating human trafficking, as well as NGOs active in this field.

26. The territorial commissions organise prevention activities (such as awareness-raising campaigns, workshops and meetings), co-ordinate victim protection and assistance, take part in research programmes, analysis and collection of statistical data at the local level, and report to the National Committee on measures to improve the impact of anti-trafficking activities.

d. Multidisciplinary teams

27. Multidisciplinary teams have been set up at the regional level in order to co-ordinate the implementation of a systematic and human-rights based approach to the protection and assistance of victims and potential victims of trafficking. These teams are subordinated to the Ministry of Labour, Social Protection and Family. They are composed of representatives of the local social assistance and family protection departments, medical establishments, the Police, offices of the Registry, the National Employment Agency, as well as NGOs and other relevant bodies. The multidisciplinary teams may identify persons vulnerable to human trafficking and provide assistance to them. At present, the multidisciplinary teams employ a total of 344 specialists.

e. International organisations and NGOs

28. International organisations have a strong presence in the anti-trafficking field in the Republic of Moldova. The IOM, the United Nations Development Programme (UNDP), UNICEF and OSCE have provided extensive assistance in the setting up of the national anti-trafficking framework. This has included assistance in drafting legislation, financing the training of relevant professionals and victim assistance programmes, and contributing financially to the functioning of the Secretariat of the National Committee.

29. NGOs have also played a key role in the field of action against human trafficking in the Republic of Moldova, through awareness-raising activities, training, research and providing assistance to victims. The main NGOs currently working in the field of preventing and combating THB are the International Centre "La Strada", "Terre des Hommes" Moldova, the National Centre for Child Abuse Prevention, "Save the Children" Moldova and "Médecins du Monde".

30. The International Centre "La Strada" contributes to the drafting of legislation, bilateral agreements and guidelines in the anti-trafficking field, informs the public about the risks of THB and the need for safe migration, carries out research and assists victims of trafficking, including prior to their formal identification. "Terre des Hommes", the National Centre for Child Abuse Prevention and "Save the Children" Moldova focus their activities on the prevention of child trafficking and the protection of children from abuse. Their activities also include assistance to child victims of trafficking discovered in the Republic of Moldova or abroad. Apart from these four main NGOs, there are a number of other NGOs at the national and local level which participate in the operation of the National Referral System or contribute otherwise to preventing and combating trafficking in human beings.

f. National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking

31. The National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking ("NRS") is a framework for co-operation between governmental and non-governmental bodies. The NRS was launched on a pilot basis in 2006 by the Ministry of Labour, Social Protection and Family, in partnership with the IOM, in five districts of the Republic of Moldova. At present, the NRS has been expanded to cover the entire territory of the Republic of Moldova. The NRS Strategy for 2009-2011 was adopted by Parliament on 5 December 2008 with the aim of enhancing the co-ordination among public authorities, NGOs and other actors in carrying out anti-trafficking activities.

32. The operation of the NRS is ensured by the territorial commissions and the multidisciplinary teams, with the support of the local authorities, international organisations and NGOs. As of 2006, the functioning of the NRS is co-ordinated by the National Co-ordination Unit (NCU) set up under the Ministry of Labour, Social Protection and Family. The sum of 150 642 Euros was allocated during the period 2006-2009 for establishing the NRS and preparing training teams. These funds were provided by international donors with the co-ordination by the IOM.

### **III. Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova**

#### **1. Integration of the core concepts and definitions contained in the Convention in the internal law**

##### a. Human rights-based approach to action against trafficking in human beings

33. Article 1(1)(b) of the Convention establishes as one of its purposes the protection of the human rights of the victims of trafficking. Further, Article 5(3) includes the obligation for Parties to promote a human rights-based approach in the development, implementation and assessment of the policies and programmes to prevent THB. The Explanatory Report of the Convention states that the main added value of the Convention is its human rights perspective and its focus on victim protection. In the same vein, the United Nations Recommended Principles and Guidelines on Human Rights and Human Trafficking emphasise that “the human rights of trafficked persons shall be at the centre of all efforts to prevent and combat trafficking and to protect, assist and provide redress to victims”<sup>4</sup>.

34. THB constitutes an offence to the dignity and fundamental freedoms of the human being and is thus a grave violation of human rights. GRETA emphasises the obligations of States to respect, fulfil and protect human rights, including by ensuring compliance by non-State actors, in accordance with the duty of due diligence. The human rights-based approach entails that a State that fails to fulfil these obligations may, for instance, be held accountable for violations of the European Convention on Human Rights (in case the State concerned is a Party to it). This has been confirmed by the European Court of Human Rights in its judgment in the case of *Rantsev v. Cyprus and Russia*, where the Court concluded that THB within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the European Convention on Human Rights (which prohibits slavery, servitude and forced or compulsory labour). The Court further concluded that Article 4 entails a positive obligation to protect victims, or potential victims, as well as a procedural obligation to investigate trafficking.

35. GRETA considers that the human rights-based approach to action against THB requires States to set up a comprehensive framework for the prevention of THB, the protection of trafficked persons as victims of a serious human rights violation, and the effective investigation and prosecution of traffickers. Such protection includes steps to secure that all victims of THB are properly identified. It also includes measures to empower trafficked persons by enhancing their rights to adequate protection, assistance and redress, including recovery and rehabilitation, in a participatory and non-discriminatory framework, irrespective of their residency status. Further, measures to prevent THB should be taken in the field of socio-economic, labour and migration policies.

36. GRETA wishes to stress the need for States to also address THB as a form of violence against women and to take account of gender-specific types of exploitation, as well as the particular situation of child victims of THB, in line with the relevant international legal instruments<sup>5</sup>.

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<sup>4</sup> Addendum to the report of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1), <http://www.ohchr.org/Documents/Publications/Traffickingen.pdf>

<sup>5</sup> Such as the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, the United Nations Convention on the Rights of the Child and the Optional Protocol thereto on the sale of children, child prostitution and child pornography, and the United Nations Convention on the Elimination of All Forms of Discrimination against Women.

37. Article 4 of the Moldovan Anti-Trafficking Law affirms the human rights-based approach to action against human trafficking, by stating that the fight against THB is to be carried out on the basis of observance of human rights and fundamental freedoms, and the acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings. Furthermore, the NRS Strategy adopted by Parliament (see paragraph 31) recognises that “human trafficking is a violation of human rights and human dignity and integrity.”

38. The human rights-based approach to THB entails transparency and accountability on the part of the State through the adoption of a national policy and action plans for combating trafficking in human beings, the co-ordination of the efforts of all relevant actors, periodic training of relevant professionals, research and data collection, and the provision of adequate funding for the implementation of all these measures. The following sections of this report examine in detail the effectiveness of the policies and measures taken by the Moldovan authorities in these fields.

b. Definitions of “trafficking in human beings” and “victim of THB” in Moldovan law

i. *Definition of “trafficking in human beings”*

39. In accordance with Article 4(a) of the Convention, trafficking in human beings includes three components: an action (“the recruitment, transportation, transfer, harbouring or receipt of persons”); the use of certain means (“threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”); and the purpose of exploitation (“at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”). Pursuant to Article 4(c) in case a victim of THB is a child it is immaterial whether the means referred to above have been used.

40. Under Moldovan law, trafficking in human beings is defined in Article 2(1) of the Anti-Trafficking Law as the “recruitment, transportation, transfer, harbouring or receipt of a person, by means of threat of force or use of force or other forms of coercion, of abduction, fraud, deception, of abuse of authority or a situation of vulnerability, or by means of offering or receiving payments or benefits of any kind in order to obtain the consent of a person who has control over another person for the purpose of exploitation of the latter”. Article 2(2) of the Anti-Trafficking Law defines trafficking in children as the “recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, even if these actions were not accomplished through any of the means provided in sub-paragraph 1”.

41. Exploitation is defined in Article 2(3) of the Anti-Trafficking Law as:

- a) compelling to perform work or services by use of force, threats or other forms of coercion, in violation of the legal provisions concerning labour conditions, remuneration, health and security;
- b) slavery, use of practices similar to slavery or resorting to other ways of deprivation of liberty;
- c) compelling to engage in prostitution, to participate in pornographic performances, with a view to the production, distribution and circulation of such performances, the acquisition, sale or possession of pornographic material, or practicing other forms of sexual exploitation;
- d) compelling harvesting of organs or tissues for transplantation or collection of other component parts of the human body;
- e) using a woman as a surrogate mother or for reproductive purposes;
- f) abuse of child’s rights with a view to illegal adoption;
- g) use in armed conflicts or in illegal military formations;
- h) use in criminal activities;
- i) compelling to engage in begging;
- j) sale to another person;
- k) compelling to engage in other activities that violate fundamental human rights and freedoms.”

42. The above definition reflects all three constituent elements of THB as defined by the Convention. It does not refer to any means when it comes to trafficking in children (any person under 18 years of age, as stipulated in Article 2(4) of the Anti-Trafficking Law), which is also in compliance with the Convention.

43. Pursuant to Article 4(b) of the Convention, the consent of a victim of human trafficking is irrelevant where any of the means set forth in the definition of THB have been used. GRETA notes that this is reflected in Article 2(3) of the Anti-Trafficking Law, according to which a person's consent to the intended exploitation is irrelevant if any of the means specified in Article 2(1) of this law have been used.

44. THB is also established as a criminal offence under Article 165 of the CC, which contains the same constituent elements as the definition of human trafficking under the Anti-Trafficking Law: action (recruitment, transportation, transfer, harbouring or receipt of persons), means (threat of use or use of physical or psychological violence, kidnapping, confiscation of documents, servitude in return for a debt, deception, abuse of position of vulnerability or abuse of power, and giving or receiving of payments or benefits to achieve the consent of a person having control over another person) and purpose (sexual exploitation, forced labour or services, begging, slavery or practices similar to slavery, use in armed conflicts or in criminal activities, and removal of organs or tissues).

45. Trafficking in children is a separate criminal offence under Article 206 of the CC. Similar to Article 2(2) of the Anti-Trafficking Law, this provision does not make reference to any means that should be used for there to be trafficking in children, which is in line with the Convention.

46. For further analysis of the definition of THB and related offences from a substantive criminal law perspective, see paragraphs 141-144.

*ii. Definition of "victim of THB"*

47. The Convention defines "victim of THB" as "any natural person subject to THB as defined in Article 4 the Convention". Recognition of victims of THB as such is essential as it gives rise to their entitlement to a broad range of protection and assistance measures set out in the Convention.

48. Article 2 (11) of the Anti-Trafficking Law defines victim of trafficking in human beings as "a natural person presumed or found to be subjected to acts of trafficking as provided for in sub-paragraphs 1 and 2". This definition is in conformity with the Convention.

49. Further, paragraph 4 of the draft Regulation regarding the identification of victims and potential victims of trafficking defines a potential victim as "an individual in a difficult situation, associated with specific circumstances, who can become a victim of the human trafficking phenomenon." The status and rights of victims of trafficking are further discussed in the sections related to measures to protect and promote the rights of victims of trafficking.

- c. Comprehensive approach to action against THB, co-ordination of all actors and actions, and international co-operation

*i. Comprehensive approach and co-ordination*

50. One of the aims of the Convention is to design a comprehensive framework for the protection and assistance of victims and witnesses. To be effective, any national action to combat THB must be comprehensive and multi-sectoral, and take on board the required multidisciplinary expertise. Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of national policies and actions against THB, including through the setting-up of specific co-ordinating bodies. Further, the Convention refers to the need to co-operate and build strategic partnership with civil society through co-operative frameworks that can help governments fulfil their obligations under the Convention (Article 35).



51. All public officials and representatives of civil society met by the GRETA delegation during the visit to the Republic of Moldova confirmed that the fight against THB is subject to great political attention in the country. The Moldovan authorities have taken steps to develop a comprehensive legal and institutional framework for action against human trafficking. The legislation has been amended and new legislation adopted in order to meet the obligations arising from international legal instruments. Further, the Moldovan authorities have adopted four action plans to combat human trafficking and operate a country-wide NRS, supported by a strategy adopted by Parliament.

52. The implementation of action to combat THB is co-ordinated by the National Committee (see paragraphs 19-21). The public bodies represented in the National Committee are responsible for implementing anti-trafficking measures falling within their competence. As of 2010, the National Committee has a permanent Secretariat, which should increase the efficiency of its operation.

