

Committee of the Parties
to the Council of Europe Convention
on Action against Trafficking in Human Beings



CP(2017)32

Report submitted by the Romanian authorities
on measures taken to comply with
Committee of the Parties Recommendation
CP(2016)11 on the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings

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Romanian Report regarding the accomplishment of the
**Recommendation CP(2016)11 on the implementation of the Council of Europe Convention on
Action against Trafficking in Human Beings**

ABBREVIATIONS

ANITP	National Agency against Trafficking in Persons
BCCO	Brigade for Countering Organized Crime
C.P/C.p	Criminal Code
C.P.P/C.p.p	Criminal Procedure Code
DCCO	Directorate for Countering Organized Crime
DGASPC	Directorate General for Social Assistance and Child Protection
DIICOT	Directorate for the Investigation of Organized Crime and Terrorism
IGI	Inspectorate General for Immigration
IGJR	Inspectorate General of the Romanian Gendarmerie
IGPF	Inspectorate General for Boarder Police
IM	Labour Inspection
ISOP	Institute for Education
MAI	Ministry of Internal Affairs
MMJS	Ministry of Labour and Social Justice
MNIR	National Mechanism for Identification and Referral
MP	Public Ministry
OUG	Government Emergency Ordinance
SCTP	Service for Countering Trafficking in Persons

Recommendation 1

Intensify their efforts to prevent trafficking for the purpose of labour exploitation, in particular by:

- a) training labour inspectors, law enforcement officers, prosecutors and judges about THB for the purpose of labour exploitation and the rights of victims;*

Please see the information provided in the answers to Recommendations 2 and 3a.

- b) expanding the mandate of labour inspectors so that they can be actively engaged in the prevention of THB, including in domestic households;*

Within the control activity, which also aims at preventing labour exploitation, according to the Law no. 108/1999 for the establishment and organization of the Labour Inspection "*labour inspectors have the right to have free access, permanently and without prior notice at the headquarters of any employer and in any other work organized by natural or legal persons*". In order to check that the legal conditions for the work at home, labour inspectors may have access the house where domestic work is carried out only accompanied by the police, based on a warrant. We appreciate that in order to carry out in optimal conditions the control activities of the labour inspectors; they should be conducted in cooperation with the police.

At the same time, through the specific activity of the labour inspectors, they may carry out initial investigations or gather information which may subsequently be submitted to the criminal investigation bodies of the cases of trafficking in persons (IGPR-DCCO)¹.

- c) strengthening the monitoring of recruitment and temporary work agencies and supply chains and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;*

According to the legislation in force, the temporary employment agent (personnel leasing) may carry out activities of providing staff, subject to certain conditions and providing an authorization issued by the Ministry of Labour and Social Justice.

According to the legislation in force, the employment agent may carry out activities to place workforce abroad under certain conditions. One of the conditions imposed by the law is to register with the territorial labour inspectorate in whose territorial jurisdiction it operates. The registration of the employment agent with the labour inspectorate is not an authorization, but only the declaration of the activities to place workforce abroad. Within the Action Programs Framework at the level of the IM, at national level there are included control actions which directly concern the verification of the work carried out by the temporary work agencies and the workforce abroad².

- d) working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.*

In order to intensify the efforts to prevent and combat trafficking in human beings for the purpose of labour exploitation, in July 2017, the Directorate for Countering Organized Crime ordered that the specialized workers within the territorial structures carry out periodic **training** with public order personnel from their areas of competence. Solved cases related to trafficking in human beings are also presented during training sessions. For example, the training conducted by BCCO Bacău - SCTP, during the evaluation of the activities carried out by the public order structure within IPJ Bacău, was attended by about 100 workers from the communal posts. At the same time, in all training sessions/professional

¹ Source: Labour Inspection;

² Source: Labour Inspection;

trainings/change of profile etc. involving workers specialized in the field of trafficking in human beings (either as a lecturer or participants), the type of exploitation through forced labour has been also addressed, given that this is the second most common method of exploitation, following the type of being forced into prostitution³.

Recommendation 2

Intensify their efforts to prevent trafficking in children, in particular by sensitising and training child protection professionals across the country, raising awareness of children through education, and paying special attention to Roma communities and migrant children.

Information campaigns on the risks associated with trafficking in human beings and prevention campaigns on trafficking in human beings through education take place regularly in most regions of Romania. These campaigns are carried out by ANITP in co-operation with other institutions or organizations and they are addressed sequentially to different target groups according to their purpose and resources. Some campaigns target children, run in educational establishments and aim at increasing self-protection capacity in trafficking in human beings. Other activities can be addressed to specialists from different professional backgrounds, including social workers, psychologists or other professionals working in the field of child rights' protection and aiming at popularizing child trafficking indicators in order to increase emerging identification, but also to determine a proactive attitude among professionals.

Among other target groups of the campaigns implemented we mention: potential customers of services provided by victims of trafficking, people who offer money to beggars who can be forced to beg⁴.

For example, within the project RO 20 "Models of good practice in the field of assistance services to victims of trafficking in human beings", financed through the Norway Financial Mechanism 2009-2014, ANITP developed between August 2015 and April 2016 a prevention campaign on trafficking in persons for forced begging. The campaign partners were the Inspectorate General of the Romanian Police, the Association for the Development of Alternative Practices for Reintegration and Education (ADPARE), the "Telefonul Copilului" Association, the "Zâmbetul Îngerilor" Association and the Ecumenical Association of Churches in Romania (AIDRom). The message of the campaign "**The stretched hand receives no help, receives money for traffickers!**" targeted children between 8 and 18 years, at risk, as well as adult representatives of the vulnerable groups (parents, informal leaders etc.), representatives of the institutions involved in preventing and combating trafficking in persons (local authorities, police, school inspectorate, public services of social assistance etc.), as well as the general public.

³ Source: DCCO;

⁴ Source: ANITP;



Within the project **”Trafficking in persons – a victim centered approach”** implemented by ANITP in cooperation with other public institutions from the Ministry of Internal Affairs, Ministry of Labour and Social Justice, Public Ministry, labour inspectors represent the target group in order to be trained on the identification of cases of trafficking in persons involving Romanian and foreigner citizens.

