

EVALUATION REPORT REPUBLIC OF MOLDOVA

GRETA
Group of Experts
on Action against
Trafficking
in Human Beings

Third evaluation round

Access to justice
and effective remedies
for victims of trafficking
in human beings

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Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
F-67075 Strasbourg Cedex
France

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

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Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, the Republic of Moldova has continued to develop the legislative framework relevant to action against trafficking in human beings. The Criminal Code provisions criminalising human trafficking were amended through the introduction of additional forms of exploitation and means for committing the offence. Further, Law No. 241/2005 on Preventing and Combating Trafficking in Human Beings was amended in 2018, and Law No. 137 on the Rehabilitation of Victims of Crime, which stipulates minimum support services for victims of crime, including victims of human trafficking, came into force in January 2018.

In May 2018, the Government approved the National Strategy for Preventing and Combating Trafficking in Human Beings (2018-2023) and the Action Plan for its implementation in the period 2018-2020. In addition, the procedures of interinstitutional co-operation within the National Referral System were standardised, enhancing the co-ordination between the national co-ordinating unit and the territorial multidisciplinary teams.

The Republic of Moldova remains primarily a source country for trafficked persons. The main country of destination of Moldovan victims continues to be the Russian Federation, followed by EU countries and Turkey. During the 2015-2019 period some 26% of the victims were trafficked within the Republic of Moldova. Trafficking for the purpose of labour exploitation has emerged as the main form of exploitation (66% of all identified victims in 2019), followed by trafficking for the purpose of sexual exploitation (25% of victims in 2019).

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

Once the competent authorities have reasonable grounds to believe that the person is a victim of trafficking, the criminal investigation officer must inform the person about his/her rights and obligations. However, in practice, criminal investigators do not always ensure that information about the right to compensation is provided in a clear way. GRETA considers that the Moldovan authorities should strengthen the provision of information in different languages (including online) to presumed victims and formally identified victims of trafficking regarding their rights, the services available and how to access them, and the implications of being recognised as a victim of trafficking.

Victims of trafficking are entitled to legal assistance pursuant to the Anti-Trafficking Law and can receive free legal aid pursuant to the Law on State-guaranteed Legal Aid, which was amended in 2020 to include victims and presumed victims of trafficking among the categories of persons entitled to free legal aid regardless of the level of their income. However, in practice, victims of trafficking are largely dependent on NGOs for the provision of legal aid, while NGOs are dependent on donors for funding it. According to a report published in 2018, only in 9% of criminal cases of human trafficking and related crimes was the injured party assisted by a lawyer. GRETA urges the Moldovan authorities to ensure that victims receive specialised legal assistance and free legal aid at an early stage.

The Moldovan authorities should also ensure that free psychological counselling and assistance is offered to all victims of trafficking, including men and foreign victims, and not only to victims accommodated in the Centre of Assistance and Protection.

Victims of trafficking can claim compensation for moral and/or physical damages through criminal proceedings or a civil claim. Between 2015 and 2018, the number of victims of trafficking who received compensation from perpetrators was 24. There are a number of barriers preventing victims from effective access to compensation, including practical difficulties in enforcing compensation orders. The Law on the Rehabilitation of Victims of Crime foresees the setting up of a State compensation scheme for victims, but

at the time of GRETA's visit in October 2019, this system was not yet operational. GRETA urges the Moldovan authorities to take steps to facilitate and guarantee access to compensation for victims of trafficking, including by collecting evidence about the harm the victim has suffered and the financial gain from his/her exploitation, as part of the criminal investigations, and reviewing the legislative framework for state compensation, including the eligibility criteria and other conditions.

In the period 2015-2018, investigations were initiated in 694 cases of human trafficking; 102 cases were discontinued and around 5-10% of the cases were requalified as other offences. A total of 190 persons were convicted, with imprisonment sentences ranging from four years and 10 months, to 25 years. Nevertheless, GRETA is concerned by the negative effect of lengthy trials on the victims and the outcome of prosecution and urges the authorities to ensure that the length of court proceedings in human trafficking cases is reasonable. The authorities should also take additional measures to ensure the practical implementation of the General Prosecutor Office's guidelines on investigating trafficking cases and financial investigations, to strengthen the proactive investigation of trafficking cases, and to continue providing training and developing the specialisation of investigators, prosecutors and judges to deal with human trafficking cases.

Moldovan legislation contains a specific provision on the non-punishment of victims of trafficking. GRETA considers that the authorities should continue raising awareness amongst police officers, prosecutors and judges of the importance of effectively applying the non-punishment provision and ensure its harmonised interpretation.

GRETA also urges the Moldovan authorities to take additional steps to protect victims of trafficking and to prevent their intimidation during and after the investigation/court proceedings, especially by avoiding the practice of cross-examination of victims and by building the awareness of all actors in the criminal justice system on how to avoid re-victimisation and stigmatisation of victims.

Further, GRETA urges the authorities to ensure that all child victims of trafficking, including children older than 14, are in practice afforded special protection measures.

The report examines progress made on the implementation of previous GRETA recommendations on selected topics. While commending the efforts taken to prevent and combat trafficking for the purpose of labour exploitation, GRETA urges the authorities to increase the number of labour inspectors and to enable them to play a frontline role in the prevention and identification of trafficking for the purpose of labour exploitation.