53. As noted in paragraph 9, trafficking in human beings in the Republic of Moldova concerns women, men and children alike. Victims are subjected to various types of exploitation, including sexual exploitation, forced labour, forced begging and the removal of organs. While initially most Moldovan trafficking victims were subjected to transnational trafficking, in recent years there has been an increase in trafficking within the Republic of Moldova. Several factors explain the extent of the problem of THB in the Republic of Moldova. Firstly, the country's economic situation, especially the lack of job opportunities, drives a considerable part of the population abroad in search of income-generating activities. According to some of GRETA's interlocutors, persons in difficult economic situation may be susceptible to accept almost any offer of employment from unverified sources and without negotiating employment arrangements. This often makes them an easy prey for traffickers. Secondly, the GRETA delegation was informed by representatives of public bodies and NGOs that violence against women, in particular domestic violence, is a frequent phenomenon, especially in rural parts of the country, and the wish to escape it may be one of the reasons why women accept dubious job offers abroad, thus falling into the trap of human trafficking. Thirdly, as confirmed by representatives of public bodies and NGOs, corruption remains one of the most significant structural problems faced by the Republic of Moldova, and there are allegations that corruption among law enforcement officials is contributing to THB.

54. In this context, GRETA notes that the Third Round Evaluation Report on the Republic of Moldova published by the Council of Europe's Group of States against Corruption (GRECO) on 6 April 2011 recommends that the Moldovan authorities take specific measures to criminalise active and passive bribery of all categories of public officials, as well as further measures such as specialised training and awareness raising initiatives to ensure that the relevant criminal law provisions are effectively applied to corruption offences. GRETA must stress that the implementation of GRECO's recommendations would contribute to combating trafficking in human beings.

55. GRETA considers that greater co-ordination should be achieved between different actors responsible for anti-trafficking activities in order to fully satisfy the requirements of the Convention concerning a comprehensive approach to preventing and combating human trafficking. GRETA was informed that not all representatives of relevant public bodies are actively involved in the activities of the National Committee. In particular, it was suggested that the Ministry of Health and the Ministry of Education should increase their involvement in action against human trafficking, as their role is prominent in preventing THB and assisting victims, especially children who constitute one of the most vulnerable groups to trafficking in the Republic of Moldova. Co-operation and communication between the police and NGOs at the local level also needs to be improved.

56. GRETA understands that the implementation of the National Plans was not evaluated in the past, but a report evaluating the implementation of the National Plan for 2010 has been adopted and published in July 2011<sup>6</sup>.

<sup>6</sup> The report can be consulted at: <http://gov.md/doc.php?1=ro&idc=578&id=4032>

57. In the light of the above, **GRETA considers that the Moldovan authorities should:**
- **continue strengthening the Secretariat and enhancing the budget of the National Committee for Combating Trafficking in Human Beings to ensure its effective functioning;**
  - **encourage a more effective participation of all public bodies involved in the implementation of anti-trafficking measures at the national and local levels, and increase the co-ordination of their activities;**
  - **further enhance the role of NGOs active in the field of combating THB in the Republic of Moldova, by providing them with the possibility to participate in the decision-making process, including through membership in the National Committee;**
  - **take practical measures to improve co-operation and communication between the police and NGOs at the local level, especially as regards identification of victims of trafficking.**

58. **Further, GRETA invites the Moldovan authorities to consider commissioning an independent evaluation of the implementation of the National Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking.**

*ii. Training of relevant professionals*

59. Pursuant to Article 14 of the Anti-Trafficking Law, the State shall guarantee vocational training and education of staff of law enforcement bodies, migration bodies and other structures in the field of combating trafficking in human beings. Such training should take into account the methods of preventing THB, the special investigation techniques and the observance of the rights of victims, as well as their protection. The training should be carried out in co-operation with international organisations, NGOs and other representatives of civil society.

60. One of the measures included in the Action Plan for the Implementation of the NRS Strategy is developing the curriculum for initial and continuous professional training for professionals working on prevention of THB and assistance to victims and potential victims. This includes training provided to members of the multidisciplinary teams responsible for the implementation of the NRS on the ground. As of 2006, the members of 26 multidisciplinary teams have undergone training on victim identification, interviewing techniques, referral of victims for assistance and protection, case management, and legal and institutional context. The training was organised by the Ministry of Labour, Social Protection and Family, in partnership with the IOM.

61. In 2009, the CCTP organised five seminars with the aim of reinforcing the practical skills of public officials and members of NGOs in preventing and combating human trafficking (two in Chişinău and three in the regional centres of Bălţi, Căuşeni and Ungheni). In co-operation with the OSCE mission in the Republic of Moldova, the CCTP also carried out a training programme at the Academy of the Ministry of the Interior. In 2011, staff of the CCTP participated in a number of seminars on preventing and combating trafficking, organised together with the Centre for Prevention of Trafficking in Women, "La Strada" Moldova, UNICEF, the European Commission, IOM, the Centre for Health Policies and Studies and "Terre des Hommes".

62. The National Plan for 2010-2011 envisages continuous training through seminars, round tables and thematic conferences for representatives of the Ministry of Education, Ministry of Labour, Social Protection and Family, Ministry of the Interior and the Prosecutor General's Office. A number of training activities have been organised with the support of the OSCE Office in the Republic of Moldova, the National Institute of Justice, the United Nations Office on Drugs and Crime, the Centre of Women in Legal Careers and "La Strada" Moldova. According to information provided by the Moldovan authorities, 12 training seminars on trafficking offences and the identification of victims of trafficking were held for prosecutors, police officers and employees of social assistance centres. Six seminars on the prevention and identification of cases of sexual exploitation of children and child trafficking were attended by 139 specialists from six regions. Further, training sessions on interviewing child victims of trafficking and sexual exploitation were organised for 162 police inspectors working with children. Another training seminar, on techniques of proactive investigation and victim identification, was organised for police officers. A training seminar on the investigation and prosecution of trafficking offences was also organised for judges and prosecutors.

63. Moreover, under a project entitled "Protection and empowering of victims and potential victims of THB and family violence in Moldova", financed by the Japanese Government through the UN Trust Fund for Human Security and implemented by the UNDP, UNFPA, OSCE and IOM, 465 professionals from 31 target communities received training on preventing human trafficking and family violence.

64. GRETA was informed that professionals who have been trained on THB issues often take up other jobs, which results in a lack of qualified staff, both at national and local level, and need to train new staff. Even though considerable work is being done to reinforce the country's anti-trafficking structures, their functioning often depends on the personal commitment and enthusiasm of a limited number of persons. The Moldovan authorities are in the process of reforming the CCTP to improve the efficiency of its functioning. It is envisaged that law enforcement officers from the CCTP will train and supervise local police officers involved in anti-trafficking action.

65. GRETA welcomes the steps taken to train professionals involved in action against THB. However, reference is made to the GRETA's proposals in paragraphs 103, 112, 122 and 162.

### *iii. Data collection and research*

66. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. An essential element is the regular availability of comprehensive statistical information on both trends in human trafficking and on the performance of main actors in the fight against trafficking. The collation of data from different state institutions and NGOs raises concerns about data protection, especially when personal data are involved. International standards have been set for the collection, storage, transfer, compilation and dissemination of data. In order to ensure full compliance with these standards, Parties are expected to apply appropriate measures and techniques of data protection. An additional requirement for human rights-based anti-trafficking policies is the conduct of research and analysis with special attention to the rights and interests of victims.

67. Pursuant to Article 8(4c) of the Anti-Trafficking Law, the task of collecting data and analysing the situation and trends of THB is assigned to the National Committee. In addition, according to Article 11(3) of the Anti-Trafficking Law, the Ministry of the Interior is responsible for developing, administering and maintaining a database on human trafficking. Further, the General Prosecutor's Office has the duty to submit to the National Committee reports on the application of anti-trafficking legislation, including the number of criminal proceedings initiated for human trafficking offences.

68. GRETA was informed that an integrated system for the collection of data on human trafficking does not exist at the national level. The agencies active in preventing and combating human trafficking and assisting victims collect data depending on their specific responsibilities. Thus the Ministry of Labour, Social Protection and Family collects information on the number of persons who receive assistance under the NRS (which includes victims and potential victims of trafficking). The Ministry of the Interior collects data on criminal offences, including THB, and the territorial units of the Prosecutor General's Office collect data on the number of complaints received and prosecutions initiated. In this context, GRETA notes that the setting up of a centralised record-keeping system on THB is envisaged under the Additional National Plan for 2010-2011.

69. GRETA notes that one of the strategic objectives of the National Plan for 2010-2011 is to carry out research and monitoring of the characteristics and trends of THB. These activities are to be implemented in partnership with the ILO, IOM, OSCE and the International Centre "La Strada". The latter NGO produced in 2011 a report on the trends of human trafficking in the Republic of Moldova, based on research of identified cases and interviews with relevant professionals<sup>7</sup>. According to the 2011 report by the International Centre "La Strada", there has been an increase in the number of male victims of trafficking, who are generally subjected to labour exploitation in construction and agriculture, which is harder to discover and prove. The proportion of victims originating from rural areas has increased, which suggests that there is need for more awareness raising amongst rural area residents. The methods of influencing victims have also changed, traffickers using deception and psychological manipulation rather than resorting to physical abuse or restriction of victims' movement. Public officials and NGO representatives met during GRETA's visit to the Republic of Moldova confirmed these trends. Further, in contrast to a decade ago, in most cases the crossing of the border by victims of trafficking takes place legally. That said, no information has been provided to GRETA about research concerning THB commissioned by the Moldovan authorities over the last two years. It is of crucial importance that there is ongoing research of trends so that anti-trafficking policy can provide an effective response to THB.

70. In GRETA's view, particular attention should be paid to trafficking for the purposes of labour exploitation. Government officials and representatives of NGOs confirmed that the scale of this form of THB is not fully known in the Republic of Moldova. Researching this phenomenon is difficult since its victims, mostly men, are reluctant to report cases of trafficking, often considering them as their personal failure. According to some NGOs, the working conditions on construction sites and in agriculture in the Republic of Moldova are characterised with delays or refusal in payments and excessive working hours. This elevates the threshold of tolerance towards abusive working conditions and nearly erases the borderline between violation of labour law and labour exploitation. Further, national trafficking (i.e. within the Republic of Moldova) is allegedly on the increase, but has yet not been duly researched. In GRETA's view, this merits to be an area on which future research could focus.

**71. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Moldovan authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. In this context, the Moldovan authorities should enhance information exchanges among the agencies responsible for the supervision of migration, employment and combating THB.**

**72. Further, GRETA considers that the Moldovan authorities should conduct and support research on THB, in particular for the purpose of labour exploitation, within the Republic of Moldova, child trafficking and trafficking for the removal of organs. The results of the research should be used as a source of information for future policy measures in the field of action against human trafficking.**

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<sup>7</sup> Trafficking in Persons in Moldova: Comments, Trends, Recommendations. International Centre "La Strada", Chisinau, March 2011. An earlier report covering the period 1999-2004 was published by "La Strada" in 2005.

*iv. International co-operation*

73. The Convention requires Parties to co-operate with each other to the widest extent possible in order to prevent and combat THB, protect and assist victims, and investigate related criminal offences (Article 32).

74. As regards co-operation in criminal matters, the Republic of Moldova is Party to the Commonwealth of Independent States (CIS) Convention on judicial assistance in legal relations in civil, family and criminal matters. The Republic of Moldova also co-operates with the countries of the GUAM Organisation for Democracy and Economic Development<sup>8</sup> on the basis of an agreement on co-operation in combating terrorism, organised crime and other serious crimes. Co-operation with other states takes place on the basis of the Republic of Moldova's obligations arising from membership in INTERPOL, EUROPOL and the Southeast European Law Enforcement Centre (SELEC, former SECI Centre)<sup>9</sup>. Issues concerning international co-operation in the criminal field are also regulated by a number of domestic legal acts<sup>10</sup>.

75. Further, the Republic of Moldova has concluded bilateral co-operation agreements with a number of countries, such as with Turkey on combating illicit drug trafficking, international terrorism and other forms of organised crime, which has a protocol on combating human trafficking; with Azerbaijan on legal assistance and legal relations in civil, criminal and family matters; and with Romania on legal assistance in civil and criminal matters. Other countries with which the Republic of Moldova has similar agreements include Belarus, Bulgaria, Czech Republic, Estonia, Hungary, Italy, Israel, Latvia and Uzbekistan. Currently negotiations are under way concerning the signing of an agreement with the Russian Federation on co-operation in the repatriation of victims of THB, including children, combating the smuggling of migrants, and assisting unaccompanied children.