Recommendation 3

Take further steps to improve the timely identification of victims of THB, and in particular by:

- a) ensuring that the National Mechanism for Identification and Referral of Victims of Trafficking in Persons (MNIR) is effectively implemented in practice, including by backing it up with adequate funding and periodically training all relevant professionals on the MNIR;*

Currently, ANITP implements the project **”Trafficking in human beings - a victim-centered approach”** which has the general objective to increase the protection and assistance of victims of trafficking by improving the implementation capacity of the National Identification and Referral Mechanism and cooperation with civil society. The project aims to improve the present Identification and Referral Mechanism by considering tools for risk assessment, reflection and transnational repatriation. The anti-trafficking practitioners will support the whole process of improving the Mechanism. 17 training sessions, scheduled to take place at the beginning of 2018, for professionals who may come into contact with the victims of trafficking in persons will improve their knowledge of trafficking in persons and the identification of victims⁵.

In 2016, ANITP and ISOP have jointly started a professional training course in the field of trafficking in persons, addressed to the personnel of the Inspectorate General of the Romanian Police, the Inspectorate General of Border Police, Immigration Offices, and the Inspectorate General of Gendarmerie. The course

⁵ Source: ANITP;

is included in the annual regular training curricula for 2016 and 2017 addressed to the personnel of Internal Affairs Ministry⁶.

Between October 2016 and August 2017, a SCTP officer within DCCO participated as lecturer in the training course “Early identification of victims/potential victims of trafficking in persons”, which took place at ISOP headquarters, with an attendance of 95 participants as follows: October 2016 – 19 participants within the Police Transportation Directorate, January 2017 – 19 participants within IGJR, February 2017 – 19 participants within Traffic Police Directorate, April 2017 – 16 participants within IGPF, June 2017 – 9 participants within IGI, August 2017 – 13 participants within Public Order Department. Additionally, 20 workers from DCCO and its territorial structures were trained. The purpose of the training session was to increase the early identification capacity of victims/potential victims by training the workers who may have first contact with such victims and ensuring that the National Mechanism for Identification and Referral of Victims of Trafficking in Persons is known and put into practice by all those responsible for its implementation⁷.

b) making sure that whenever there are reasonable grounds to believe that a person is a victim of THB, he or she is identified as a victim of THB and provided with the assistance and protection measures provided for in the Convention, regardless of whether an investigation into trafficking is opened and whether the person co-operates with the investigation;

We stress that, in Romania, assistance to victims does not depend on their participation in the criminal proceedings and that potential victims are immediately included in support, assistance and counseling programs, whether or not they participate in criminal proceedings.

We also exemplify the countless requests for repatriation of Romanian citizens, identified outside the country, generally in European states, as vulnerable, potential victims or, at most, presumed victims. In such cases, the persons are repatriated by direct involvement of ANITP in picking them up at the airport and referring to a specialized protection and assistance service. None of the victims of Romanian citizenship repatriated in 2016 had the status of victim of THB confirmed by foreign authorities; their situations were usually evaluated by foreign authorities as vulnerability, potentiality or, at the most, presumption of trafficking, but the intervention of the Romanian authorities was specific to trafficking cases.

c) Increasing efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors to effectively prevent and combat THB;

Please see the information provided in the answer to Recommendation 3a.

d) paying increased attention to detecting victims of trafficking among foreign workers and asylum seekers and expand the use of the tools available for this purpose. In this context, training on the identification of victims of THB and their rights should be provided to staff of the Directorate for Asylum and Integration of the Ministry of the Interior.

With regard to asylum, as early as February 2015, a mechanism for the identification of vulnerable asylum seekers, including victims of trafficking in human beings, has been in place at the level of the Regional Centers of IGI, the County Inspectorates of Immigration, which originally started as a pilot-project in Romania⁸.

⁶ Source: ANITP

⁷ Source: DCCO;

⁸ Source: IGI;

One of the general strategic objectives of the *National Strategy on Immigration for the period 2015-2018* (approved by Government Decision no.780/2015) is to strengthen the control of the legality of the stay of third-country nationals on the territory of Romania and the corresponding application of the removal and restrictive measures⁹.

On the basis of point II of the Government Decision on the approval of the National Strategy on Immigration for the period 2015-2018 and the corresponding Action Plan for 2015, IGI and IM organize and carry out campaigns to inform foreigners on the conditions under which they can carry out lucrative activities in Romania as well as on their rights and obligations as employees.

Moreover, IGI and IM have concluded a cooperation protocol to prevent and combat undeclared work of foreigners, which is permanently adapted to the needs of the two institutions. An Operational Cooperation Plan is being concluded annually for the detection of illegal foreign workers and the fight against undeclared work of foreigners, constantly adapted to recent challenges.

Quarterly or yearly meetings are held between IGI and IM representatives to evaluate joint activities previously carried out by the territorial structures of the two institutions and to identify solutions to streamline their activities. During these meetings, the representatives of the two institutions analyze the operational situation and the results of the operations regarding the observance of the purpose of foreigners' stay in Romania and the legislation on employment.

The labor inspectors within the territorial labor inspectorates are trained by the representatives of the territorial structures for immigration regarding the relevant national and European legislation applicable to foreigners, the documents issued by IG I, etc. IGI carries out activities/inspections by its own or in cooperation with IM in order to prevent and combat the phenomenon of undeclared work of foreigners¹⁰. Over the years, the activities carried out by IGI in migration field have led to the creation of an inter-institutional cooperation mechanism at national level to combat the illegal stay and work of foreigners with the participation of IGPR, IGJR, IGPF and IM in order to effectively manage the operational situation¹¹.

Recommendation 4

Step up their efforts to provide assistance to victims of trafficking, regardless of their nationality, in particular by:

- a) Ensuring that any person identified as a presumed victim of THB is provided with the assistance and protection measures provided for in the Convention, regardless of whether an investigation into human trafficking is opened or the victim co-operation therein;*

Please also see the information provided in the answer to Recommendation 3b.

Based on the National Identification and Referral Mechanism, victims of trafficking are assisted, whether they choose or not to participate in criminal trials against perpetrators. This is reinforced by the way in which Romanian assistance services are organized and operated, regardless of their public or private capital, where the principle of ensuring the beneficiaries' needs is a priority regardless of any other social, legal, economic or other conditions.