Assistance to victims continues to depend on the financial support of international organisations and in recent years, there has been less such support, which has negatively impacted the availability of assistance services. The main challenge remains the lack of long-term support, social housing and assistance to find employment. GRETA also remains concerned about the lack of access for victims of trafficking to health care services (outside the scope of emergency care). GRETA urges the Moldovan authorities to make additional efforts to comply with their obligations under Article 12 of the Convention and ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs.

An increasing number of trafficking cases concern children and young adults from rural areas communicating via social networks or websites offering job opportunities. Children in street situations are also particularly vulnerable to trafficking. GRETA urges the Moldovan authorities to strengthen their efforts to improve the prevention of child trafficking and the identification of, and assistance to, child victims, by strengthening the capacity and resources of child protection professionals, and ensuring a protective environment for children in street situations and unaccompanied or separated asylum-seeking children.

Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim's stay, the right to seek and enjoy asylum, and the application of the principle of *non-refoulement*. These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") entered into force for the Republic of Moldova on 1 February 2008. GRETA's first evaluation report on the Republic of Moldova was published on 22 January 2012[1], and the second evaluation report on 7 June 2016.[2]

2. On the basis of GRETA's second report, on 8 June 2016 the Committee of the Parties to the Convention adopted a recommendation to the Moldovan authorities, requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Moldovan authorities was considered at the 21st meeting of the Committee of the Parties (on 13 October 2017) and was made public.[3] Subsequently, on 15 May 2019, the Moldovan authorities submitted additional information as a follow-up to their report sent in reply to the Committee of the Parties' recommendation.

3. On 15 February 2019, GRETA launched the third round of evaluation of the Convention in respect of the Republic of Moldova by sending the questionnaire for this round to the Moldovan authorities. The deadline for submitting the reply to the questionnaire was 17 June 2019 and the authorities' reply was received on 26 June 2019.[4]

4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Moldovan authorities, the above-mentioned report and additional information submitted by them in reply to the Committee of the Parties' recommendation, and information received from civil society. An evaluation visit to the Republic of Moldova took place from 16 to 20 September 2019 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:

- Mr Ola Laurell, member of GRETA;
- Ms Antoaneta Vassileva, member of GRETA;
- Ms Natacha De Roeck, Administrator in the Secretariat of the Convention.

5. During the visit, the GRETA delegation met representatives of the Directorate of Permanent Secretariats under the State Chancellery, which support the work of the National Committee for Combating Trafficking in Human Beings (NCCTHB) and the territorial anti-trafficking commission in the town of Căușeni. It also met representatives of the Ministry of Internal Affairs, including the Centre for Combating Trafficking in Persons, the General Inspectorate of the Border Police, the Bureau for Migration and Asylum, and the Centre for Combating Cybercrime, as well as the General Prosecutor's Office, the Prosecutor's Office for Combating Organised Crime and Special Cases, and the Security and Intelligence Service. In addition, meetings were held with officials of the Ministry of Foreign Affairs and European Integration, the Ministry of Health, Labour and Social Protection, including the National Labour Inspectorate, the Ministry of Justice, including the Interdepartmental Commission for State Financial Compensation, the Ministry of Finance, the Ministry of Education, Culture and Research, the National Legal Aid Council, the National Institute for Justice, and the Diaspora Relations Bureau. The GRETA delegation also met specialised judges from the Chișinău District Court. Further, meetings were held with members of Parliament, the Office of the Ombudsman and community mediators.

[1] http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bc2f
[2] http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680665339
[3] https://rm.coe.int/cp-2017-19-rr2-mda-en/1680726c09
[4] https://rm.coe.int/greta-2018-26-mda-rep-en/1680957130

6. In the course of the visit, the GRETA delegation visited shelters providing assistance to victims of trafficking in human beings in Chişinău and Căușeni, as well as the temporary placement centre for foreign nationals in Chişinău.

7. Separate meetings were held with representatives of non-governmental organisations (NGOs), lawyers and victims of trafficking. The GRETA delegation also met officials of the International Organisation for Migration (IOM) and the Organisation for Security and Co-operation in Europe (OSCE).

8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.

9. GRETA wishes to place on record the co-operation provided by the Moldovan authorities and, in particular, by Ms Emilia Cebotari, Head of the Permanent Secretariats Department within the State Chancellery (and GRETA contact person) and Ms Diana Comerzan, senior consultant on human trafficking within the Permanent Secretariats Department.

10. The draft version of the present report was approved by GRETA at its 37th meeting (29 June – 3 July 2020) and was submitted to the Moldovan authorities for comments. The authorities' comments were received on 14 September 2020 and were taken into account by GRETA when adopting the final report. The report covers the situation up to 9 October 2020; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

II. Overview of the current situation and trends in the area of trafficking in human beings in the Republic of Moldova

11. The Republic of Moldova remains primarily a source country for women, children and men subjected to trafficking in human beings (THB). According to official statistics, the number of identified victims of trafficking was 309 in 2015, 232 in 2016, 249 in 2017, 365 in 2018, and 341 in 2019. During the 2015-2019 period, 47% of the victims were female (compared to 68% in the period of 2011-2015[5]). Children (241 girls and 78 boys) accounted for 21% of the identified victims (compared to 13% in the period 2011-2015). The main country of destination of Moldovan victims continues to be the Russian Federation, followed by EU countries (Slovak Republic, Spain, Ireland, Portugal) and Turkey. Some 26% of the victims were trafficked within the Republic of Moldova (97 in 2015, 48 in 2016, 56 in 2017, 102 in 2018). From 2015 to 2019, 62 foreign victims were identified, including 12 children.