76. Moldovan law enforcement agencies transmit information to the competent bodies of other states through existing communication channels, police liaison officers or direct contacts. The Ministry of the Interior conducts joint activities, such as parallel investigations with the aim of identifying and safely returning victims of trafficking and detaining and prosecuting traffickers. For example, in 2009 the Ministry of the Interior conducted 17 international operations to dismantle criminal networks engaged in THB, in partnership with law enforcement agencies in Austria, Greece, Italy, Morocco, Poland, Romania, the Russian Federation, Slovenia and Ukraine. A number of these operations were supported by FRONTEX, EUROPOL and the European Union Border Assistance Mission to Moldova and Ukraine (EUBAM).

77. That said, the GRETA delegation was informed of difficulties in the co-operation with the authorities of some countries. For instance, co-operation in identifying trafficking victims and their subsequent repatriation to the Republic of Moldova is problematic in the case of Cyprus, the Russian Federation and the United Arab Emirates, which are amongst the main destination countries for trafficking victims from the Republic of Moldova.

78. With a view to facilitating co-operation with Cyprus, representatives of the CCTP, the Ministry of Foreign Affairs and European Integration, "La Strada" Moldova and the International Centre for Migration Policy Development (ICMPD) carried out a study visit to Cyprus in April 2009. The visit led to the establishment of operational contacts with Cypriot officials and a decision to start negotiations for concluding a bilateral agreement. At present, the Moldovan and Cypriot authorities are in the process of negotiating a draft agreement on co-operation in fighting terrorism, organised crime, illicit trafficking of drugs, psychotropic substances and their precursors, illegal migration and other criminal offences.

<sup>8</sup> Member states of GUAM are: Georgia, Ukraine, Azerbaijan, and Moldova.

<sup>9</sup> Following the entry into force of the Convention of the Southeast European Law Enforcement Center on 7 October 2011, the Regional Center of the Southeast European Cooperative Initiative (SECI) became the Southeast European Law Enforcement Center (SELEC).

<sup>10</sup> Criminal Procedure Act, which regulates issues of international co-operation and the manner of conducting joint investigations; Act on International Legal Assistance in Criminal Matters, which regulates the procedure of international legal assistance; Act on Police Affairs and Authorities, which regulates issues pertaining to police co-operation; Witness Protection Act, which sets out the norms concerning provision of assistance to Moldovan witness/victim abroad or to a witness/victim who is a foreign national on the territory of Moldova.

79. On 28 February 2011 the Republic of Moldova signed a Memorandum of Understanding with Bosnia and Herzegovina, Croatia, Montenegro, Serbia, Slovenia and “the former Yugoslav Republic of Macedonia” on strengthening anti-trafficking efforts in South-Eastern Europe, which includes setting up of joint investigation teams and creating a new mechanism for investigating trafficking cases at the regional level. It is expected that these measures will increase the efficiency of investigations involving high ranking officials.

80. GRETA welcomes the efforts to develop international co-operation in the field of action against THB, which have so far focused on co-operation in criminal matters. **GRETA considers that the Moldovan authorities should enhance international co-operation in the criminal and non-criminal fields by concluding agreements with countries where Moldovan nationals are trafficked to.**

## **2. Implementation by the Republic of Moldova of measures aimed to prevent trafficking in human beings**

81. According to the Convention, Parties must take measures to prevent THB, with the involvement of relevant NGOs, other organisations and members of civil society as appropriate (Article 5(2) and 5(6)). The implementation of preventive measures concerns all countries, whether they are countries of origin, transit and/or destination of THB. The Convention establishes that Parties must take measures to discourage demand, strengthen border controls and ensure the integrity and security of travel or identity documents (Articles 6 to 8).

### **a. Awareness raising and education**

82. Given that the Republic of Moldova is primarily a country of origin, raising awareness about THB as a preventive measure has played a key part of the action taken by the Moldovan authorities, in partnership with NGOs and international organisations. Awareness-raising activities are an integral part of the mechanism for preventing and combating human trafficking and are included in the NRS with the aim of drawing the attention of target groups and the general public to factors conducive to trafficking, including by referring persons belonging to such groups to institutions offering assistance.

83. A series of campaigns have been organised to address the vulnerability of women and girls to THB, such as the festival “Small Steps Forward,” the National Day of Prayer, and the campaign “16 Day of Action against Gender-Based Violence”. From 2005 to 2009, an awareness-raising campaign was carried out by the IOM in the form of a theatre play entitled “Abandoned People”, which was based on true stories Moldovan migrants in Italy and focussed on the risks of migration and the dangers of THB. Furthermore, the OSCE in partnership with Winrock International project “New Perspectives for Women” launched an Anti-Traffic and Gender Network website, which contains information in Romanian, English and Russian concerning gender equality and combating THB in the Republic of Moldova.

84. Since 2008, the Moldovan authorities, in partnership with NGOs and international organisations, have operated hotlines for promoting safe migration and providing assistance to victims of domestic violence.

85. Measures to prevent THB are also taken at schools. Since 2008, the Ministry of Education has included in the school curriculum civic education courses, which include sessions on THB and its dangers. Starting from the academic year 2009-2010, the subject civic education is mandatory for 5th to 12th graders. Discussions concerning prevention of trafficking also take place during meetings with parents and are sometimes included in extracurricular activities.

86. The Centre for Prevention of Trafficking in Women organised training of some 100 volunteers who subsequently carried out an educational campaign for pupils and university students. During the five years of this project, 2 292 educational-informative seminars were organised, involving a total of 40 188 participants in all regions of the country. Most of these seminars were held in rural areas of the Republic of Moldova. Further, the Centre for the Protection and Promotion of Women's Rights, in co-operation with "La Strada" Moldova organised seminars for students and teachers on raising awareness and providing information about the risks of trafficking and illegal migration.

87. GRETA welcomes the efforts of the Moldovan authorities to raise awareness on THB. However, in GRETA's view, there is need to implement specific preventive measures targeting vulnerable groups, such as young unemployed women from socially disadvantaged areas, children whose parents have migrated abroad, and children placed in State residential institutions. In this context, the Moldovan authorities have informed GRETA that they intend to organise awareness raising targeted at children from special institutions and the most vulnerable parts of the population.

**88. GRETA considers that the Moldovan authorities should continue their efforts to raise the awareness of the general public concerning THB. In parallel to this, the authorities should take steps to design and implement tailor-made preventive measures for groups particularly vulnerable to THB with a view to informing them in a convincing manner about the dangers of trafficking. Awareness-raising campaigns, education in schools and training of relevant professionals should aim at promoting gender equality and eradicating gender-based violence and the stigmatisation of victims of trafficking.**

b. Social, economic and other initiatives for groups vulnerable to THB

89. According to the Moldovan authorities, prevention of THB through social and economic measures for potential victims is an important component of the NRS. The multidisciplinary teams, in cooperation with the IOM Moldova and local NGOs, provide assistance to persons identified as vulnerable to human trafficking, such as victims of domestic violence, families in extreme economic hardship, single mothers, persons with disabilities, and children whose parents are working abroad. The assistance may consist of health care provision, legal advice, psychological counselling and social support (to cover primary needs such as food and hygiene products, fuel in the winter, etc.). In cases where crisis intervention is deemed necessary to avoid a risk of trafficking or to provide immediate assistance, a person may be placed at the Centre for assistance and protection to victims and potential victims of trafficking, which provides safe accommodation and medical, psychological, legal and social assistance. Upon termination of the crisis intervention the multidisciplinary teams continue providing assistance when necessary.

90. The Law on Social Aid adopted in 2006 aims at ensuring a minimum monthly income for disadvantaged families. Although its provisions do not refer specifically to victims of trafficking, the criteria set out in Article 5 of the law for determining a disadvantaged family could cover families potentially vulnerable to THB. According to information provided by the Moldovan authorities, on 20 October 2008 the Government approved an increase in the allowances for orphan pupils and students. Further, by its Decision No. 229 of 29 February 2009, amending previous Decision "On protection of socially vulnerable children and families", the Government increased the amount of benefits for adopted children and children placed under guardianship (from 12,50 to 31,25 Euros per month).

91. According to the Moldovan authorities, in the course of 2008-2009, the National Agency for Employment took steps to enable victims of trafficking to access the labour market. In particular, victims of trafficking were registered at employment agencies where they were provided with job mediation, counselling, training, participation in job fairs, and received an allowance for vocational integration or reintegration. During 2008-2009, 40 victims of trafficking followed vocational training courses (e.g. for cooks, hairdressers), which were provided by regional agencies for employment. Despite the country's difficult economic situation and high unemployment rate, 18% of these persons were offered jobs.

92. In order to improve access to information concerning the labour market, in 2009 an information centre was set up at the Agency for Employment of Chişinău. Further, in 2010, a call centre was established within this information centre in the framework of a EU-funded project on “Strengthening the management capacity of the Moldovan labour market and the return of migrants”. The Centre also operates a website.

93. Reference has already been made to the problem of violence against women as a push factor for THB (see paragraph 53). The difficult situation of women victims of trafficking is further exacerbated by gender stereotypes and stigmatisation. That is why it is crucial that the Moldovan authorities pay particular attention to promoting gender equality and use gender mainstreaming in the development, implementation and assessment of the anti-trafficking measures. The Moldovan authorities have informed GRETA that a project “Economic Empowerment of Vulnerable Women in Moldova”, aimed at the integration of women from vulnerable groups into the labour market, was launched in July 2011. Target groups, which include women victims of domestic violence, are given guidance and counselling, partial coverage of expenses associated with vocational training, non-financial support to start a business and employment mediation. The project is supported by the Foundation Orange Moldova and is implemented by the United Nations Population Fund (UNFPA), together with the Ministry of Labour, Social Protection and Family and the Ministry of Health through four partner organisations. In addition, the Ministry of Labour, Social Protection and Family, in partnership with the UNFPA and an NGO “Women's Rights Centre”, implemented the project “Organisation and caring out of activities on capacity building and information and dissemination of the gender equality and preventing violence”.

94. One of the groups most vulnerable to THB in the Republic of Moldova are children, in particular those whose parents have migrated abroad, as well as children in State care institutions and young persons discharged from such institutions. The GRETA delegation was informed that a number of children are not registered at birth and have no identity papers, which makes them particularly vulnerable to trafficking. The Moldovan Government is currently preparing a strategy on family and child protection in order to ensure the identification, support and protection of children from the most vulnerable social groups. Further, a life skills training programme for children in State institutions has been launched in 2011.

95. GRETA notes that in its Third Report on the Republic of Moldova, the European Commission against Racism and Intolerance (ECRI) refers to the marginalisation and extremely difficult economic conditions of Roma communities in the Republic of Moldova.<sup>11</sup> Moreover, a 2010 report by UNICEF concerning the situation of Roma children in the Republic of Moldova refers to a field research by the European Roma Rights Centre (ERRC), according to which there are cases of Roma children being trafficked from the Republic of Moldova to the Russian Federation and other countries. According to another report published by “La Strada” Moldova in 2010 on the trafficking of children, in Roma communities, children whose parents have gone abroad and who are left in the care of relatives, are exploited for begging. That said, the vulnerability of Roma children to trafficking has not been adequately addressed by the Moldovan authorities in the context of anti-trafficking measures. The Moldovan authorities have indicated that a comprehensive national plan on Roma inclusion, covering the period 2011-2015, was adopted on 5 July 2011, and that a strategy for Roma is being prepared.

96. GRETA welcomes the economic and social protection measures taken by the Moldovan authorities for potential victims of THB. Nevertheless, **GRETA urges the Moldovan authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. Such measures should be based on the identified root causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, etc.) and should aim to decrease and ultimately eliminate these causes.**

97. **GRETA also urges the Moldovan authorities to ensure the registration of all children at birth as a prevention measure against trafficking. Further, GRETA urges the Moldovan authorities to take steps to secure the registration of all persons from vulnerable groups for social services, both as a prevention measure and in order to avoid re-trafficking.**

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Third Report on Moldova, adopted by ECRI on 14 December 2007 and published on 29 April 2008.



c. Measures to enable legal migration

98. Article 5(4) of the Convention requires Parties to take appropriate measures to enable migration to take place legally, in particular through dissemination of accurate information on the conditions enabling the legal entry in and stay on its territory.

99. In 2011 the Republic of Moldova signed a visa liberalisation agreement with the European Union, which envisages simplifying the visa procedures for Moldovan nationals wishing to travel to States Parties to the Schengen Agreement for a short term stay. This makes it all the more important to provide full information to potential travellers about the risks of trafficking and the need to ensure that migration takes place legally. One of the goals of the National Plan for 2010-2011 is to raise awareness about the dangers of illegal migration.