- b) Ensuring that all assistance measures provided in law are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and to ensure the quality of the services delivered;*

⁹ Source: IGI;

¹⁰ Source: IGI;

¹¹ Source: IGI;

The Convention does not provide for an obligation on the part of the state to finance the services offered by NGOs.¹²

- c) Providing a sufficient number of shelter places around the country for all victims of trafficking who need safe accommodation for the duration necessary to achieve their recovery, based on individual needs assessment;*

The findings resulted from the process of assisting Romanian citizens victims of trafficking revealed that, unlike the destination countries, in Romania, as country of origin, the majority of victims of trafficking are more likely to return to the family and less frequently to access services in a residential system offered by the state or NGOs, thus benefiting from the support network in recovery and reintegration. In the opinion of the practitioners, at this stage, it is more necessary to develop community support services for the victims of trafficking and, to a lesser extent, to open accommodation centers, taking into consideration that the absolute majority of victims are of Romanian origin.

We appreciate that the number of centers for assistance of victims of THB in residential care currently operating in Romania, organized under the subordination of DGASPC or administrated by NGOs, is able to respond to current demands and needs. Difficulties in providing accommodation for Romanian or foreign victims of THB were only exceptional, and alternative solutions were identified in such cases.

- d) Ensuring that foreign victims of trafficking are moved from administrative detention centers and are accommodated in specialised shelters for victims of trafficking;*

We are not aware of such situations.

- e) Ensuring adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and access to the labour market;*

The number of victims receiving support to enroll and participate in professional training, professional reconversion and professional counseling and, finally, to gain access to the labor market in 2015 and 2016 was as follows:

• **2015**

Professional counseling	113
Professional reconversion	10
Reintegration into work	26

• **2016**

Professional counseling	80
Professional reconversion	7
Reintegration into work	24

- f) Guaranteeing access to health care to all victims of THB.*

According to the Ministry of Health, the Law no. 95/2006 on health reform guarantees the access of any citizen to emergency health care, victims of trafficking in human beings; Romanian and foreigner victims

¹² The Explanatory Report to the Convention presents the possibility of assisting victims in partnership with NGOs or other civil society organizations. The State's obligation in this context is to ensure that victims receive the assistance they are entitled to and that hosting, protection and assistance services are funded in a timely and appropriate manner.

of THB are exempted from paying social insurance for a period of up to 12 months if they do not have an income.

Recommendation 5

Improve the identification of and assistance to child victims of trafficking, in particular by:

- a) Ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB by paying particular attention to children in care institutions, Roma children and unaccompanied foreign minors;*

We would like to emphasize that according to art. 89 paragraph (1), Chapter VI Protection of the child against abuse, neglect, exploitation and any form of violence of Law no. 272/2004 on the protection and promotion of the children's rights, "The child has the right to be protected against abuse, neglect, exploitation, trafficking, illegal migration, abduction, violence, internet pornography, and all forms of violence, regardless the environment in which it is located: family, educational, medical, foster care, crime and rehabilitation/detention facilities, Internet, media, work-place, sports, community etc."

In view of a more rigorous approach at central and local levels of the issue of trafficking in children, art. 109 paragraph (1), Section 5 The protection of the child against abduction or any form of trafficking of Law no. 272/2004 provides for the regulations concerning the necessary inter-institutional steps to enforce the law, namely "the Ministry of Internal Affairs and the Ministry of Labor, Family, Social Protection and the Elderly in cooperation with the Ministry of National Education will take the necessary steps to adopt all legislative, administrative and educational measures designed to ensure the effective protection against all forms of internal or international trafficking in children for any purpose or in any form, including by their own parents. To this end, the public authorities referred to in paragraph (1) have the responsibility to develop a national strategy to prevent and combat this phenomenon, including an internal mechanism for coordinating and monitoring the activities undertaken."

Specifically, in the provisions of Chapter VII Institutions and Services with competencies in the area of Child Protection, Section 1 Institutions at Central Level (art. 111-112) and Section 2 Institutions and Services at local level (art.113-125) the central institutions are nominated as well their obligations to monitor the principles and the rights of the child, as well as to coordinate and control the activities related to child protection and promotion. Also, the same chapter regulates the obligations of specialized local institutions in the area of guaranteeing and promoting the observance of children's rights in the administrative-territorial units, thus ensuring the prevention of the separation of the child from their parents and the special protection of children deprived, temporarily or definitively, of parental care.

The main legislative framework, presented herein, addresses both the prevention and identification of risk situations for children, the identification and protection of child victims of any form of violence, including internal or international trafficking, as well as the evaluation, training, support and monitoring of the child and family for the effective implementation of the reintegration/integration process following the special protection measures:

- Law no. 272/2004 on the protection and promotion of the rights of the child, republished, with further modifications;
- Government Decision no. 49/2011 for the approval of the Framework Methodology on multidisciplinary and networking prevention and intervention in case of violence against children and domestic violence and Methodology on multidisciplinary and interinstitutional intervention for child laborers and children at risk of child labor, trafficking in children and Romanian migrant children victims of other forms of violence on the territory of other states;
- Government Decision no. 617/2004 on the establishment and organization of the National Committee for preventing and combating exploitation of children through labor, as subsequently amended and supplemented;

- Government Decision no. 1443/2004 for the approval of the Methodology on the repatriation of unaccompanied Romanian children and the provision of special protection measures in their favor;
- Government Decision no. 691/2015 for the approval of the Monitoring procedure for raising and taking care of the child whose parents go abroad for work and the services they can benefit from, as well as for the approval of the Working Methodology on the collaboration between the Directorates General for Social Assistance and Child Protection and the Public Social Assistance Services and on the standard model of documents drawn up by these institutions;
- Order no. 288/2006 for the approval of the Mandatory Minimum Standards for case management in the field of child rights protection;
- Order of the Secretary of State of the National Authority for the Protection of the Child Rights and Adoption no. 177/2003 on the approval of the Mandatory Minimum Standards for children help-line, of the mandatory minimum standards for the counselling center for abused, neglected and exploited children, as well as of the mandatory minimum standards for the community resources center to prevent child abuse, neglect and exploitation;
- Order of the Secretary of State of the National Authority for the Protection of the Child Rights and Adoption no. 89/2004 on the approval of Mandatory Minimum Standards regarding the center for emergency reception of abused, neglected and exploited children;
- **Order no. 287 of 6 July 2006 for the approval of the Mandatory Minimum Standards for the center for the preparation and support of the reintegration or integration of the child in the family, as well as of the methodological guide for the implementation of these standards.**