12. During the reporting period, THB for the purpose of labour exploitation has emerged as the main form of exploitation (66% of all identified victims in 2019), followed by THB for the purpose of sexual exploitation (25% of the victims in 2019). Further, there were 105 identified victims of trafficking for the purpose of exploitation of begging, 22 identified victims for the purpose of exploitation of criminal activities, 16 identified victims of trafficking for the purpose of removal of organs, tissues or cells, as well as 20 victims of multiple forms of exploitation.

13. When it comes to children, the number of identified victims of trafficking was 67 in 2015, 35 in 2016, 48 in 2017, 60 in 2018 and 109 in 2019. Most child victims come from poor backgrounds and have been deprived of parental care. Many of them are trafficked within the country (e.g. in 2018, 43 children were victims of internal trafficking, of whom 36 were subjected to sexual exploitation and seven to labour exploitation). In 2018, children were trafficked mostly to Romania, Ukraine, Belarus and Greece.

14. At the time of ratifying the Convention, the Republic of Moldova made a declaration concerning the Transnistrian region, which remains outside the effective control of the Moldovan authorities.[6] This prevents GRETA from covering the situation concerning trafficking in human beings in the Transnistrian region. Nevertheless, during the country visit to the Republic of Moldova, GRETA met representatives of NGOs active in the Republic of Moldova, including in the Transnistrian region, who reported that there were a number of presumed victims of THB in the Transnistrian region, but their identification as victims was difficult as they were reportedly afraid of reprisals by traffickers and/or being stigmatised. It was also reported to GRETA that the provision of assistance to victims of THB in the Transnistrian region was hampered by the political situation and the lack of support for civil society organisations working in the field of combating THB.

5 Part of 2015 was reflected in the statistics in the period covered by GRETA's second evaluation report.

6 The constitutional authorities of the Republic of Moldova lost effective control over the Transnistrian region in 1992, following a conflict that is still protracted to this day. The conflict negotiations are ongoing with the aim of attaining a peaceful, sustainable and comprehensive settlement that would grant special status to the region, based on the respect for the sovereignty and territorial integrity of the Republic of Moldova within its internationally recognised borders.

III. Developments in the legislative, institutional and policy framework for action against human trafficking

15. Since GRETA's second report, the legislative framework related to action against THB has evolved. To start with, new forms of exploitation were introduced in Article 165 of the Criminal Code (CC), which criminalises trafficking in human beings (namely, appropriation of social benefits, allowances or benefits, illegal use of persons in medical or scientific tests or experiments), as well as additional means (abduction, stealing, concealment, degradation or destruction of documents, keeping in servitude for the purpose of returning a debt, threatening to disclose confidential information to the victim's family or to other physical or legal persons). Article 206 of the CC on trafficking in children was also amended through the introduction of additional forms of exploitation (namely, acquisition of social benefits, allowances or benefits, illegal use of persons in medical or scientific tests or experiments, using mother-surrogates or reproductive mothers, and illegal adoption).

16. Further, Law No. 137 of 29 July 2016 on the Rehabilitation of Victims of Crime, which was referred to in GRETA's second report as a draft bill, was enacted.[7] The Law stipulates minimum support services for victims of crime, which apply to victims of THB, namely information counselling, psychological counselling, free legal aid and State compensation (see paragraph 83 and following for more details). Based on Government Decision No. 965 of November 2017, the Regulation of the Interdepartmental Commission for State Compensation was approved. The Commission itself was established on 21 February 2018.

17. Law No. 241/2005 on Preventing and Combating Trafficking in Human Beings (hereinafter "Anti-trafficking Law") was amended through Law No. 32 of 16 March 2018. The term "presumed victim" was defined as "a natural person who shows certain signs that he or she may be a victim of THB, but has not been officially recognised as a victim or injured party or refuses to co-operate with the competent authorities in order to be identified". "Commercial sexual exploitation" was defined as "using a person through coercion in prostitution or pornographic industry in exchange for financial means or other material benefits" and "non-commercial sexual exploitation" was defined as "using a person through coercion, without a material interest, in marriage (including polygamy) or cohabitation/concubinage".[8]

18. In addition, in 2018, a new provision was introduced in Article 89, paragraph 2, of the Contravention Code, on the use of prostitution services in exchange for a payment. Further, a definition of the notion of "practicing prostitution" (which is sanctioned by a fine) was introduced. A person engaged in prostitution against his/her will is exempt from liability.