100. According to the Moldovan authorities, information concerning legal entry and stay on the territory of the Republic of Moldova is provided by the country's embassies and consulates by means of information panels and brochures available at their premises. These materials, prepared in co-operation with the IOM mission in the Republic of Moldova, include information concerning THB and illegal migration.

d. Border measures to prevent trafficking in human beings

101. The Border Guard Service of the Republic of Moldova carries out supervision and control of the border<sup>12</sup> in order to prevent illegal crossing and cross-border crimes, but has limited authority in identifying cases of human trafficking. Following notification about a victim of trafficking who has been identified in a foreign country and is in the process of repatriation, the Border Guard Service receives the person concerned and transfers him/her to a multidisciplinary team or another actor within the NRS. If Border Guard officials have reasonable grounds to believe that a person might be a victim of trafficking, they should refer him/her to the CCTP. The Border Guard Service systematically exchanges information relevant to combating THB and illegal migration with law enforcement agencies and organises joint operations. According to the Moldovan authorities, 24 victims of trafficking were detected by the Border Guard Service at border crossing points in 2011.

102. Pursuant to an amendment to the Law on Identity Documents, which entered into force on 1 January 2011, children should have a valid passport in order to travel out of the country, which is an additional preventive measure. Further, in early December 2011, a draft Law on the Border Police, which broadens the operational competences of border guard officials, was sent to Parliament for adoption.

103. **GRETA considers that the Moldovan authorities should make further efforts to:**

- **detect cases of THB in the context of border controls;**
- **introduce a checklist to identify potential trafficking-related risks during the visa application system;**
- **provide employees of the Border Guard Service with training in order to increase their capacity to proactively detect cases of human trafficking.**

<sup>12</sup> There are 36 border crossing check points in Moldova (including those at airports, railway and motorway stations) and 64 surveillance stations along the physical border.

### **3. Implementation by the Republic of Moldova of measures to protect and promote the rights of victims of trafficking in human beings**

#### **a. Identification of victims of trafficking in human beings**

104. Article 10 of the Convention requires Parties to adopt measures to identify victims. In order to do so, Parties must provide their competent authorities with persons who are trained and qualified in preventing and combating THB and in identifying and helping victims, including children. Identifying a trafficking victim is a process which takes time, and therefore the Convention provides that if the competent authorities have reasonable grounds to believe that a person has been a victim of trafficking, that person shall not be removed from the country until the identification process is completed and shall receive the assistance required by the Convention.

105. According to Article 15 of the Anti-Trafficking Law, the identification of victims may be carried out by the competent public authorities with the support of NGOs or by NGOs which have reasonable grounds to believe that a person is a victim of trafficking. In practical terms, the identification of victims of trafficking is carried out by the police, the Ministry of Labour, Social Protection and Family, NGOs and representatives of international organisations participating in the activities of the multidisciplinary teams. Victims may also be identified by representatives of NGOs and public bodies which are not part of the multidisciplinary teams, but due to their activities are in contact with such persons. These include social workers, officers of the Border Guard Service, consular and diplomatic officials, labour inspectors, etc.

106. A draft inter-departmental Regulation regarding the identification of victims and potential victims of THB was approved in April 2011 by the National Committee and was sent to the Ministry of Justice for final adoption and publication. The draft Regulation represents an operational tool for organisations participating in the National Referral System (NRS) and is aimed at streamlining and standardising the identification process. According to it, the identification of victims and presumed victims is carried out by authorised specialists who have followed specialised training, and are certified by the territorial commissions and authorised by the National Co-ordination Unit (NCU) to carry out identification of victims. The contact details of authorised specialists are kept up to date by the NCU.

107. The draft Regulation provides standardised lists of direct and indirect indicators for the identification of victims of trafficking, as well as standard questionnaires and guidelines for interviewing victims and presumed victims of trafficking. Direct indicators include the presence of the elements contained in the definition of THB in the Anti-Trafficking Law (action, means and purpose). In the absence of direct indicators, authorised specialists are encouraged to apply indirect indicators, such as social profile of the presumed victim, psychological profile, organisation of the travel abroad, personal circumstances, legal status in the country of destination or transit, etc. Further, the draft Regulation envisages the possibility of self-reporting via telephone hotlines. After the preliminary identification has been completed, victims may remain with the multidisciplinary team or be referred to the NCU. The multidisciplinary team is responsible for assessing the victim's needs and ensuring his/her access to assistance measures.

108. As already stated in paragraph 94, one of the groups most vulnerable to THB are children. An important role in the identification of children who are victims of potential victims of trafficking is played by community social workers, who refer the children to appropriate structures and social services. The local authorities are responsible for determining the appropriate forms of protection of children. In 2011, a special life skills programme was launched for children in residential care facilities who are particularly vulnerable to trafficking. According to information provided by the Moldovan authorities, 21 children victims of trafficking were identified in 2010 as a result of the investigation of an international network of paedophiles acting on the territory of the Republic of Moldova. However, in practice the identification of child victims of trafficking before they leave the Republic of Moldova remains weak, and a significant number of Moldovan children are trafficked every year. Even though the groups of children mostly at risk of being trafficked are known to the authorities, the measures taken to prevent their removal from the country and to reintegrated them after their repatriation remain inadequate.

109. In addition, special attention needs to be paid to the identification of men victims of trafficking for the purpose of labour exploitation. In this respect, labour inspectorates should be alerted to the need to detect cases of THB when examining working conditions, in particular in construction and agricultural sites. Social workers and local public officials should also be vigilant in identifying men victims of trafficking who have gotten away from their traffickers in order to avoid re-trafficking.

110. As regards the identification of foreign victims of THB, as noted in paragraph 9, there have been very few such cases. According to information provided by Moldovan authorities, two Ukrainian nationals were identified as victims of THB in 2009. The provision of protection and assistance to foreign persons and stateless persons who are victims of trafficking is regulated by Article 24 of the Anti-Trafficking Law.

111. While acknowledging the efforts made by the Moldovan authorities to improve the identification of victims of THB, GRETA concludes that the current identification system of trafficking victims is not sufficiently effective. The structures responsible for the identification of victims, such as authorised specialists and multidisciplinary teams, should take a more proactive approach. Particular attention should be paid to identifying persons who are trafficked within the Republic of Moldova.

112. In light of the above, **GRETA urges the Moldovan authorities to:**

- **develop and implement further measures to identify victims of trafficking among vulnerable groups, including women from socially disadvantaged families, women subjected to domestic violence, young people leaving residential care institutions, as well as men in economically disadvantaged situation;**
- **step up action to identify victims and potential victims of THB among children left without parental care, orphan children placed in institutions and any other categories of children susceptible to trafficking;**
- **enhance efforts to identify victims of THB subjected to exploitation within the Republic of Moldova (both Moldovan and foreign nationals);**
- **provide regular training to members of the multidisciplinary teams, employees of the Border Guard Service, labour inspectors, social workers, staff of special institutions for children and other professions who may come into contact with victims of trafficking;**
- **ensure that the multidisciplinary teams, local police officers, social workers and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims and potential victims of trafficking;**
- **encourage NGOs to enhance their proactive involvement in the identification of victims and potential victims of trafficking.**

b. Assistance to victims

113. The Convention requires Parties to take measures to assist victims in their physical, psychological and social recovery, taking account of the victim's safety and protection needs, in co-operation with NGOs and other organisations engaged in assistance to victims. This assistance must be provided on a consensual and informed basis, taking account of the special needs of persons in a vulnerable position, as well as children, and it must not be made conditional on the victim's willingness to act as a witness (Article 12). The need to take account of victims' needs is also referred to in the Convention's provisions concerning temporary residence permits (Article 14) and the rights of children victims of THB (Article 12(7)). The Convention also establishes that the assistance to victims of THB must include appropriate and secure accommodation.

114. In the Republic of Moldova, the assistance to victims of THB is provided in accordance with Article 20 of the Anti-Trafficking Law. The assistance covers physical, psychological and social recovery measures in the form of a minimum assistance package provided by the Ministry of Labour, Social Protection and Family. It also includes secure accommodation, translation and interpretation, advice and information on the rights and services available to victims, representation in court proceedings and access to education for children. Access to assistance should not be dependent on the victim's willingness to participate in the prosecution of traffickers. Assistance measures are provided by the public authorities within the scope of their competences, the National Committee and the territorial commissions for combating trafficking in human beings. NGOs active in the anti-trafficking field are also entitled to provide assistance to victims of trafficking, including during criminal or civil proceedings.

115. According to information provided by the Ministry of Labour, Social Protection and Family, 158 victims and potential victims of THB received assistance in 2008, 159 in 2009 and 139 in 2010. Following the setting up of the Centre for assistance and protection of victims and potential victims of trafficking in Chişinău in 2008, two local centres providing social services to victims and potential victims of trafficking were set up in 2010 in Bălţi (Northern the Republic of Moldova) and Cahul (Southern the Republic of Moldova), and a total of 80 437 Euros were allocated from the central and local administrations budgets for their functioning.

116. There are five shelters providing accommodation for victims of trafficking in the Republic of Moldova, with a total capacity of 72 places. Victims identified abroad are accommodated in the Centre for assistance and protection of victims and potential victims of trafficking in Chişinău. Upon completion of a rehabilitation period at this centre, victims return to their communities where they continue to receive assistance from the local services. The other shelters are located in the regions. The GRETA delegation visited a shelter for women victims of trafficking and victims of domestic violence in Căuşeni. Persons placed in this shelter were provided with safe accommodation, medical and psychological assistance, social support, vocational training and assistance in finding employment.

117. As regards assistance and protection of children victims of trafficking, Article 29 of the Anti-Trafficking Law sets out a number of specific measures. The state authorities are under an obligation to secure the protection and assistance of children victims of trafficking from the moment when there are grounds to believe that a child is a victim. Once identified, a child victim of trafficking should be referred to the competent services for child protection, assistance and rehabilitation. The public authorities, law enforcement bodies, territorial commissions, NGOs and other organisations should immediately notify the tutorship and guardianship bodies if they come across information about a child victim of trafficking in order to secure the protection of the child's rights. When it is necessary to accommodate a child victim of trafficking, such accommodation should be separate from adults.

118. Assistance and protection measures for victims of THB are co-ordinated and implemented in the framework of NRS by the multidisciplinary teams and the territorial commissions in co-operation with the local authorities, international organisations and NGOs. GRETA was informed that there was a high turnover of staff in the teams, due to low salaries, which created the need to train new staff. Further, some of GRETA's interlocutors considered that the involvement of the local authorities in the implementation of anti-trafficking measures needed to be enhanced in a number of districts.

119. Until recently, most of the costs of the assistance and reintegration of victims of THB were covered by international donors through international organisations or local NGOs. As of January 2011, the Moldovan Government started covering 50% of these costs and was planning to cover them fully from June 2011. Other expenses, including salaries of staff, are already being covered by the state or local budgets, which is an important step forward in the Moldovan authorities' efforts to take full responsibility of the assistance to victims of trafficking. It is important that the funds necessary for ensuring the uninterrupted functioning of the centres and shelters for victims of trafficking are made available.

120. Regardless of the range of assistance measures provided to victims of trafficking, representatives of public authorities and NGOs informed the GRETA delegation that the quality of the services actually provided remained inadequate. One of the most important reasons for this are the limited human resources at the local level, due to frequent turnover and low salaries of staff employed by the multidisciplinary teams. Further, the funds provided for assistance measures are often not sufficient and financial support from donor remains crucial for the operation of the NRS.

121. The Moldovan authorities are in the process of drafting a new regulation on the provision of services to victims of THB and it is envisaged to set up an information system in the field of social assistance to monitor its effectiveness within the NRS. In addition, the authorities are considering the introduction of accreditation of the providers of services to victims of trafficking with a view to improving the quality of these services.