In the field of prevention and intervention in situations of violence against the child, including in human trafficking situations, according to the provisions of art. 2 paragraph c) point 7 of Annex no. 1 - The Framework-regulation on the organization and functioning of the Directorates General for Social Assistance and Child Protection (DGASPC) of the Government Decision no. 1434/2004, as amended by the Government Decision 967/2010, the Directorates General for Social Assistance and Child Protection at the level of each county or district of the Municipality of Bucharest collaborate on the basis of protocols or conventions with the other Directorates General, as well as with other public institutions from the administrative-territorial unit, in order to fulfill their attributions in the field, according to the law, through the intervention department in cases of abuse, neglect, trafficking, migration and repatriation specified in art. 3 (1) (11), the Emergency Response Compartment (paragraph 10), the child case management section (paragraph 13) or others, as the case may be.

Also, in order to meet the legal provisions in the field of child rights protection, the National Authority for the Protection of Children Rights and Adoption initiated and promoted Government Decision no. 1113 of 12 December 2014 on the approval of the *National Strategy for the Protection and Promotion of the Rights of the Child for the period 2014-2020* and its corresponding Action Plan. Two of the specific objectives of the *National Strategy* (Specific objective 3.1. Promoting values of non-violence and implementing awareness-raising actions and Specific objective 3.2. Reducing the phenomenon of child violence, measures and follow-up activities) provide the prerequisites for achieving the objective of preventing and combating all forms of violence against children, including trafficking in children.

Government Decision no. 49/2011 was designed to create a common methodological framework for the authorities responsible for protecting children and families from violence, including from trafficking, for relevant service providers and professionals working directly with the children, their families and alleged perpetrators/aggressors, as well as the working procedures in line with the legislation into force and with the specificity of each institution involved in preventing and intervening in cases of violence against children.

Based on this common methodological framework, each DGSACP signs partnership agreements with the other relevant public institutions and authorized private organizations from the county/Bucharest district

for the implementation, specification and dissemination of the provisions contained in this framework methodology.

Specifically, in the field of preventing and combating trafficking in children, as well as in the field of protection and assistance to child victims of trafficking, there are a number of specific responsibilities of specialized institutions and structures, which are included in the Monitoring mechanism of child victims of trafficking and of Romanian migrant children victims of other forms of violence on the territory of other states which is based on the provisions of the National Mechanism for Identification and Referral of Victims of Trafficking in Human Beings (approved by the Order of the Minister of Internal Affairs and Administrative Reform, of the Minister of Labor, Family and Equal Opportunities, of the Minister of Education, Research and Youth, of the Minister of Public Health, of the President of the National Authority for the Protection of the Rights of the Child, the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice and of the Minister of Justice no. 335/2.881/1.990/1.072/2007/266/A6.880/409/C/2.353/C/2008) and on the Methodology of repatriation of unaccompanied Romanian children (approved by Government Decision no. 1.443/2004).

In order to improve the identification and assistance of child victims, special attention is paid to children with disabilities and those with special protection status who are more at risk of becoming victims of violence, including trafficking in human beings, bearing in mind that they may have/encounter difficulties in reporting these situations or obtaining adequate protection.

According to Government Decision no. 49/2011, reports on all suspicions or situations of violence against the child, including situations of trafficking in human beings, as well as situations of unaccompanied minors on the territory of Romania shall be submitted to DGASPC. Reporting on cases of trafficking in children and of unaccompanied children on the national territory is carried out in collaboration with the Inspectorate General for Immigration and its territorial units, according to the legal provisions and the institutional attributions.¹³

b) Providing further training and resources to stakeholders (police, service providers, NGOs, child protection authorities, social workers), especially in rural areas, as well as guidance on the identification of child victims of THB for the purpose of all forms of exploitation, including forced begging and forced criminality;

Please also see the information provided in the answer to Recommendation 3 on the training course “Early identification of victims/potential victims of trafficking in persons” organized at the Institute for Studies and Public Order (ISOP) of the Ministry of Internal Affairs.

In order to monitor the field of preventing and combating violence against children, the National Authority for the Protection of the Child Rights and Adoption collaborates with the Local Intersectoral Teams at the level of each county/district of Bucharest, according to the provisions of the Framework Methodology on prevention and intervention in a multidisciplinary and network team in cases of violence against children and domestic violence (Government Decision No 49/2011). The Local Intersectoral Teams have the obligation to draw up an annual report on the activity carried out in the field. Thus, according to the analysis of the activity reports of the Local Intersectoral Teams for the year 2016, the following prevention activities were carried out on the issue of trafficking in human beings:

1. Courses:

- "Gender vulnerabilities and the impact on trafficking in women and girls for sexual exploitation" - organized by the Center for Equality Partnership in 5 counties (Arges, Braşov, Brăila, Constanţa, Covasna);
- Master - Integrated Protection and Assistance for Victims of Trafficking in Human Beings (Bacau);

¹³ Source: ANPDCA

- "Model of Good Practices in Assistance Services for Victims of Trafficking in Human Beings" - organized by ANITP in 6 counties (Bihor, Braşov, Brăila, Botoşani, Mureş, Sibiu);
 - "Trafficked and exploited minors" - Identification and assistance of victims of trafficking in human beings, organized by the Association for the Development of Alternative Reintegration Practices and Education Practice (ADPARE) and ANITP Suceava in 2 counties (Botosani, Covasna);
 - Training on human trafficking issues "RO 20 - Good Practice Model in Assistance Services for Victims of Trafficking in Human Beings" - organized by Alba and Hunedoara counties for the staff of the Directorates General for Social Assistance and Child Protection;
2. Round tables / workshops with specialists from various institutions and organizations on trafficking in human beings - in the counties of Alba, Bacău and Botoşani;
3. Studies - a study on the issue of trafficking in children elaborated by DGASPC Neamţ in partnership with "Terre des Hommes" Foundation;
4. Information sessions for local communities / social services (SPAS) on various topics related to trafficking in children, such as: identification of risk situations, exploitation of children through work, reporting cases of violence, juvenile delinquency, trafficking in children, in Argeş (the caravan of integration of disadvantaged Roma communities), Bacau, Bihor (Roma communities), Botoşani, Călăraşi, Constanţa, Covasna, Hunedoara, Iaşi (theater forum), Mureş, Timiş, Vâlcea counties;
5. Informing children on topics related to child trafficking: violence against children, labor exploitation, begging and trafficking in human beings - in the counties of Mureş (ANITP), Bacău, Vrancea;
6. European Day for Combating Trafficking in Human Beings (18 October) - activities organized in Satu Mare, Bacău, Bihor, Cluj, Iaşi, Neamţ, Olt, Vrancea counties.¹⁴

c) Providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;