19. On 22 May 2018, the Government of the Republic of Moldova approved Decision No. 461 regarding the National Strategy for Preventing and Combating Trafficking in Human Beings for the years 2018-2023 and the Action Plan for its implementation in the period 2018-2020.[9]

20. Under the Prosecutor General's Office, the Co-ordination Council of the Law Enforcement Bodies in the field of combating trafficking in human beings was established through the Prosecutor General's Order No. 124/15 of 22 June 2007, subsequently amended in 2013 and 2017. The Co-ordination Council is an interdepartmental consultation body aiming at strengthening the efforts of law enforcement bodies with responsibilities in the field of combating THB.

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7 http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680665339 (see paragraph 139).

8 Unofficial translation.

9 http://antitrafic.gov.md/public/files/Strategy_and_Plan_antitrafic_ENG_publicat.pdf

21. On 18 December 2018, based on the Prosecutor General's Order No. 54/28, amendments were made to Orders No. 47/4 and No. 44/15 of 2016, according to which the offences specified in Article 208-1 of the CC ("child pornography") and Article 175-1 of the CC ("luring of minors by adults for sexual purposes") were included in the monitoring activity of the Prosecutor Office's Directorate for Combating THB.

22. The National Committee for Combating Trafficking in Human Beings (NCCTHB) is composed of representatives of relevant ministries and government agencies, and international organisations and NGOs are invited to take part in its meetings in an advisory role.[10] In 2018, there was a restructuring of the Permanent Secretariat supporting the NCCTHB, in the context of the reform of the public administration.[11] The secretariats of several committees were merged in a new body, the Directorate of Permanent Secretariats, under the State Chancellery. Currently, this Directorate employs seven staff, but only one person is fully dedicated to the co-ordination, development, monitoring and evaluation of State policy on THB (previously, there were four persons fulfilling these functions). There was a general perception among stakeholders met by the GRETA delegation that one staff member could not perform all these tasks effectively.

23. Further, the responsibilities of certain institutions in the field of combating THB were clarified to reflect the outcomes of the public administration reform. The public entities concerned are the Public Services Agency, the Ministry of Health, Labour and Social Protection, the Ministry of Economy and Infrastructure, and the Bureau for Diaspora Relations. The procedures of interinstitutional co-operation within the National Referral System (NRS) were also standardised, enhancing the co-ordination between the national co-ordinating unit and the territorial multidisciplinary teams.

24. In 2019, in the framework of its project on enhancing the Counter-Trafficking Response and Improving the Protection of Victims of THB and Witnesses in the Republic of Moldova, IOM recruited a consultant to evaluate the capacity of the Department of Permanent Secretariats of the State Chancellery to formulate, co-ordinate, and monitor the implementation of effective counter-trafficking policies, and the feasibility of the introduction of the office of a National Rapporteur on Combating Trafficking in Human Beings in Moldova.[12] GRETA recalls that the key features of National Rapporteurs' mechanisms within the meaning of Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A structural separation between these monitoring functions and executive functions promotes an objective evaluation of the implementation of anti-trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations. **GRETA reiterates its recommendation from the second evaluation report and considers that the Moldovan authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions.**

25. **In the absence of an independent National Rapporteur, GRETA considers that the Moldovan authorities should commission an external, independent evaluation of the implementation of the National Action Plan.**

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10 The composition and functioning of the NCCTHB are regulated by Government Decree No. 472/2008 on the Approval of the Composition of the NCCTHB and the Regulation on NCCTHB. The NCCTHB is chaired by the Minister of Foreign Affairs, with the Ministers of Interior and of Health, Labour, and Social Policy acting as deputy chairs, and its members are heads of executive public authorities, including law enforcement agencies and other (non-governmental) organisations involved in anti-trafficking actions.

11 Decision No. 915 of 24 September 2018.

12 https://moldova.iom.int/sites/moldova/files/2020-10/FINAL%20Report.pdf

26. **Further, GRETA urges the Moldovan authorities to strengthen the co-ordination of anti-trafficking action by increasing the number of staff members in the Permanent Secretariat dealing with the development and co-ordination of the implementation of the National Action Plan.**

IV. Access to justice and effective remedies for victims of human trafficking

1. Introduction

27. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right of access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

28. The right to effective remedies is a reflection of the human-rights based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of trafficking, and effectively investigate trafficking offences.[13]

29. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,[14] the right to an effective remedy is considered to include restitution,[15] compensation,[16] rehabilitation,[17] satisfaction[18] and guarantees of non-repetition.[19] All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion

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13 *Rantsev v. Cyprus and Russia*, no. 25965/04, ECHR 2010; application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgement 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

14 UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, 28 July 2014, A/69/33797.

15 Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identify and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identify and travel documents and other personal belongings.

16 Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

17 Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

18 Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims of their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; pubic apologies; judicial and administrative sanction against the perpetrators.

19 Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

and prevent re-victimisation. The remedy of rehabilitation can similarly help in victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, fair treatment, restitution, compensation and social assistance for victims of crime.[20]

30. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be imposed penalties for their involvement in unlawful activities committed while they were being trafficked. Further, the Convention requires State Parties to enable the seizure and confirmation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

31. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.[21]

32. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, have a key responsibility in enabling victims of THB to claim compensation and other remedies.[22] In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons[23] and Justice at Last - European Action for Compensation of Victims of Crime,[24] which aim to enhance access to compensation for trafficked persons.

33. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.[25] The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate access to remedies for victims for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.[26] States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

34. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

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20 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

21 UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8. Available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

22 OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

23 http://www.compactproject.org/

24 http://lastradainternational.org/about-lsi/projects/justice-at-last

25 United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

26 UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

35. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to address their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

36. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.[27]

37. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.[28]

38. In the Republic of Moldova, according to Article 58 of the Criminal Procedure Code (CPC), any physical or legal person on whom moral, physical or material damage has been inflicted shall be considered a victim. Once the competent authorities/public institutions have reasonable grounds to believe that the person is a (presumed) victim of THB, the criminal investigation officer shall inform the person about the rights and obligations she/he is entitled to.

39. According to the Moldovan authorities, victims of crimes in general are informed about their rights, including the possibility to claim compensation. Pursuant to Article 20, paragraph 5, of the Anti-Trafficking Law, this has to be done by the competent authorities. During criminal proceedings, the prosecutor who qualifies a THB victim as an injured party under the CPC is supposed to explain to the injured party his/her rights, including the right to file a civil case. Similarly, if a victim decides to apply for recognition as a civil party in the criminal proceedings, pursuant to Article 58, paragraph 3, point 6, of the CPC, he/she is provided with information on his/her rights (see paragraph 72). The new Law No. 137 of 29 July 2016 on the Rehabilitation of Victims of Crime also contains provisions on the right of victims to information and counselling. Pursuant to Article 6 of this law, the information is to be provided, in writing or orally, by the body establishing the offence; it should cover the support services available, their providers and the conditions for accessing them, the procedural rights and protection measures available to victims. However, GRETA is concerned that, in practice, criminal investigators do not always ensure that the information about the right to compensation is provided in a clear way to presumed victims.

27 See Explanatory Report on the Convention, paragraphs 160-162.
28 8th General report on GRETA's activities.

40. The NGO La Strada Moldova manages a hotline (0 800 77777) providing information to potential victims of THB. The objective of the hotline is to help victims of THB to have better access to protection and rehabilitation services and to provide the anti-trafficking community, and society in general, with information and useful tools in preventing and effectively combating THB. According to La Strada, between September 2001 and May 2020, the hotline counsellors received 173 151 calls. Most of them (150 725 calls) were prevention calls, including 121 591 related to employment abroad; 7 361 were SOS Calls (regarding THB cases, missing persons or vulnerable migrants); 3 880 were requests for information on collaboration; and 11 185 concerned social assistance requests, other than THB. Almost 60% of the calls came from rural communities. In recent years, the majority of the callers were men (85% in 2019).

41. In 2018, the Ministry of Health, Labour and Social Protection (hereinafter MHLSP), in partnership with the IOM mission to the Republic of Moldova, produced 1000 copies of leaflets on the rights of victims of THB (in Romanian and Russian). The leaflets provide information on the available hotlines and on how to obtain assistance. The dissemination of the leaflets has been entrusted to the Centre for Assistance and Protection of Victims and Potential Victims of THB and the territorial social assistance bodies. The leaflets are not available online.

42. The provision of translation and interpretation services at different stages of the criminal proceedings is referred to in Article 16, paragraph 2, of the CPC, according to which "a person who does not know, or does not speak, the state language has the right to access all the documents and materials of the file, to speak in front of the criminal prosecution body and in the court with the assistance of an interpreter."[29] Further, according to Article 251 of the CPC, any violation of the legal provisions regarding the participation of an interpreter and/or translator to the proceedings can render the procedural acts null and void and can be invoked at any stage of the criminal proceedings. According to the Moldovan authorities, in the last five years, the Prosecutor General's Office had not received any complaints in cases on THB or related crimes concerning violations of the rights to interpretation or translation. Further, no such violations were established through *ex officio* controls.

43. **GRETA considers that the Moldovan authorities should strengthen the provision of information in different languages (including online) to presumed victims and formally identified victims of trafficking regarding their rights, the services available and how to access them, and the implications of being recognised as a victim of trafficking. This concerns in particular information on the right to compensation (see also paragraph 93). Law enforcement officers should continue being trained and instructed on how to properly explain to victims their rights.**

3. Legal assistance and free legal aid (Article 15)

44. Article 15(2) 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. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law[30] also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in civil matters, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

29 Unofficial translation.

30 *Airey v. Ireland* judgment, 9 October 1979.

45. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to undertake civil actions for compensation and redress.[31]

46. In the Republic of Moldova, victims of trafficking are entitled to legal assistance pursuant to Articles 16 and 17 of the Anti-Trafficking Law. Further, 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. Article 11 of Law No. 137 of 29 July 2016 on the Rehabilitation of Victims of Crime also contains provisions on legal assistance.

47. According to Law No. 198 of 2007 on State-guaranteed Legal Aid, free legal aid is granted to applicants whose monthly average income is lower than the subsistence level per inhabitant in the country.[32] In assessing the income of the applicant, the monthly average income and earnings in the six months preceding the month of application are taken into account. The law distinguishes between primary legal assistance (which consists in providing information on the legislation, advice on the exercise of rights, and assistance in the preparation of legal documents) and qualified legal assistance (which covers legal representation in criminal, civil and administrative proceedings).