122. GRETA notes the efforts made by the Moldovan authorities to provide assistance to victims of THB. That said, **GRETA urges the Moldovan authorities to take further legislative and practical measures aimed at providing all victims and potential victims of THB with adequate assistance and protection, and in particular to:**

- **ensure that the multidisciplinary teams and public bodies involved in the implementation of victim assistance and protection measures have the necessary human and financial resources to ensure their unhindered and effective functioning;**
- **provide training to all persons responsible for the provision of assistance and protection measures to victims of trafficking;**
- **ensure that the local authorities in all districts effectively participate in the operation of the NRS, including in facilitating the provision of assistance to victims of trafficking;**
- **carry out an independent evaluation of the effectiveness of the operation of the NRS, in particular as regards assistance to victims of trafficking.**

c. Recovery and reflection period

123. As victims of THB are extremely vulnerable after the trauma they have experienced, the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The minimum 30-day period constitutes an important guarantee for victims and potential victims and serves a number of purposes, including to allow them to recover and escape the influence of traffickers. During this period, Parties must authorise foreign victims and potential victims of THB to stay in their territory and expulsion orders cannot be enforced<sup>13</sup>.

124. A recovery and reflection period with the duration of up to 30 days is provided for in the Anti-Trafficking Law. Article 20(3) of this Law reads: “the State, through its competent bodies and organisations, shall take prompt adequate measures for the identification and referral of victims of trafficking in human beings to protection and assistance services, offering them a reflection period of 30 days. During this period of time the implementation of any expulsion order issued against this person shall be prohibited.”<sup>14</sup> This provision is applicable to both Moldovan nationals and foreign nationals victims of THB.

125. GRETA welcomes the possibility provided by law to all victims of trafficking to benefit from a recovery and reflection period. As regards the application of this period in practice, according to the Moldovan authorities, all victims of trafficking who were included in the NRS in 2008-2010 benefitted from it.

<sup>13</sup> See the Explanatory Report on the Convention, paragraphs 173-175.

<sup>14</sup> Translation provided by the Moldovan authorities.

d. Residence permits

126. Article 14(1) of the Convention provides that victims of trafficking in human beings shall be issued with renewable residence permits. Provision for a residence permit meets both victims' needs and the requirements of combating THB. The two requirements laid down in Article 14(1) for issue of a residence permit are that either the victim's stay be "necessary owing to their personal situation" and/or that it be necessary "for the purpose of their co-operation with the competent authorities in investigation or criminal proceedings". The aim of these requirements is to allow Parties to choose between granting a residence permit in exchange for co-operation with the law enforcement authorities and granting a residence permit on account of the victim's needs, or to adopt both simultaneously.

127. According to Article 24(6) of the Anti-Trafficking Law, foreign citizens or stateless persons who are victims of trafficking and are placed in assistance and protection centres, or participate in criminal proceedings against traffickers, are entitled to a temporary residence permit of a duration of up to six months, which may be further extended if necessary for the recovery of the victim or his/her participation in the criminal proceedings.

128. GRETA was informed that a new draft Law on Aliens was expected to be adopted by the Moldovan Parliament in November 2011. Article 16(e) of this Law envisages granting a tolerated residence permit to foreign victims of trafficking for a duration of up to six months.

129. The Moldovan authorities have not provided information on the number of victims of trafficking who were granted a temporary residence permit.

e. Compensation and legal redress

130. Article 15 of the Convention establishes the obligation for Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. Parties must also provide for the right of victims of trafficking to compensation from the perpetrators as well as adopt legislative or other measures to guarantee compensation for victims from the State. Further, Article 15(1) of the Convention establishes that victims of trafficking must have access to information on relevant judicial and administrative proceedings in a language which they can understand.

131. Pursuant to Article 23(2) of the Anti-Trafficking Law, victims of THB are entitled to compensation for damages as provided by the law. According to Article 61 of the CCP (civil party), victims may claim compensation by initiating a civil action as part of the criminal proceedings against traffickers. The GRETA delegation was informed by representatives of NGOs that victims of trafficking are not always aware of the possibility to claim compensation and that, in practice, compensation is very difficult to obtain and extremely rare. According to information provided by the Moldovan authorities, approximately half of the victims of trafficking have claimed compensation. Out of the total number of compensation claims, only 17% were accepted. There has apparently been only one case, in 2009, when a victim of THB obtained compensation from the perpetrator.

132. GRETA notes that the Republic of Moldova has not yet signed the European Convention on the Compensation of Victims of Violent Crimes, currently ratified by 25 Council of Europe member States, of which 21 are Parties to the Council of Europe's Anti-Trafficking Convention. Becoming Party to this Convention would on the one hand facilitate access of Moldovan nationals to compensation in other member States and on the other hand create an entitlement to receive State compensation in the Republic of Moldova.

**133. GRETA urges the Moldovan authorities to step up efforts to provide information to victims of THB about their right to compensation and ways to access it, and to ensure that victims have effective access to legal aid in this respect. Further, considering the low number of victims who have received compensation from perpetrators, GRETA urges the Moldovan authorities to set up a State compensation scheme (e.g. a compensation fund) accessible to victims of THB.**

f. Repatriation and return of victims

134. The Convention requires Parties to establish repatriation programmes, involving relevant national or international institutions and NGOs, as well as to make efforts to favour the reintegration of victims into the society of the State of return, including into the education system and the labour market. Parties must also make available to victims of THB information on the services and organisations which could assist them upon their return. The return of victims of THB must preferably be voluntary and needs to be carried out with due regard for the rights, safety and dignity of the persons and for the status of any legal proceedings related to the fact that the person is a victim of THB (Article 16).

135. The main provisions concerning repatriation of victims of trafficking to the Republic of Moldova are contained in Article 19 of the Anti-Trafficking Law and the Regulation on the procedure for repatriation of child and adult victims of human trafficking, trafficking of illegal migrants, and unaccompanied children approved by the Government Decision No. 948. According to the Anti-Trafficking Law, the authorities should contribute to the timely repatriation and receipt of victims of trafficking who are Moldovan nationals or stateless persons residing in the Republic of Moldova. Before initiating the repatriation process, the competent authorities should verify the identity, nationality and residence status of the person in question. In case the repatriated victim does not possess identity documents, such documents are to be issued without delay by the Ministry of Information Development, upon request of the Ministry of Foreign Affairs and European Integration.

136. The above-mentioned Regulation prescribes the procedure to be followed by the authorities responsible for repatriation. It contains general principles applicable to repatriation, provisions regarding co-operation with the authorities of the sending country, special procedures concerning repatriation and rehabilitation of children and procedures for repatriation and rehabilitation of adults. According to this Regulation, once information is received concerning the presence of a Moldovan victim of trafficking, an illegal migrant or an unaccompanied child in a foreign country, the authorities should inform the Ministry of Labour, Social Protection and Family, which is in charge of the repatriation procedure. Upon completion of a risk assessment the Ministry of Labour and Social Protection proceeds to repatriation in co-operation with the Ministry of the Interior, the Border Guard Service and the Ministry of Health. After the return of the victim to the Republic of Moldova his/her needs are evaluated and the assistance and protection envisaged under the NRS are provided. The Moldovan authorities have underlined the importance of assistance provided by the IOM and "Terre des Hommes" in carrying out the repatriation of Moldovan victims of trafficking.

137. That said, GRETA understands that the practical application of the above-mentioned Regulation is not satisfactory. GRETA notes that the Regulation concerns three categories of persons: unaccompanied minors, illegal migrants and victims of trafficking. In GRETA's view, placing possible victims of THB in the same category as illegal migrants and unaccompanied children may result in the authorities of a foreign country immediately proceeding with the return of a person to the Republic of Moldova without making an effort to identify if he/she is a potential victim of trafficking. According to the Moldovan authorities, pursuant to the Regulation, 44 Moldovan children were repatriated in 2008 (including 32 from the Russian Federation), 42 in 2009 (of whom 25 from the Russian Federation) and 67 in 2010 (of whom 32 from the Russian Federation and 30 from Ukraine). However, it is not clear how many of these children were identified as victims of trafficking.

**138. GRETA considers that the Moldovan authorities should improve the practical application of the existing framework for the repatriation of victims of THB, with due regard to their safety, dignity and protection, paying special attention to the needs and best interest of child victims.**

**139. Further, GRETA considers that the Moldovan authorities should develop co-operation arrangements and establish working contacts with States from which Moldovan nationals are being repatriated with a view to facilitating the identification of potential victims of trafficking among illegal migrants and unaccompanied minors prior to their repatriation, to ensure an effective and comprehensive risk assessment and enable their safe return to the Republic of Moldova.**

#### **4. Implementation by the Republic of Moldova of measures concerning substantive criminal law, investigation, prosecution and procedural law**

##### a. Substantive criminal law

140. Pursuant to Article 18 of the Convention, Parties have the obligation to establish THB as a criminal offence when committed intentionally. Further, the Convention requires Parties to consider taking measures to criminalise the use of services which are the object of exploitation, with the knowledge that the person is a victim of THB (Article 19). In addition, forging travel or identity documents, removing, concealing or destroying them, as well as procuring or providing them, must also be established as criminal offences, when committed intentionally and for the purpose of enabling THB (Article 20).

141. In accordance with Article 165 of the Moldovan Criminal Code (CC), the offence of THB is punishable by imprisonment from five to 12 years, with deprivation of the right to occupy certain positions or to exercise certain activities for a period of two to five years and, in respect of a legal person, with a fine of from 3 000 to 5 000 conventional units, deprivation of the right to conduct a certain activity or liquidation of the legal person.

142. The aggravating circumstances, listed in Article 165(2) of the CC, include the repeated commission of THB, trafficking of two or more persons, trafficking a pregnant woman, commission of THB by two or more persons, by a public official or a person in a senior official position, use of violence dangerous for the life, physical or mental health of a person, use of torture or inhuman or degrading treatment in order to ensure the subordination of a person, or use of rape or physical dependence. The penalties envisaged are imprisonment from seven to 15 years, deprivation of the right to occupy certain positions or to exercise certain activities for a period of two to five years, a fine of from 5 000 to 7 000 conventional units, and in the case of legal persons, deprivation of the right to conduct a certain activity or liquidation. Furthermore, pursuant to Article 165(3) of CC, THB committed by an organised criminal group, or resulting in grievous bodily injury, mental illness, death or suicide of a person, are punishable with imprisonment from 10 to 20 years, deprivation of the right to occupy certain positions or to exercise certain activities for a period of three to five years, a fine of from 7 000 to 9 000 conventional units and, in the case of legal persons, deprivation of the right to conduct a certain activity or liquidation.

143. The penalties for trafficking in children envisaged under Article 206 of the CC are similar to those mentioned above, with imprisonment ranging from eight to 12 years. The aggravating circumstances for the commission of child trafficking include the use of physical and psychological violence, a firearm, threat to use force, sexual abuse and violence, abuse of authority or position of vulnerability, threatening to disclose sensitive information concerning the child's family or other sensitive information, or removal of organs or tissues. The penalties envisaged include, *inter alia*, imprisonment from 10 to 15 years. The envisaged penalty of imprisonment is from 15 to 20 years or life imprisonment in case of trafficking in children committed by a person who previously committed the same offence, or trafficking of two or more children, or by a public official, or by an organised criminal group, or resulting in grievous bodily injury, mental illness, death or suicide, or committed in respect of a child under 14 years old.

144. Moldovan legislation criminalises the removing of identity documents, which is listed in Article 165(1a) of the CC as one of the means used when committing THB. Further, Article 360(2) of the CC establishes as a criminal offence the act of taking, misappropriating, concealing, damaging, destroying or possessing identity or other important documents, when committed for the purpose of restricting personal freedom, including freedom of movement, or depriving a person of these freedoms. According to the Moldovan authorities, the latter provision would apply to acts relating to travel and identity documents when committed to enable trafficking.



145. As regards the knowing use of services of victims of trafficking, GRETA was informed that such acts are not established as a separate offence. In this respect, the Moldovan authorities have referred to Article 171 of the CC (rape) which would cover the knowing use of services of a trafficking victim subjected to sexual exploitation. A draft law on amending the existing legislation with the aim of criminalising the knowing use of services of victims of trafficking, prepared by the Prosecutor General's Office, was submitted to Parliament in September 2011. GRETA welcomes this development and would like to be kept informed of progress in this area.

146. Moldovan legislation establishes the criminal liability of legal persons involved in THB offences, pursuant to Article 31 of the Anti-Trafficking Law and Article 21(3) of the CC. Both provisions stress that the liability of legal persons does not exclude individual criminal liability of natural persons who committed trafficking offences. The only category of legal persons excluded from criminal liability are public authorities. According to information provided by the Moldovan authorities, no THB offences were committed by legal persons in 2008-2010.

147. Pursuant to Article 11 of the CC, Moldovan courts take into account previous sentences for offences committed outside the country when determining the sanction for a new offence. Article 34(4) of the CC states that final sentences by foreign courts which are recognised by a Moldovan court shall be taken into consideration when passing sentences.

b. Non-punishment of victims of THB

148. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties to victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so.