According to art. 58 of Law no. 272/2004, the Directorate General for Social Assistance and Child Protection (DGASPC) has the obligation to draw up the individual protection plan within 30 days from the moment of receiving the application for a special protection measure or immediately after the DGASPC director has ordered the emergency placement.

The Residential Services for victims of abuse, neglect, exploitation and trafficking organize family and social reintegration activities involving the social assistant, psychologist, educators by observing the following objectives: the reintegration into the family or the extended family, the creation, preservation and the development of the child/teenagers' relationships with the family through concrete family-related actions (family visits, correspondence), encouraging parents to visit children, providing counseling and support before and after reintegration into the natural or extended family.

Also, in order to provide a child-friendly development environment, other types of activities are organized, such as:

- developing household skills with the assistance/support of the social assistant, educators and children (house cleaning, laundry and ironing);
- socializing, with the participation of the social assistant, the psychologist and educators are involved, with the aim to: acquiring and developing relationship skills with the other beneficiaries, the staff of the residential service, the local authorities and the local community; the acceptance of others through activities and actions that foster interaction; building up abilities and skills to engage in society through community-based actions involving social interaction; participation in social-cultural activities; visits to the natural family, extended family or other families. The

¹⁴ Source: ANPDCA

child/young person is helped to get acquainted with and to use the services available in the community (post office, police, local authorities, bank, etc.), training and consolidating skills related to punctuality, polite behavior in society, money management. Young people are prepared for independent life with everything that implies this from an emotional, social and professional point of view in order to reduce young people's fear of leaving the institution, the feeling of insecurity and marginalization, and the development of autonomy, the formation of citizen consciousness through raising awareness on their rights and obligations that need to be respected first and foremost by them and by others.

- professional integration: providing guidance and counseling for professional integration according to the young person's desires and skills; specific activities to enable their professional integration in the local labor market; developing a positive attitude towards work; acquiring punctuality skills, seriousness, discipline, and team spirit; stimulation of responsibility towards their own professional project; acquiring the necessary knowledge to write a CV, a letter of intent and other documents; facilitating access to information on legislation related to labor; collaboration with community institutions and services,
- developing communication and networking skills through conversation, learning the desirable behaviors in society (integration into a group or in society, inter-human relations).

According to the standards in force, when admitting children victims to residential services, they are made aware of their rights and obligations, they are helped to get familiarized themselves with the Center's structure and staff, with its space, facilities and utilities, and to become acquainted with the staff.

To exemplify the activities addressed to children victims in the special protection system placed in a specialized residential service, we would like to present, as a good practice, the "Andrei" Center for Assistance and Intervention for Victims of Trafficking, Abuse, Abuse and Exploitation in Satu Mare – DGASPC Satu-Mare:

Initial assessment of needs: In the case of victims of trafficking in human beings, the case manager goes through a discussion with the Center's beneficiary to identify and classify his/her needs. Then, based on the information obtained from the other specialists (psychologist, jurist, social worker, nurse), the case manager draws up the specific intervention plan which will serve as a monitoring tool for the social, medical, educational and legal development of the child from the point of admission to the center until he/she leaves the center.

Providing food: The center provides a healthy diet for the hosted beneficiaries, according to their age and needs.

External appearance, clothing and personal equipment: Children in the center are provided with clothing, footwear, school supplies and equipment for their own use.

Health status of the beneficiaries and prevention of illnesses: The case manager accompanies the children, as appropriate, to the forensic examination. In the center, the nurse and the center staff record medication for sick children. If the situation cannot be managed locally, the ambulance is called and the nurse accompanies the child to the investigation. In the case of hospitalization of the child under the age of 7, the staff of the center ensures the supervision of the child day and night, for which a special working schedule for the employees is set in order to ensure both the supervision of the child in the hospital and the proper functioning of the center. The children's medication is provided by the center; medical records stating the diagnosis of the treating physician and the treatment to be administered are kept for each child. Taking into consideration the specificity of the center and the provisions of the Order no.89 / 2004 for the approval of the Minimum mandatory standards regarding the Emergency Reception Center for the abused, neglected and exploited children, the medical examination procedures upon the admission in the center and the intervention procedures in emergency situations in cases of aggression or self-aggression have been developed.

Education: The children within the center benefit from informal education, taking into account their risk situation. The head of the center designates an educator who will develop an activity plan appropriate to the age and capacity level of the child victim. Currently, the service educator attends meetings with parents, discusses issues related to the student with teachers or supervisors, and supervises children on topics. The good collaboration with the school units within the community is encouraged¹⁵.

d) Ensuring long-term monitoring of the reintegration of child victims of trafficking;

Monitoring the reintegration of children victims of trafficking is part of the general provisions aimed at monitoring the application of special protection measures (Section 5a of Law No. 272/2004 on the protection and promotion of the rights of the child - articles 72-74).

Thus, the law provides for the circumstances for establishing special protection measures ordered by the child protection commission or by the court, which according to art. 72 par. 1 “have to be checked quarterly by the general directorate for social assistance and child protection. Where the circumstances provided for in paragraph (1) have changed, the general direction of social assistance and child protection shall immediately notify the child protection commission or, as the case may be, the court, with a view to amending or, as the case may be, terminating the measure.”