48. The Ministry of Justice informed GRETA about future amendments to the Law on State-guaranteed Legal Aid with a view to extending the scope of persons entitled to free legal aid. By Law No. 1 of 6 February 2020 (in force since 7 April 2020), amendments were made to the Law on State-guaranteed legal aid. As a result, victims and presumed victims of THB are entitled to free legal aid regardless of the level of their income. GRETA welcomes this development.

49. Furthermore, the Code of Civil Procedure (Article 8) stipulates that in the trial of civil causes, the parties are entitled to be assisted by a lawyer and receive free legal assistance upon request. According to the Law on State-guaranteed Legal Aid, beneficiaries, including victims of THB, receive free legal aid in civil proceeding, including compensation claims.

50. Victims of THB are provided with primary legal assistance by lawyers from the four regional offices of the National Council for State-guaranteed Legal Aid, as well as by community para-lawyers in the rural and urban localities where they live. Primary legal assistance should not be confused with qualified legal aid, which is provided exclusively by lawyers specialising in providing legal services in criminal cases involving victims. According to statistics provided by the Moldovan authorities (National Council for State-guaranteed Legal Aid), between 2015 and 2018, five victims of THB received qualified legal aid (compared to a total number of 1155 identified victims of THB). The low rate of remuneration of lawyers employed by State-guaranteed legal aid centres was mentioned as a problem. GRETA was also informed that lawyers working in these centres are not familiar with THB and occasionally represent both the victim and the defendant (in the same case), which would constitute a clear conflict of interest. According to the Moldovan authorities, specialised lawyers are regularly trained on THB and the specialisation of a lawyer does not prevent the granting of legal aid on other types of cases. With regard to possible conflicts of interest, the authorities noted that the National Council for State-guaranteed Legal Aid and its regional offices are guided by Law No. 1260/2002 on Lawyers and the Ethical Code of Lawyers. In the last two years, the amount of remuneration offered to lawyers who deliver state-guaranteed legal aid has been doubled.

31 8th General report on GRETA's activities.

32 The same conditions apply to access to legal aid in civil proceedings, pursuant to Article 8 of the Civil Code.

51. In practice, victims of THB are largely dependent on NGOs for the provision of legal aid, while NGOs are dependent on donors for funding it. Until March 2019, IOM was supporting financially the provision of free legal aid to victims of trafficking. GRETA was informed that there was a limited number of specialised lawyers representing victims of THB, including those coming from La Strada, who often worked on a pro bono basis. Given that free legal aid is far from being guaranteed, it is important to ensure that NGOs have sufficient resources to employ specialised lawyers who can assist and represent victims of THB. Further, due to the length of legal proceedings (see paragraph 105), lawyers reportedly experience problems staying in contact with victims they represent.

52. According to a report on monitoring of court proceedings in cases of domestic violence, sexual violence and trafficking in human beings drawn up by the Women's Law Centre, in co-operation with Global Rights for Women and with support from the US Embassy to the Republic of Moldova, in 9% of criminal cases of THB and related crimes, the injured party was assisted by a lawyer, and in 6% of the cases the injured party received State-guaranteed legal aid.[33] At the same time, all defendants had a lawyer and about 25% of them received legal aid. The report concludes that the authorities' concern is to ensure first and foremost all the procedural guarantees for a fair trial to the defendants, whereas the victims continue to be marginalised in the criminal proceedings.

53. GRETA takes note of the recent legislative changes and the increase in the remuneration of lawyers who deliver state-guaranteed legal aid, which are yet to have a real impact. **GRETA urges the Moldovan authorities to strengthen their efforts to facilitate and guarantee access to justice for all victims of THB irrespective of their income by ensuring that they receive specialised legal assistance and free legal aid at an early stage, including by:**

- **providing training to lawyers of the State legal aid centres on the rights of victims of trafficking;**

- **putting in place a system through the Bar Association or the National Council for State-guaranteed Legal Assistance to certify lawyers who are qualified to provide legal aid to victims of trafficking and to ensure that victims of trafficking and defendants in THB cases are not represented by the same lawyers;**

- **ensuring adequate funding for legal assistance and free legal aid for victims of THB, including when it is provided by specialised lawyers from NGOs.**

4. Psychological assistance (Article 12)

54. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking deal with the trauma they have been through and achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic attention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy conducted by an experienced clinician.[34]

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33 Iurie Perevoznic, *Monitoring of court proceedings in cases of domestic violence, sexual violence and trafficking in human beings*, 2018, available at: http://cdf.md/files/resources/135/CDF_Monitorizare_web_EN%20(1).pdf

34 OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

55. Pursuant to Law No. 137 on the Rehabilitation of Victims of Crime, the support services offered to victims of crime, including victims of trafficking, also comprise psychological counselling. In Article 10 of this law, it is specified that, in order to obtain psychological counselling, the victim of the crime should address a request to the territorial subdivision of social assistance or another entity that carries out the rehabilitation of victims of crimes. Pursuant to Article 10, paragraph 2, of the law, the request for granting psychological counselling by the State can be submitted only after the prosecutor has been informed about the offence.