149. Article 165(4) of the CC stipulates that "a victim of trafficking in human beings shall be exempted from criminal liability for any crimes committed by him/her in relation to this procedural status." According to information provided by the Moldovan authorities, there were no recorded cases of victims of trafficking committing a crime in relation to their status in 2008-2010.

c. Investigation, prosecution and procedural law

150. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. In this context, Parties are required to co-operate with each other regarding investigations and criminal proceedings related to THB (Article 32). Further, the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports, and that associations or NGOs aimed at fighting THB or protecting human rights must be able to assist and support victims during criminal proceedings, in accordance with the conditions established in the internal law and with the victim's consent (Article 27).

151. By virtue of Article 28 the Convention, Parties must take measures to provide effective and appropriate protection from potential retaliation or intimidation, in particular during and after the investigation and prosecution of perpetrators. This protection can be of various types (physical, relocation, identity change, etc.) and is to be provided to victims of THB, to those who report it or otherwise co-operate with the investigating or prosecuting authorities, to witnesses who give testimony and, when necessary, to members of the families of those listed above. In addition, Article 30 of the Convention includes a provision requesting Parties to take measures to protect victims' private life and identity and to provide for their safety and protection from intimidation in the course of judicial proceedings, including special protection measures for child victims of THB.

152. According to information provided by the Moldovan authorities, a victim's complaint is not necessary to initiate prosecution in relation to the offence of THB as prosecutors may act *ex officio*. The investigation of THB offences falls within the competence of the Centre for Combating Trafficking in Persons (CCTP) (see paragraph 23). The CCTP has regional inspectorates where at least one police officer has the task of investigating human trafficking cases. Further, in each regional Prosecutor's Office, there is one prosecutor responsible for initiating prosecution on THB cases. Representatives of the CCTP and the Prosecutor General's Office met by GRETA during the country visit stressed that the investigation of THB cases is a complex task because it is particularly difficult to obtain convincing evidence is. Upon authorisation by a judge, law enforcement officers may use detection and investigation techniques such as wire tapping, surveillance and, in case of economic crimes and corruption, checking financial transactions. The GRETA delegation was informed that new investigative techniques are being developed with the aim of facilitating investigation of corruption and financial crimes linked to THB.

153. While the criminal legislation to combat THB in the Republic of Moldova is well in place, its implementation leaves room for improvement. During the country visit the GRETA delegation was informed of several structural problems within the law enforcement agencies and the judiciary which hinder the effective application of criminal provisions in human trafficking cases.

154. Firstly, Moldovan officials and NGOs representatives pointed out to GRETA that there is still a lack of understanding among law enforcement officials, judges and prosecutors of the phenomenon of THB, especially as regards the situation of victims. As a result, the detection of trafficking cases by law enforcement agencies is low and cases that have been detected are sometimes qualified incorrectly by prosecutors or judges (from a THB offence to trafficking in migrants, for instance), thus resulting in softer penalties.

155. Secondly, the GRETA delegation was informed that a number of THB cases allegedly involving law enforcement officials had been initiated by the Prosecutor's Office. However, there have been no convictions of public officials for human trafficking. In this context, reference is made to paragraphs 53 and 54.

156. According to the Moldovan authorities, in 2008, there were 246 criminal proceeding initiated for THB offences, which resulted in 62 convictions, of which 58 involved imprisonment from four to 18 years. In 2009, 206 cases were initiated, leading to 65 convictions, including 43 cases of imprisonment from four to 18 years. In 2010, out of 197 persons prosecuted for THB offences, 31 were convicted to imprisonment and 12 were put on probation. During the first six months of 2011, out of 91 persons prosecuted for THB offences, eight were sentenced to imprisonment and 22 received conditional sentences. In this context, a number of GRETA's interlocutors raised concerns about the lack of effective punishment of traffickers. The Moldovan authorities have explained that the difference between the number of prosecutions and the number of sentences is due to several reasons: there are cases when one person commits several crimes and respectively several investigations are initiated, but later they are linked into one and consequently the number of cases sent to court is lower; a number of criminal cases are pending on the grounds that the perpetrator is not identified or is hiding; a number of criminal cases are stopped for various reasons.

157. Article 23(3) of the Convention requires Parties to adopt such legislative and other measures as may be necessary to enable them to confiscate or otherwise deprive the instrumentalities and proceeds of criminal offences related to THB or property the value of which corresponds to such proceeds. GRETA recalls that the confiscation of criminal assets, which requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so, is crucial as a way of reinforcing the effect of the penalty as well as ensuring the payment of compensation to the victim. Articles 203-210 of the Moldovan Code of Criminal Procedure envisage the possibility of seizing criminal assets. Furthermore, Article 106 of the CC envisages the possibility of confiscating in favour of the State assets used to commit an offence or representing proceeds from an offense. If such assets no longer exist, the equivalent value can be confiscated.

158. Victims of trafficking are entitled to protection measures under the Law on the Protection of Witnesses and Other Participants in Criminal Proceedings. Pursuant to this Law, protection measures may include personal protection of victims, their family members or property. These protection measures apply to witnesses and “injured parties” in criminal proceedings during the phase of the investigation and at the stage of court proceedings, as well as to victims at the stage of investigation in case the victim agrees to co-operate before the opening of criminal proceedings. GRETA notes that in the latter case, protection is linked to an obligation for the victim to co-operate with the investigation authorities. A special division under the Witness Protection Department of the Ministry of the Interior is in charge of protecting victims.

159. Pursuant to Article 20(7) of the Anti-Trafficking Law, non-governmental organisations are entitled to grant protection and assistance to victims of trafficking, including protection of their interests in criminal or civil proceedings. That said, GRETA was informed that the legal assistance provided to victims of trafficking is not adequate, *pro bono* lawyers not being sufficiently qualified to safeguard the interests of such victims.

160. As regards obtaining testimony from victims during criminal proceedings, GRETA was informed by representatives of the Prosecutor General’s Office, the judiciary and NGOs that victims of trafficking are often interviewed several times. Of particular concern are reports that child victims sometimes have to confront the offenders both at the investigation stage and during court proceedings. A guide on methods and tactics of hearing victims of trafficking has been prepared by the CCTP for territorial units of the Ministry of the Interior. There are reportedly two rooms for interviewing child victims of sexual abuse and trafficking, one at the NGOs “Amicul” specialised in helping children victims of sexual abuse and another one at the NGO “La Strada” Moldova. However, the units of the Ministry of the Interior outside Chisinau do not have specially equipped rooms for conducting hearings of children. Pursuant to Article 110 of the Code of Criminal Procedure, judges may allow hearings of witnesses by means of a teleconference, when there are reasonable grounds to believe that the life, physical integrity or liberty of a witness or close relative are in danger as a result of his/her testimony.

161. The Moldovan authorities acknowledge the above-mentioned problems and are looking for ways to improve the situation. The Supreme Court of the Republic of Moldova is currently preparing, in cooperation with the IOM and independent experts, a comparative analysis of criminal cases relating to THB, which should be available by the end of 2011.

162. **GRETA urges the Moldovan authorities to take measures to:**

- **step up proactive investigation of potential cases of THB;**
- **prioritise the identification of gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions;**
- **investigate and prosecute with priority cases of THB with the alleged involvement of public officials;**
- **ensure that judges, prosecutors and other legal professionals have regular training on THB and the situation of victims, including issues of gender equality.**

163. **GRETA also considers that the Moldovan authorities should make full use of the available measures to protect victims and take additional measures to ensure that victims of THB are adequately informed and assisted during the pre-trial and court proceedings.**

## 5. Concluding remarks

164. GRETA welcomes the importance given to action against THB in the Republic of Moldova, which is seen as a political priority, and the efforts to strengthen the institutional and legal framework for preventing and combating human trafficking. The national anti-trafficking framework ensures the involvement of relevant public bodies, international organisations and NGOs.

165. That said, GRETA considers that the Moldovan authorities should take further steps to ensure that the human rights-based and victim-centred approach underpinning the Convention is fully reflected and applied in the national policy to combat THB, from prevention to protection, prosecution and redress. This includes strengthening prevention through social and economic empowerment measures for groups vulnerable to THB, promoting gender equality and eradicating gender-based violence and the stigmatisation of victims of trafficking.

166. The human rights-based approach to THB also requires taking further steps to secure that all victims of trafficking are properly identified and provided with assistance which corresponds to their needs and meets the required standards. The Moldovan authorities should also take steps to ensure that victims of trafficking have an effective access to compensation.

167. Further, a human rights-based approach requires an improvement of the application of the criminal legislation, in particular by securing convictions of traffickers which are commensurate with the gravity of the offence. Special attention should be paid to the investigation and prosecution of THB cases where public officials may be involved. In addition, the Moldovan authorities should address instances of prejudice and lack of trust that exist among the law enforcement and the judiciary towards victims of trafficking.

168. GRETA invites the Moldovan authorities to keep it regularly informed of developments as regards the implementation of the Council of Europe Anti-Trafficking Convention and looks forward to continuing its good co-operation with the Moldovan authorities for achieving the purposes of this Convention.

## Appendix I: List of GRETA's proposals

### Comprehensive approach and co-ordination

1. GRETA considers that the Moldovan authorities should:
  - continue strengthening the Secretariat and enhancing the budget of the National Committee for Combating Trafficking in Human Beings to ensure its effective functioning;
  - encourage a more effective participation of all public bodies involved in the implementation of anti-trafficking measures at the national and local levels, and increase the co-ordination of their activities;
  - further enhance the role of NGOs active in the field of combating THB in the Republic of Moldova, by providing them with the possibility to participate in the decision-making process, including through membership in the National Committee;
  - take practical measures to improve co-operation and communication between the police and NGOs at the local level, especially as regards identification of victims of trafficking.
2. Further, GRETA invites the Moldovan authorities to consider commissioning an independent evaluation of the implementation of the National Plan as a tool for assessing the impact of the activities and for planning future policies and measures to combat human trafficking.

### Data collection and research

3. GRETA considers that, for the purpose of preparing, monitoring and evaluating anti-trafficking policies, the Moldovan authorities should develop and maintain a comprehensive and coherent statistical system on trafficking in human beings by compiling reliable statistical information from all main actors and allowing disaggregation (concerning sex, age, type of exploitation, country of origin and/or destination, etc.). This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection. In this context, the Moldovan authorities should enhance information exchanges among the agencies responsible for the supervision of migration, employment and combating THB.
4. Further, GRETA considers that the Moldovan authorities should conduct and support research on THB, in particular for the purpose of labour exploitation, within the Republic of Moldova, child trafficking and trafficking for the removal of organs. The results of the research should be used as a source of information for future policy measures in the field of action against human trafficking.

### International co-operation

5. GRETA considers that the Moldovan authorities should enhance international co-operation in the criminal and non-criminal fields by concluding agreements with countries where Moldovan nationals are trafficked to.

### **Awareness raising and education**

6. GRETA considers that the Moldovan authorities should continue their efforts to raise the awareness of the general public concerning THB. In parallel to this, the authorities should take steps to design and implement tailor-made preventive measures for groups particularly vulnerable to THB with a view to informing them in a convincing manner about the dangers of trafficking. Awareness-raising campaigns, education in schools and training of relevant professionals should aim at promoting gender equality and eradicating gender-based violence and the stigmatisation of victims of trafficking.

### **Social, economic and other initiatives for groups vulnerable to THB**

7. GRETA urges the Moldovan authorities to strengthen the aspect of prevention through social and economic empowerment measures for groups vulnerable to THB. Such measures should be based on the identified root causes of THB (economic and social conditions, poverty, inadequate education, absence of employment opportunities, etc.) and should aim to decrease and ultimately eliminate these causes.

8. GRETA also urges the Moldovan authorities to ensure the registration of all children at birth as a prevention measure against trafficking.

9. Further, GRETA urges the Moldovan authorities to take steps to secure the registration of all persons from vulnerable groups for social services, both as a prevention measure and in order to avoid re-trafficking.

### **Border measures to prevent trafficking in human beings**

10. GRETA considers that the Moldovan authorities should make further efforts to:

- detect cases of THB in the context of border controls;
- introduce a checklist to identify potential trafficking-related risks during the visa application system;
- provide employees of the Border Guard Service with training in order to increase their capacity to proactively detect cases of human trafficking.