The General Directorate for Social Assistance and Child Protection or, as the case may be, the authorized private body is required to monitor the way in which special protection measures, child development and care in general, including the child victim of trafficking, are implemented throughout the period of application of the measure and “draws up, on a quarterly basis or whenever a situation arises, reports on the development of the child's physical, mental, spiritual, moral or social development, and the way in which he or she is cared for”. In the situation when, based on the report, it occurs the necessity to modify or, as the case may be, to cease the special protection measure, the Directorate General for Social Assistance and Child Protection shall immediately notify the child protection commission or the court, as the case may be, and present with the proposal for termination of the protection measure and reintegration in the family, providing documents regarding parents’ participation in counseling sessions, so that reintegration is carried out under the best conditions (art. 73 of Law no. 272/2004).

At the termination of the special protection measures by reintegrating the child into his/her family, the public social service, the staff with social assistance attributions from the mayor's specialized apparatus, as well as the Directorate General for Social Assistance and Child Protection, in the case of Bucharest districts, at home or, where appropriate, at parents' residence, have the obligation to follow up with the development of the child as well as with the way in which parents exercise their rights and fulfill their obligations with respect to the child. For this purpose, they draw up monthly reports for a minimum of 6 months.¹⁶

e) Ensuring that proper risk assessment is conducted before returning children to their parents, taking into account the best interests of the child;

According to art.58 of Law 272/2004 on the protection and promotion of the rights of the child, priority is given to the reintegration of the child into his/her family while establishing the objectives of the individualized protection plan of the child victim. In cases where reintegration is not possible, the procedure of internal adoption is initiated, according to the law. The reintegration of the child into his/her family as the objective of the individualized protection plan is established with mandatory consultation of the parents and members of the extended family who could be found.

In order to prepare for the reintegration of the child into his/her family and community, the case manager is considering maintaining the child's relationship with his/her family or with other persons. “The child to whom a special protection measure has been taken has the right to maintain relationships with other

¹⁵ Source: ANPDCA

¹⁶ Source: ANPDCA

persons, if they do not have a negative influence on their physical, mental, spiritual, moral or social development” (article 75 of Law no. 272/2004).

According to art. 90 of Law no. 272/2004 (1) “the parents of the child or other legal representative thereof, public authorities and private bodies are required to take all appropriate measures to facilitate the physical and psychological rehabilitation and social reintegration of any child who has been the victim of any form neglect, exploitation or abuse, torture or punishment, or cruel, inhuman or degrading treatment. (2) The persons mentioned in paragraph (1) will ensure the conditions for rehabilitation and reintegration to favor the health, self-esteem and dignity of the child.”

Seeking the reintegration of minors within their families, the case manager and other professionals who take part in the implementation of the individualized protection plan, carry out, in stages, a series of activities such as: family situation assessment, identification of the child's needs according to the state of health, the special needs and the degree of harm caused by the abuse, the preparation of a service plan by the case manager in the child protection community, the preparation of the child reintegration file that will include the social survey, the child's and parents' identity documents, other documents reflecting the situation of the child and the family, psycho-medical assessments, case files, facilitation of family reintegration, family counseling, assisting in the acquisition/ regaining of civil status documents, assisting in obtaining equal rights and some social facilities, health care, etc., supporting school or socio-professional reintegration (continuing school or integrating into a vocational training course), taking into account the level of development of the child, the interests and abilities of the child, identifying the most appropriate courses advantageous for the child according to age and development.

Other activities that residential services available for children victims have to be considered, i.e. those addressed to the community for prevention: taking preventive/informative action in the school and community environment on the risks of traveling abroad in unreliable conditions, without being accompanied or by fraud, to mediate the risks connected with migration and human trafficking and their consequences, through mass-media and to promote the interinstitutional partnership in the field¹⁷.

f) Reviewing the application of the guardianship system for child victims of trafficking and paying increased attention to children who are trafficked by their parents or other family members;

According to art. 41 paragraph (1) and (2) of Law no. 272/2004 on protection and promotion of the rights of the child “if there are thorough reasons to suspect that the life and safety of the child are threatened within his/her family, then the representatives of the Public Social Service or the Directorate General of Social Assistance and Child Protection at the level of Bucharest districts have the right to visit children at their home and to be informed about their care, their physical health and development, their education, their teaching and their professional training, providing the necessary guidance. (2) If, following the visits made pursuant to paragraph (1), it is found that the child's physical, mental, spiritual, moral or social development is jeopardized, the public social assistance service shall immediately notify the Directorate General for Social Assistance and Child Protection in order to take the measures provided for by the law”.

The Directorate General for Social Assistance and Child Protection shall notify the court if it considers that the conditions stipulated by the law for total or partial loss of the exercise of parental rights of both or one of the parents are met and shall take all necessary measures so that parents who have been deprived of their parental rights and those who have been restricted the exercise of certain rights should receive specialized assistance to increase their capacity to deal with children in order to regain the exercise of parental rights.

Where a child is temporarily or permanently deprived of the protection of his/her parents or who, in order to protect his/her interests, cannot be left in their care, he/she has the right to alternative protection. Alternative protection includes the establishment of guardianship, special protection measures provided for by law and adoption. In choosing one of these solutions, the competent authority will duly take into

¹⁷ Source: ANPDCA

account the need to ensure certain continuity in the education of the child, as well as its ethnic, religious, cultural, and linguistic origin (article 44 of Law no. 272/2004). According to art. 45 of the Law no. 272/2004, guardianship is established by the court in whose territorial jurisdiction the child resides or is found¹⁸.

Recommendation 6

Abandon the practice of making the names and addresses of victims of trafficking publicly available.

In the context of the concern to ensure effective protection of the rights of the victims, the way in which the principle of confidentiality of the personal data of victims of trafficking in human beings can be respected on the court portal was analyzed at the level of the Superior Council of Magistracy (CSM).

Regarding these legal provisions, at the level of the Superior Council of Magistracy, it was appreciated that the display on the portal of the courts of information on the names of the injured parties in the cases concerning trafficking in persons and trafficking in minors, thus becoming available to the general public, is likely to prejudice the provisions of Art. 26 par. (2) of the Law no. 678/2001 which guarantees the confidentiality of these data, having harmful consequences in terms of private life and the psycho-emotional state of the victim of such offenses. In particular, in cases of trafficking in human beings and trafficking in minors, the identity data of the victims of these offenses is made public by the fact that, once the ECRIS fields are filled in with regard to the name and surname of the injured person, these data is also automatically transposed into the court portal.