56. Further, pursuant to Article 20 of the Anti-Trafficking Law, the assistance to which victims of THB are entitled 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. However, there seems to be a contradiction between the above-mentioned condition in Article 10, paragraph 2, of the Law on Rehabilitation of Victims, and Article 20 of the Anti-trafficking Law, which expressly stipulates that "providing protection and assistance services shall not be conditioned upon the willingness of victims to make statements and to participate in the prosecution of traffickers, nor of the victim's domicile or temporary residence." The Moldovan authorities have specified that according to Article 2, paragraph 7, of the Law on Rehabilitation of Victims, victims of THB benefit from assistance measures (including psychological counselling) according to the provisions of the Anti-trafficking Law. Thus, the provision of protection and assistance services is not conditioned by the victims' readiness to make statements and participate in the criminal process, nor by the victim's domicile or temporary residence.

57. By Government Decision No. 898 of 30 December 2015, minimum quality standards were approved for services responsible for the support and protection of victims of trafficking in human beings. During their stay at the Centre for assistance and protection of victims and potential victims of human trafficking, victims of THB are offered a range of services, including psychological counselling and support. The minimum quality standards specify that psychological counselling is to be provided by a psychologist/social worker for the purpose of overcoming crisis and emotional difficulties, recovering and developing communication skills, and restoring social contacts in the family and community. Individual psychosocial counselling is to be organised in a comfortably arranged space, respecting the privacy of the beneficiary, in order to ensure comfort and trust. If necessary, group psychosocial counselling services are recommended. For each beneficiary, a psychological counselling report is drawn up and attached to the beneficiary's file. However, access to longer-term psychological support after leaving the Centre is reportedly not guaranteed. The Moldovan authorities have stated that this aspect will be addressed in the Action Plan for 2020-2023 related to the implementation of the National Strategy for Preventing and Combating THB (2018-2023).

58. There is some concern about the fact that the services for victims of crime are not well developed in regions outside the capital. Victims of THB can therefore benefit from psychological assistance only in the specialised centres of assistance and protection, where services are provided only on a short-term basis. According to specialised lawyers, there are not enough psychologists who can provide psychological assistance to victims who do not benefit from services of the Centres of Assistance and Protection of Victims of THB. Another matter of concern is the low number of psychological forensic experts available to provide expert opinions in relation to requests for compensation from perpetrators.

59. On the positive side, pursuant to the Framework Regulation on the organisation and functioning of the Regional Centre for Integrated Assistance of Child Victims/Witnesses of crimes approved on 27 December 2019, the Government, in co-operation with the NGO National Centre for the Prevention of Child Abuse and with the support of the World Childhood Foundation, decided to set up three regional Assistance Centres for child victims/witnesses of crimes in Balti, Chişinău and Cahul to ensure access to psychological services. The purpose of these centres is to prevent further victimisation and re-traumatisation of the child victim, by providing legal, medical, psychological and social assistance to the child and his family, within a single institution. The beneficiaries of the Assistance Centres are children who are victims/witnesses of crimes of a sexual nature, trafficking or domestic violence, as well as children in other cases where the interests of justice or the child require it. The following types of services will be provided: hearing in special conditions; forensic examination; psychological assessment and, where appropriate, complementary specialised assistance services; assistance to ensure the protection of the child at risk; psychological assistance in crisis; prior information to the child about the hearing in special conditions; medical examination; legal assistance. The Ministry of Health, Labour and Social Protection envisages that the centres would provide specialised assistance to about 120 children annually.

60. Given the prevalence of THB for the purpose of labour exploitation and the growing number of male victims of THB, the provision of psychological assistance needs to be adapted. Currently the therapists involved do not seem to be trained and equipped to provide male victims of THB with psychological support and counselling.

61. GRETA was informed by the Territorial Committee in Căușeni of a project which used to run with the Association of Psychologists on developing life skills for preventing domestic violence and THB. Due to lack of financial resources, this project had ended.

62. GRETA notes that the availability of State financial resources to ensure legal aid and psycho-social support to victims of trafficking is crucial for ensuring that such support is provided in a professional and timely manner. Such resources have to be made available also to guarantee the longer-term rehabilitation of victims. Also, the costs of psychological expertise to bring evidence in court trial should not be supported by victims.

63. **GRETA considers that the Moldovan authorities should ensure the provision of free psychological counselling and assistance to all victims of THB, including men and foreign victims, regardless of whether they are accommodated in the Centre of Assistance and Protection. The Moldovan authorities should also further develop the capacity of psychologists in the field of THB, including in the regional sub-divisions of assistance to victims of THB.**

5. Access to work, vocational training and education (Article 12)

64. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, microbusinesses and social enterprises.[35] GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.[36]

35 Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

36 8th General report on GRETA's activities.