### **Identification of victims of trafficking in human beings**

11. GRETA urges the Moldovan authorities to:

- develop and implement further measures to identify victims of trafficking among vulnerable groups, including women from socially disadvantaged families, women subjected to domestic violence, young people leaving residential care institutions, as well as men in economically disadvantaged situation;
- step up action to identify victims and potential victims of THB among children left without parental care, orphan children placed in institutions and any other categories of children susceptible to trafficking;
- enhance efforts to identify victims of THB subjected to exploitation within Moldova (both Moldovan and foreign nationals);

- provide regular training to members of the multidisciplinary teams, employees of the Border Guard Service, labour inspectors, social workers, staff of special institutions for children and other professions who may come into contact with victims of trafficking;
- ensure that the multidisciplinary teams, local police officers, social workers and other relevant actors adopt a more proactive approach and increase their outreach work to identify victims and potential victims of trafficking;
- encourage NGOs to enhance their proactive involvement in the identification of victims and potential victims of trafficking.

### **Assistance to victims**

12. GRETA urges the Moldovan authorities to take further legislative and practical measures aimed at providing all victims and potential victims of THB with adequate assistance and protection, and in particular to:

- ensure that the multidisciplinary teams and public bodies involved in the implementation of victim assistance and protection measures have the necessary human and financial resources to ensure their unhindered and effective functioning;
- provide training to all persons responsible for the provision of assistance and protection measures to victims of trafficking;
- ensure that the local authorities in all districts effectively participate in the operation of the NRS, including in facilitating the provision of assistance to victims of trafficking;
- carry out an independent evaluation of the effectiveness of the operation of the NRS, in particular as regards assistance to victims of trafficking.

### **Compensation and legal redress**

13. GRETA urges the Moldovan authorities to step up efforts to provide information to victims of THB about their right to compensation and ways to access it, and to ensure that victims have effective access to legal aid in this respect. Further, considering the low number of victims who have received compensation from perpetrators, GRETA urges the Moldovan authorities to set up a State compensation scheme (e.g. a compensation fund) accessible to victims of THB.

### **Repatriation and return of victims**

14. GRETA considers that the Moldovan authorities should improve the practical application of the existing framework for the repatriation of victims of THB, with due regard to their safety, dignity and protection, paying special attention to the needs and best interest of child victims.

15. Further, GRETA considers that the Moldovan authorities should develop co-operation arrangements and establish working contacts with States from which Moldovan nationals are being repatriated with a view to facilitating the identification of potential victims of trafficking among illegal migrants and unaccompanied minors prior to their repatriation, to ensure an effective and comprehensive risk assessment and enable their safe return to Moldova.

**Investigation, prosecution and procedural law**

16. GRETA urges the Moldovan authorities to take measures to:

- step up proactive investigation of potential cases of THB;
- prioritise the identification of gaps in the investigation procedure and the presentation of cases in court with a view to ensuring that crimes related to THB are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions;
- investigate and prosecute with priority cases of THB with the alleged involvement of public officials;
- ensure that judges, prosecutors and other legal professionals have regular training on THB and the situation of victims, including issues of gender equality.

17. GRETA also considers that the Moldovan authorities should make full use of the available measures to protect victims and take additional measures to ensure that victims of THB are adequately informed and assisted during the pre-trial and court proceedings.



## **Appendix II: List of public bodies and intergovernmental and non-governmental organisations with which GRETA held consultations**

### **Public bodies**

- Mr Iurie LEANCĂ, Vice Prime-Minister, Minister of Foreign Affairs and European Integration, Chairman of the National Committee for combating THB
- Mr Mihai MOLDOVAN, Vice Prime-Minister, President of the National Council for Child Protection
- Mr Alexei ROIBU, Minister of Internal Affairs
- Mr Oleg EFRIM, Minister of Justice
- Mr Pavel FILIP, Minister of Information Technologies and Communications
- Mr Sergiu SAINCIUC, Vice Minister of Labour, Social Protection and Family
- Mr Roman REVENCO, General Director of the Border Guard Service
- Mr Valeriu HÎNCU, Director of the Centre for Combating Trafficking in Persons
- Mr Viorel GORCEAG, Director of the Centre for Protection of Victims of Trafficking
- Mr Liviu PRODAN, Director of the Bureau for Migration and Asylum
- Ms. Raisa BOTEZATU, Vice-President ad interim of the Court of Cassation
- Mr Eduard BULAT, Head of the Anti-trafficking Prosecutors Section
- Ms Tatiana OSADCII, Head of the Centre for assistance and protection of victims and potential victims of trafficking in human beings of Căușeni district
- Ms Ludmila POPOVA, Co-ordinator of the Multidisciplinary Team for assistance of victims of trafficking of Căușeni district
- Mr Sergiu GOGU, President of the Territorial Commission on prevention and combating THB in Căușeni district.

### **Intergovernmental organisations**

- International Organisation for Migration
- United Nations Development Programme
- Organization for Security and Co-operation in Europe

### **Non-governmental organisations**

- La Strada Moldova
- Terre des Hommes Moldova
- National Centre for Child Abuse Prevention
- Save the Children Moldova

## **Government's comments**

### **The following comments do not form part of GRETA's analysis concerning the situation in the Republic of Moldova**

GRETA engaged in a dialogue with the authorities of the Republic of Moldova on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Moldovan authorities on 9 January and invited them to submit any final comments within one month. The Moldovan authorities' comments, submitted on 10 February 2012, are reproduced hereafter.



**GUVERNUL REPUBLICII MOLDOVA**  
**VICEPRIM-MINISTRU,**  
**MINISTRU AL AFACERILOR EXTERNE**  
**ȘI INTEGRĂRII EUROPENE AL REPUBLICII MOLDOVA**

NR. 1963

Chișinău

«10» 02 2012

**Secretariat of the Council of Europe Convention  
 on action against Trafficking in Human Beings**

*Final comments to the Report concerning the implementation by the Republic of Moldova  
 of the Council of Europe Convention on Action against Trafficking in Human Beings*

The Republic of Moldova would like to express its gratitude to the Group of Experts on Action against Trafficking in Human Beings (GRETA) for the efforts and the constructive report on the implementation by the Republic of Moldova of the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings.

This Report is the result of an efficient dialogue and co-operation between GRETA, Moldovan authorities and other relevant stakeholders.

The Republic of Moldova appreciates the assessment and comments made by GRETA on the ways this implementation process could be strengthened. The suggested proposals are constructive, practical and they will serve as an incentive for further development of the established system to fight trafficking phenomena.

While having to deal with this issue on a first-hand basis, the Moldovan authorities have invested tremendous efforts to combat trafficking in persons. The new Government Activity Programme "European Integration: Freedom, Democracy and Prosperity" for 2011-2014 has placed the fight against human trafficking among its core priorities.

Moreover, the GRETA recommendations were carefully examined, including earlier this year (on January 27, 2012) during the Meeting of the Permanent Secretariat of the National Committee on Combating Trafficking in Human Beings and will be included in the new *National Plan for preventing and combating trafficking in human beings for the period of 2012-2013*.

In designing the new National Plan the GRETA proposals were formulated in the form of problems of policy issues to prevent and combat trafficking in human beings. Each Recommendation "problem" in the GRETA report was matched with a "goal" and "objective". The document was consulted with public authorities, nongovernmental and international organizations, diplomatic missions' representatives and the nongovernmental organizations from the left side of the Nistru River.

The new National Plan for combating trafficking in human beings will present a comprehensive national strategy on preventing and combating trafficking in human beings and will further maintain the 4P policy and will be based on the following objectives:

- Improving measures to combat trafficking by coordinating activities between the subjects involved;
- Improve the legal and regulatory framework related to preventing and combating trafficking in human beings and framework related to protection and assistance to victims;
- Strengthening the capacity of government bodies and nongovernmental institutions in preventing and combating trafficking in human beings;
- Ensuring accessibility of information and data exchange at national and international levels to prevent and combat human trafficking;
- Research and evaluation of the characteristics, size and evolution of human trafficking;
- Reducing human trafficking by strengthening the individual and the society from the threats of this phenomenon;
- Prevention of trafficking through various administrative measures;
- Assistance and protection of victims and witnesses;
- Repatriation, rehabilitation and reintegration of trafficked persons;
- Investigation and prosecution of traffickers;
- Enhancing international cooperation in preventing and combating trafficking in human beings.

On December 2<sup>nd</sup>, 2011, Governmental Decision no. 900 established the institutional mechanism of the Permanent Secretariat of the National Committee for Fighting Trafficking in Human Beings. The Permanent Secretariat performs coordination of the activity related to preventing and combating trafficking in human beings, as well as cooperation with public authorities, international and non-governmental organizations, other agencies and representatives of the civil society

Please take note that the current GRETA Report offers a valuable opportunity for the Republic of Moldova to further improve national policies and strategies to combat human trafficking.

Additionally to the above-mentioned objectives a series of comments and supplementary information on the report were enclosed herewith.

The Republic of Moldova is interested in continuing the fruitful cooperation with GRETA and is prepared to inform regularly on relevant developments and actions undertaken in order to combat human trafficking and in particular on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings.

Looking forward to strengthen our constructive cooperation, I remain

Sincerely,



Iurie Leancă

Chair

National Committee for Fighting Trafficking in Human Beings

Annexe**Paragraph 9**

For the sake of clarity to be mentioned that according to statistics of the Ministry of Internal Affairs, during 2011, there were 131 human trafficking victims, including for purposes of sexual exploitation - 90 victims, child labour - 40 victims and only 1 victim for the purpose of begging.

**Paragraph 10**

The Republic of Moldova wishes to state that in conformity with the statistics of the Ministry of Internal Affairs, for the years 2009, 2010 and 2011, countries of destination for Moldova are the following: Russian Federation, Turkey, Cyprus, United Arab Emirates Moldova, In this regard, we propose to be reviewed the contents of this Para.

**Paragraph 16**

The Republic of Moldova wishes to emphasize inclusion of Governmental Decision no. 900 of December 2, 2011 on approval the amendments and modifications that are made to the Governmental Decision no. 472 of March 26, 2008, according to which was institutionalized the Permanent Secretariat of the National Committee on Combating Trafficking in Human Beings.

**Paragraph 18**

The Republic of Moldova wishes to urge repeatedly to modify the last sentence, as following: „The main responsibility for the implementation of the National Plan lies with the National Committee on Combating Trafficking in Human Beings”, and to be reviewed trough the Art. 8, para.4, letter (b), (g) from the Law no. 241-XVI of October 20, 2005 on Preventing and Combating Trafficking in Human Beings and trough the Paragraph 2 and 6, point 5 of the Governmental Decision no. 472 of March 26, 2008.

Thus, we recommend that the phrase "Responsibility for the Implementation" be amended with "Responsibility for monitoring and evaluation of the Implementation", in the sense that no National Committee is directly responsible for implementing the National Plan, but every central public authority, according to activities and sub-activities set by the National Plan.

**Paragraph 20**

The Republic of Moldova wishes to state the completion of the nominal composition with the following sentence:

„Ministry of Finance, State Chancellery”.

**Paragraph 21**

The Republic of Moldova wishes to emphasize to expose the first sentence as following: „The National Committee meetings shall be convened according to a schedule drawn up, but not less than once per quarter. If necessary, meetings are held more often”.

**Paragraph 25**

Additionally, to be reformulated the terminology from the Governmental Decision no. 234 of February 29, 2008 on approval of framework Regulation of the territorial commissions for combating human trafficking: *“The composition of the Territorial Committees is approved by the Chairman of the local authority. The Committees are chaired by the Deputy Chairman of the local authority responsible for social protection matters and consists of chiefs from all the decentralized public authorities with competence in the field of preventing and combating human trafficking, as well as NGOs active in this field”.*

**Paragraph 27**

The Republic of Moldova wishes to be mentioned the following specification: «The Multi-disciplinary teams (MDTs) are part of the National Referral System (NRS) and methodologically are coordinated by the National Coordination Unit of the Ministry of Labour, Social Protection and Family in order to identify and refer the identified cases within the NRS.