In this context, in 2015 and 2016, the Superior Council of Magistracy has signaled to the Ministry of Justice the need to modify the ECRIS application so that in cases where the identity data of victims of certain types of crime (trafficking in human beings/minors, child pornography, and other offenses related to sexual freedom) their names are not transposed on the court portal, even if those fields in the application relating to these data are completed.

The CSM Commission also ordered the circulation of a specific Order/Circular to the courts so that, until the ECRIS application is properly adapted, the “confidential” check for the offenses mentioned above shall be applied, considering that the measure is necessary for the protection of victims and witnesses in these types of causes.¹⁹

According to the Ministry of Justice, a working group attended by representatives of the Ministry of Justice, CSM, and courts has been established on the issue of data anonymization, in order to identify the technical solution for the implementation of this measure, in the next period.²⁰

Recommendation 7

Increase their efforts to facilitate and guarantee access to compensation to victims of THB, and in particular by:

- a) Providing information to all victims of THB on their right to compensation and the ways to assess it, and ensure that victims have effective access to legal aid in this respect;*

According to art. 44 para. (1) of Law no. 678/2001, victims of trafficking in human beings (referred to in art. 43 of the said Law) are provided with legal assistance in order to be able to exercise their rights in criminal proceedings provided for by the law at all stages of the criminal proceedings and to support their civil claims and claims against the persons who have committed the offenses in which they are involved. At the same time, according to paragraph 2 of the same article, the provisions of chapter IV of Law no. 211/2004 on certain measures to ensure the protection of victims of crime, as subsequently amended and

¹⁸ Source: ANPDCA

¹⁹ Source: CSM

²⁰ Source: Ministry of Justice

supplemented, regarding the free legal assistance for victims of crimes, also apply to victims of trafficking.²¹

Regarding the possibility of informing victims of crimes about the facilities granted to them, art. 4 par. (1) in Chapter. II - Informing Victims of Offenses of Law no. 211/2004 states that “the judicial bodies have the obligation to notify the victims of the offenses with regard to:

- (a) the services and organizations providing psychological counseling or any other form of assistance to the victim, as required by the victim;
- (b) the criminal investigation body to which they may lodge a complaint;
- (c) the right to legal assistance and the institution they can address to in order to exercise this right;
- (d) the conditions and procedure for granting free legal aid;
- (e) the procedural rights of the injured party and of the civil party;
- (f) the conditions and procedure to benefit from the provisions of art. 113 of the Criminal Procedure Code, as well as by the provisions of Law no. 682/2002 on the protection of witnesses, as subsequently amended;
- (g) the conditions and procedure for granting financial compensation by the state; (...).”

Information is brought to the attention of the victim by the first judicial body to which their case is presented.²²

In Romania, victims of trafficking in human beings have the right to receive information, in the language they understand, on the applicable judicial and administrative procedures and are provided with legal assistance in order to be able to exercise their rights in criminal proceedings and to support their civil claims against the perpetrators. The judicial bodies (the case prosecutor or the delegated police officer to conduct the hearing) inform the victim on these rights, including on the right to compensation, and draw up a report in that respect. From a statistical point of view, we can state that for each victim of trafficking in human beings such information is produced. Therefore, the number of victims identified and heard in a criminal case, regardless of whether they participate as a witness or injured person, coincides with the number of briefings conducted with regard to the victim’s rights, including on the conditions and the procedure for granting financial compensation by the State.²³

With regard to informing victims about their right to compensation and the manner to access it, as well as to providing legal support in this respect, irrespective of the nationality or the residence status of the victim, in addition to the provisions of art. 43 and 44 of Law no. 678/2001 on preventing and combating trafficking in human beings and of art. 4 para. 1 of Law no. 211/2004 on certain measures to ensure the protection of victims of crime, it is necessary to highlight the changes occurred by the entry into force on 1 February 2014 of the new Criminal Procedure Code (art. 111-113) with regard to the manner of conducting the hearing and presenting the rights of the injured person applicable to victims of trafficking in human beings.

During the hearing, the injured person shall be informed on the applicable procedures, on his/her rights and obligations, on the possibility of being a civil party, as well as on the forms of protection he/she can enjoy, which until the date of entry into force of the new Criminal Procedure Code were only available for witnesses. Thus, according to art. 126 of the Criminal Procedure Code, “the prosecutor shall order the application of one or more of the following measures:

- a) surveillance and guard of the witness’ residence or providing of a temporary dwelling space;
- b) accompanying and ensuring protection to the witness or to their family members during travels;

²¹ Source: CSM

²² Source: CSM

²³ Source: DCCO

- c) protection of identity data, by issuing them a pseudonym under which the witness shall sign their statement;
- d) hearing of a witness without them being physically present, through audio-video transmission devices, with their voice and image distorted, when the other measures are not sufficient.”

Prior to 2014, in order for the victims of trafficking (victim/civil party in criminal proceedings) to be able to benefit from the protective measures provided by art. 86/L of the former Criminal Procedure Code, they had to renounce the capacity as civil party and, implicitly, the possibility to be a civil party in cases to prosecute traffickers and, thus, they became witnesses and were audited with a protected identity. This deficiency has been removed and, according to the law, both the victim and the civil party benefit from fair trial guarantees which provides for an easier participation in the criminal proceedings.

Thus, art. 111 of the Criminal Procedure Code stipulates the rights of the victim during the hearing procedures, as follows:

“(1) At the beginning of the first hearing, judicial bodies shall ask a victim the questions listed in art. 107, which applies accordingly.

(2) The victim shall be informed on the following rights and obligations:

- a) the right to be assisted by a lawyer, and in cases of mandatory legal assistance, the right to have a lawyer appointed *ex officio*;
- b) the right to use a mediator in the situations provided by the law;
- c) the right to propose production of evidence, to raise objections and to argue in court, under the terms set by the law;
- d) the right to be informed on the manner the proceedings are conducted, the right to file a prior complaint, as well the right to become civil party in the trial;
- e) the obligation to come to court when summoned by the judicial bodies;
- f) the obligation to notify any change of address.

(4) During the criminal investigation, the hearing of the victim shall be recorded with audio or audio-video devices, when criminal investigation bodies deem this necessary or when the victim requests it specifically, and the recording is possible.

(5) During the first hearing, in the event that the defendant is deprived of freedom or convicted to a custodial sentence, the victim shall be informed on their release or breakout.

(6) In the case of the victims for whom the special protection has been established according to the law, the judicial body may order one or more of the following measures when possible and when it considers that they don't hamper the proper conduct of the process or the rights and interests of the parties:

- a) hearing the victims in premises designed or adapted for that purpose;
- b) hearing the victims through or in the presence of a psychologist or other counseling specialist;
- c) the hearing and the possible re-examination of the victims shall be carried out by the same person, if possible and if the judicial authority considers that it does not prejudice the proper conduct of the process or the rights and interests of the parties.

(7) The hearing by the criminal investigating bodies of persons who have been victims of the offense of domestic violence, provided by art. 199 of the Criminal Code, rape, sexual assault, sexual intercourse with a minor and sexual abuse of minors, provided by art. 218-221 of the Criminal Code, of the offense of ill-treatment applied to the minor, stipulated in art. 197 of the Criminal Code, harassment, provided by art. 208 of the Criminal Code, and sexual harassment, provided by art. 223 of the Criminal Code, as well as in other cases in which, owing to the circumstances of the offense, this is deemed necessary, it is carried out only by a person of the same sex with the victim, at their request, excepting when the judiciary

body considers that it prejudices the proper conduct of the process or the rights and interests of the parties.

(8) If the injured party is a minor, recording their hearing by audio or audiovisual means is mandatory in all cases. Where recording is not possible, it is noted in the victim's statement, with stating the reason why the recording was not possible.

(9) The hearing of the victim by the judicial body that has registered a complaint with regard to committing a crime shall be carried out immediately and, if this is not possible, shall be made after filing the complaint without undue delay.

(10) The statement given by the victim under the provisions of paragraph (9) represents a means of proof even if it was done prior to the commencement of the criminal prosecution."

Furthermore, article 113 of the Criminal Procedure Code on the protection of the victim and the civil party, provides as follows:

"(1) When the conditions stipulated by the law regarding the status of a threatened or vulnerable witness or for the protection of privacy or dignity are fulfilled, the criminal investigation body may order the protection measures provided in art. 124-130, which apply accordingly, for the benefit of the victim or of the civil party.

(2) Child victims; the victims who are dependent on the offender; the victims of terrorism, organized crime, human trafficking, violence in close relationships, sexual violence or exploitation; the victims of hate crimes and the victims affected by a crime because of prejudice or discrimination, which may be related to their personal characteristics, to disabled victims and to victims who have suffered considerable damage as a result of the seriousness of the offense are considered vulnerable.

(3) If the victim or the civil party finds themselves in one of the situations provided in paragraph (2), the criminal investigation body shall inform them on the protective measures that may be taken, on their content and the possibility to waive them. The renunciation by the injured party or the civil party to the protective measures shall be recorded in writing and signed by the injured party or the civil party in the presence of the legal representative, if any.

(4) A repeated hearing of the victims shall be carried out only if this is strictly necessary for the conduct of the criminal proceedings.

(5) During the hearing, the victim may be accompanied, at their request, by their legal representative and by another person designated by the victim, unless the judicial body decides otherwise.

(6) Whenever the judicial body cannot determine the age of the victim and there are reasons to consider them to be minor, the victim shall be presumed to be a minor."

In accordance with the rules of competence established by Government Emergency Ordinance no. 78/2016, DIICOT prosecutors carry out criminal prosecution in all cases involving trafficking in human beings/trafficking in minors and they inform each victim on their rights and obligations, either personally or through the judicial police officers, by taking the measures to ensure the *ex-officio* defense and to record in writing the waiver of protection measures when the victim renounce to benefit from this legal provision.²⁴

b) Enabling victims of trafficking to exercise their right to compensation, by building the capacity of legal practitioners to support victims to claim compensation;

At the level of the Ministry of Internal Affairs, there is an opening to fund projects/programs in the field of legal education, the protection of crime victims and the prevention of crimes. Thus, the National Agency Against Trafficking in Persons has applied for receiving funding for a project aimed at increasing the level of knowledge and the accountability of lawyers and bailiffs, through training and workshops, to

²⁴ Source: DIICOT

determine their prompt and specialized intervention in order to support victims of trafficking in human beings in the process of claiming and granting compensations/damages. The project aims at starting a dialogue with the National Union of Romanian Bar Associations to support the identification of lawyers and professionals in the field and to identify the best way to disseminate results of the project to specialists in this field.

c) Include victim compensation in training programmes for law enforcement officials, prosecutors and judges;

The Superior Council of Magistracy (CSM) recommended continuing the organization, in 2018 as well, of courses for judges and prosecutors on trafficking in human beings and on the protection of victims of such crimes, including the issue of victim's right to compensation and financial compensation. It was recommended to take into account the possibility to interact with representatives of other professions involved in combating trafficking in human beings and the protection of victims (lawyers, police, representatives of the National Agency Against Trafficking in Persons, psychologists working with such victims). Training activities should also focus on informing on the rights of the victims, on ensuring their exercise in the criminal process, on encouraging the use of means of protection of the presumed vulnerable persons, on providing adequate legal assistance by ensuring the continuity of legal assistance of victims (for example, by the same lawyer during the prosecution and trial phases, including in appeals), on the celerity of these types of cases.²⁵

d) Ensuring that all victims of human trafficking, regardless of nationality and residential status, are eligible for compensation from the State. This is particularly important when compensation from traffickers cannot be enforced because they are insolvent.

Articles 21-22 of Law no. 211/2004 on certain measures for ensuring the protection of victims of crime, as subsequently amended and supplemented, lay down the conditions and procedure for granting financial compensation to the victims of certain crimes.

According to art. 21 paragraph 1 letter b of the said law, the financial compensation is granted to the victims stipulated in paragraph 1 if the offense was committed on the territory of Romania and the victim is:

- Romanian citizen,
- foreign citizen or a stateless person legally residing in Romania,
- citizen of an EU Member State, legally present on the territory of Romania at the time the offense was committed
- foreign citizen or a stateless person residing on the territory of an EU Member State legally residing on the territory of Romania at the time of the offense.

For the victims who do not fall into the above mentioned categories, financial compensation is granted on the basis of international conventions to which Romania is a part.²⁶

²⁵ Source: CSM

²⁶ Source: Ministry of Justice