For the sake of clarity, additionally to the decisions inserted in this Para, to be mentioned the following reformulation:

*"Multi-disciplinary Teams have been set up at the rayon level in order to identify victims and at risk cases of human trafficking, provide individually tailored protection and assistance support during assistance process in line with a jointly developed individual assistance plan. Additionally, the teams are responsible for the referral of beneficiaries from the local level to the NCU. For crisis intervention and short rehabilitation at the Centre for assistance and protection (CAP) and for any other type of assistance not available at the local level. After referring the beneficiary back to the local level, MDTs are responsible for the implementation of the individual assistance plans and further monitoring of the case. The MDT is coordinated by a representative of the social assistance and family protection department and consists of representatives from medical institution, police commissariat, territorial registry office, and territorial office of national employment agency, specialized NGOs and other local relevant counterparts. The MDTs are the main operational units of the NRS at the local level".*

We also consider that it is not relevant to mention the number of specialists involved in the Multi-disciplinary Teams (MDTs) as the number of specialists currently would be known after completion of the monitoring process of the Strategy of the NRS till March 31, 2012.

**Paragraph 32**

To be excluded the last sentence related to the state budget allocated to extension of the NRS, because it reflects only the expenses for the period 2006-2009, but its extension is currently finished and the total expenses have not been evaluated.

The operational function within the NRS is carried by the MDTs that report on their activities to the territorial committees. The scope of the territorial commissions is a larger one, namely the general coordination of anti-trafficking activities at the local level. (Please see Annex 1 Institutional Framework of the NRS).

**Paragraph 60**

To change the numbers „26” with „42”, taking into consideration that the NRS was extended to the whole territory and today the total number of the trained teams is 42.

**Paragraph 68**

The Republic of Moldova wishes to mention the new Law no. 133 of July 8, 2011 on protection of personal data, drafted in accordance with Directive 95/46/EC of the European Parliament and the Council of October 24, 1995 on the protection of individuals with regard to the processing of personal data and free movement of such data, ensuring protection of rights and freedoms of individuals regarding the processing of personal data, especially the right to inviolability of private life, family and private.

**Paragraph 73**

The Republic of Moldova wishes to state, that the competent authorities of the Republic of Moldova (Ministry of Justice and the General Prosecutor Office, competent authorities in the international legal assistance) are in the continuous process of legal aid, based on international instruments to which Moldova is a party, and under existing bilateral treaties, international legal assistance requests flow is constantly increasing.

The Ministry of Justice provides legal assistance and the basis of reciprocity states that are not part of existing international instruments. With regard to agreements with states that Moldovan citizens are trafficked, note that the Republic of Moldova has signed 11 treaties and legal assistance treaty is a future-stage negotiation (Hungary, Czech Republic, Slovakia, Lithuania, Republic of Latvia, Russian Federation, Ukraine, Turkey, Azerbaijan, Italy, Bosnia and Herzegovina (negotiation)). Since January 1, 2012, within the Ministry of Justice were registered 17 requests for legal assistance received from the

Romanian authorities, regarding the query of persons necessary for examining the criminal case of committing the crime of trafficking in migrants.

#### **Paragraph 75**

Additionally, it is considered necessary to reformulate the last sentence of the text according to the provisions of the Governmental Decision no. 926 of December 31, 2009 on initiation of negotiations on the draft Agreement between the Government of the Republic of Moldova and the Government of Russian Federation on cooperation in the repatriation of victims of human trafficking, child trafficking, smuggling of migrants, unaccompanied minors and stranded migrants.

A similar Agreement was initiated with Ukraine - Agreement between the Government of the Republic of Moldova and the Government of Ukraine on cooperation in the repatriation of victims of human trafficking, child trafficking, and smuggling of migrant, unaccompanied minors and stranded migrants, which is already at a much more advanced level. The draft was validated by the Moldovan national working group under the leadership of Ministry of Labour and Social Protection and Family and by the Ukrainian Ministry of Youth, Family and Sport.

Further bi-lateral negotiations are expected in 2012 both at the national and regional level and aiming at finalizing and preparing the agreement for signing. In this way further steps were taken to strengthen the transnational cooperation that will be able to guarantee the respect of the rights of victims of trafficking, victims of smuggling, unaccompanied minors and stranded migrants in a more systemic manner.

#### **Paragraph 82**

Given that the Republic of Moldova is perceived as predominantly a country of origin, raising awareness about THB as a form of prevention has played a key part in the action taken by the Moldovan authorities in partnership with NGOs and international organisations (in particular the IOM and OSCE). A great number of awareness campaigns and projects have taken place over the years, covering THB for the purposes of sexual and labour exploitation, of both adults and children and awareness-raising activities in the aim of informing the civil society and young generation regarding the consequences of trafficking in persons and illegal migration.

#### **Paragraph 89**

It is important to mention here that assistance is also provided to migrants in difficult situation and unaccompanied minors abroad. These groups are especially vulnerable because they are already abroad and might later on end up in a trafficking situation.

#### **Paragraph 94**

We suggest mentioning here that Hotlines are not only an instrument for awareness rising but proved to be an important instrument for identification of victims and potential victims of trafficking.

#### **Paragraph 114**

For the sake of clarity to be mentioned, that after the sentence: "*Ministry of Labour, Social Protection and Family*", we propose to add the following text "*together with the donors support*".

The National Committee plays the main role in the general coordination of anti-trafficking efforts and does not provide direct assistance to victims of trafficking.

#### **Paragraph 115**

The Republic of Moldova wishes to propose this information in the new redaction: "According to information provided by the IOM, the main Ministry of Labour, Social Protection and Family partner in the field of providing assistance and protection to victims of trafficking in human beings, 158 victims and potential victims of THB received assistance in 2008, 159 in 2009 and 139 in 2010.

Following the institutionalization of the Centre for assistance and protection of victims and potential victims of trafficking in Chisinau in 2008- that provides crisis intervention assistance, one local centre providing social services to victims and potential victims of trafficking were set up in 2010 in Causeni - that provides long term assistance. In the same time there were established other family crisis centers



providing assistance to victims of domestic violence, maternity centers (Balti and Drochia in Northern Moldova) and Cahul (Southern Moldova).”

#### **Paragraph 116**

The Republic of Moldova wishes to note regarding the shelters providing accommodation for victims of trafficking in Moldova that identified victims of trafficking in human beings can be accommodated also in these shelters”.

It is necessary to complete with the following: "According to data from the institutions concerned, for the period 2011, the state budget were directed to these institutions:

- The Centre for Assistance of Victims and Potential Victims of Trafficking (CAP) 63043.48 USD;
- The Centre for Assistance of Victims of Human Trafficking from Caușeni: 28974.35 USD
- The Maternal Centre "Pro Family Causeni": 29401.70 USD
- Sotis, Balti - 46555.55 USD;
- The Maternal Centre "Ariadna" from Drochia - 46581.19 USD (were not fully used in 2011 but the amount was transferred in 2012;
- The Maternal Center, from Cahul: 45606.83 USD.

#### **Paragraph 119**

The Republic of Moldova wishes to propose the reformulation of this paragraph as following:

”Until recently, most of the costs of the assistance and reintegration of victims of THB were covered by international donors through international organizations or local NGOs. In 2008 the Government started to assume financial responsibilities in this field namely by providing funds for the Centers providing assistance to the victims and potential victims of THB. As of January 2011, the Moldovan Government was covering 50% of the costs of running CAP and was planning to cover them fully from June 2011. The costs for other Centers providing services to such beneficiaries are fully covered from the state budget”.

#### **Paragraph 126**

The Republic of Moldova wishes to state that identifying victims of trafficking in human beings and deliverance of residence permits and, where appropriate, identity cards to victims of trafficking foreign nationals or stateless persons, if their stay is required in connection with their personal situation or their participation in criminal proceedings regarding the accountability of the trafficker, in accordance with the Article 24, Para (6) of the Law no. 241-XVI of October 20, 2005 on Preventing and Combating Trafficking in Human Beings.

If foreign citizens and stateless victims of trafficking, because of the status of victim, are placed in care and protection centers for victims of human trafficking or where they participate in criminal proceedings against traffickers, regardless their location in these centers, they will receive temporary residence permits, which may be extended if necessary.

#### **Paragraph 130**

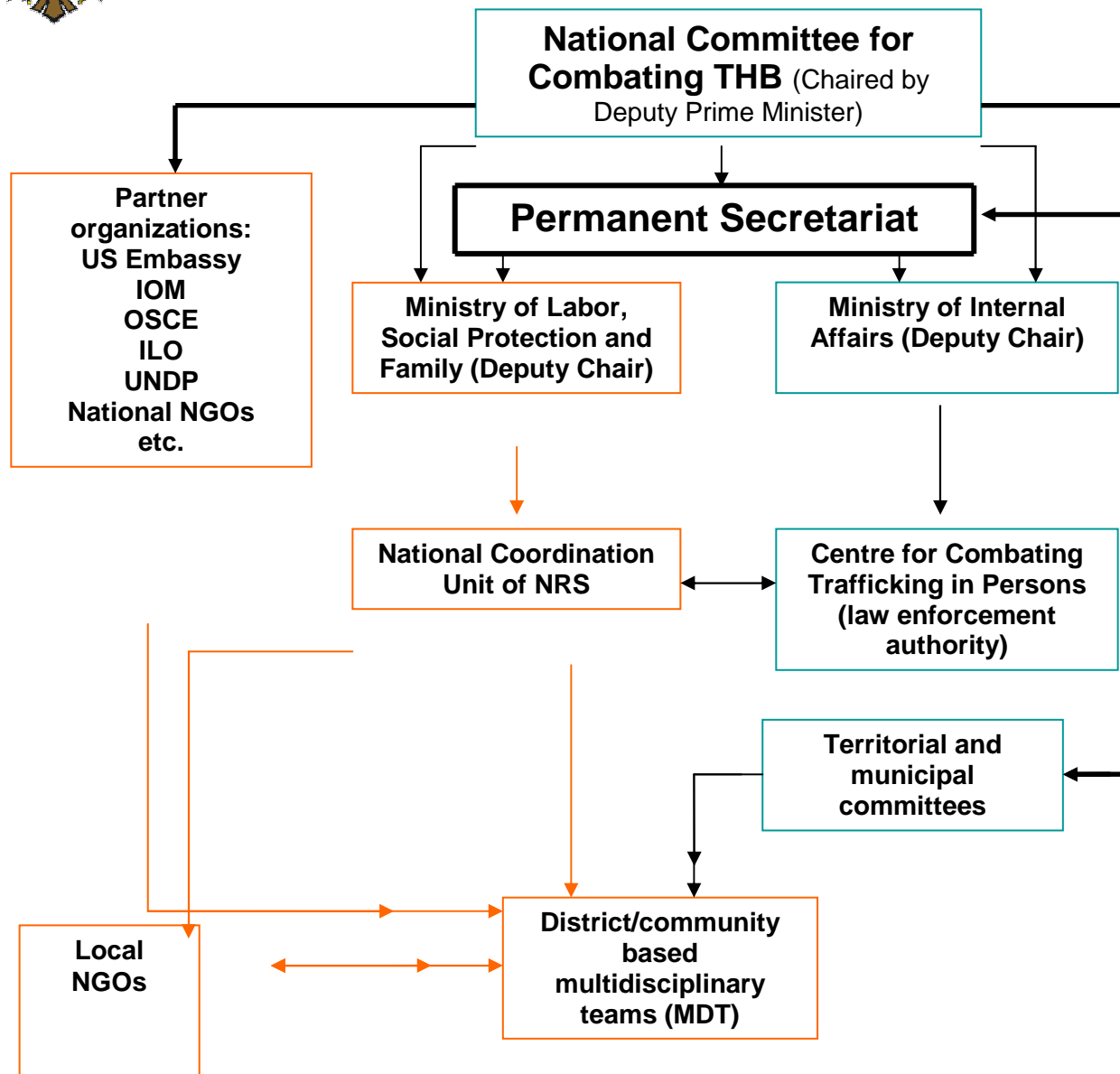
In order to provide the right of victims of trafficking to legal assistance and free legal aid, the draft Plan for the period 2012-2013, contains the chapter on legal rehabilitation and compensation for victims, with several concrete activities to establish a functional mechanism, which will offer to trafficked persons access to compensation from the State.

Also, there are special activities included in the above – mentioned draft Plan related to increasing the level of knowledge of THB victims regarding the ways of compensation, as result of remarks made by to the Group of Experts on Action against Trafficking in Human Beings (GRETA).





## Institutional Framework of the National Counter-Trafficking System



- General Prosecutor’s Office
- Information and Security Service
- Ministry of Justice
- Ministry of Health
- Ministry of Education
- Ministry of Culture
- Ministry of Information Technology and Communications
- Ministry of Foreign Affairs and European Integration
- Border Guard Service
- Migration and Asylum Bureau
- Customs Service
- Licensing Chamber
- President’s Advisor on Social Development
- Ministry of Youth and Sports