65. Despite progress in reducing poverty and promoting growth, the average monthly salary in the Republic of Moldova is low (about €380 at the end of 2019)[37] and many people look for better paying jobs abroad. The Republic of Moldova continues to rely on earnings from the over one million Moldovan migrant workers.[38] With such a considerable rate of external labour migration, together with the readiness to accept unsafe overseas employment offers,[39] the risks of human trafficking are significant. At the same time, official statistics indicate that the unemployment rate has decreased.[40]

66. In its first evaluation report on the Republic of Moldova, GRETA referred to steps taken by the National Agency for Employment to enable victims of trafficking to access the labour market.[41] Law No. 105/2018 regarding promotion of employment and unemployment insurance aims to prevent and reduce unemployment and its social effects, including on victims of THB. Victims of trafficking registered as unemployed benefit from all services and employment measures provided by this law, including vocational training, on-the-job training, internship, subsidised employment, consultancy, assistance and support in entrepreneurial activity. In 2019, there were two registered victims of THB, one of whom benefited from professional training. In the first half of 2020, five victims of THB have benefited from employment services/measures, one of whom benefited from professional training courses. Two employment facilitation programmes for unemployed persons have been launched by the Ministry of Health, Labour and Social Protection (MSMPS) and the National Agency for Employment, with the assistance of ILO. The programmes provide for subsidising of jobs for socially vulnerable people and subsidising employers for the creation or adaptation of jobs for people with disabilities. Companies which employ unemployed people from vulnerable groups (including victims of THB) will benefit from monthly subsidies amounting to 30% of the average monthly salary for the previous year, within six months, for each unemployed employee.

67. **GRETA welcomes the steps taken by the Moldovan authorities to facilitate employment for victims of THB and considers that the Moldovan authorities should continue taking steps to provide access to the labour market for victims of THB and their economic and social inclusion.**

6. Compensation (Article 15)

68. Article 15 (3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to and social integration of victims that could be funded by assets of criminal origin.

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37 According to the National Bureau of Statistics of the Republic of Moldova, see: https://statistica.gov.md/newsview.php?l=en&idc=168&id=6512

38 The population of the Republic of Moldova is 3.55 million. For more details, see: https://www.worldbank.org/en/country/moldova/overview#1

39 IOM and Info Sapiens, *Human Trafficking Survey: Belarus, Georgia, Moldova and Ukraine*, 2019, p.4.

40 In the third quarter of 2019, the unemployment rate for men was 4.1 % and for women it was 3.9%. The rate was significantly higher in urban areas (4.6%) than in rural areas (3.4"). Among young people (15-24 years), the unemployment rate was 11.3%. See https://tradingeconomics.com/moldova/unemployment-rate

41 See GRETA's first report on the Republic of Moldova, paragraph 91.

69. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm cause by the offender, access to justice, empowerment of victims, and may be seen as punishment and have a deterrent effect. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of human rights violations.

70. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. State Parties should therefore consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

71. In the Republic of Moldova, the most important legal avenues for victims of crime, including victims of THB, to claim for compensation for their injuries and various moral and material damages are provided in the following instruments: Law No. 241/2006 on Preventing and Combating Trafficking in Human Beings; the Criminal Code and the Criminal Procedural Code; the Civil Code (revised in 2019) and the Code of Civil Procedural No. 1107-XV of 2002. Another relevant instrument is the Execution Code No. 443 of December 2004.

72. A civil action to claim compensation from the offender may be started as part of the criminal proceedings. The CPC distinguishes a "victim of a crime", "injured party" and "civil party", and each of these categories has a certain set of rights and entitlements. Pursuant to Article 58, paragraph 3, point 6, of the CPC, the victim is entitled to apply for recognition as a civil party in criminal proceedings. Under Article 58, paragraph 4, point 4, of the CPC, the victim has the right to bring a claim for financial compensation for the moral and/or physical damage caused by the perpetrator. The CPC specifies the manner in which the civil action is filed, the persons responsible for the examination of the civil action, and the calculation of the amount of compensation to be paid.[42] The prosecutor is responsible for receiving requests for recognition as a civil party, receiving materials related to the civil action and attaching them to the criminal case, and participating in the recovery of criminal assets or other goods which can be valued and included in the recovery of damage caused to the victims. Victims are provided with written information about their rights and obligations, including the right to claim compensation, and are asked to confirm the receipt of this information by their signature. The decision on the civil action within criminal proceedings, irrespective of the value of the action, is taken by the court responsible for the prosecution. Victims of crimes are exempted from paying State taxes when awarded compensation (Article 85, paragraph 1, of the CPC).

73. According to Article 387 of the CPC, the court admits the civil action, in whole or partially, or rejects it. In exceptional cases (Article 387, paragraph 3, of the CPC), when, in order to determine the exact amount of the damage, the trial needs to be postponed, the criminal court can accept the claim for compensation, but decide that its amount is to be determined later by a civil court. If the claim brought in the civil court is rejected, the applicant has no right to bring the same action in a criminal court, and if the claim is rejected in the criminal proceedings, the claimant is not entitled to bring the same action in the civil procedure.

[42] The calculation of the amount of material/moral damage caused by the offence is provided for in Article 219, paragraphs 2, 3 and 4, of the CPC.

74. When the claimant has not filed a civil action in the criminal proceedings, she/he has the right to issue compensation claims in the civil procedure. The revised Civil Code contains several provisions on the right of victims to receive compensation for physical, material and moral damages, the amount and the criteria for assessment of the amount. Article 1998, paragraph 1, of the Civil Code foresees that "the person who acts with deliberate illicit behaviour against another person has the obligation to compensate pecuniary damages, and in cases set forth in the law, the moral damage caused by action or inaction".[43] According to the provisions of Article 19 of the Civil Code, property/material damage is considered to be the amount of expenses that the injured person has incurred or will have to support for restoring the infringed right, the destruction or deterioration of his/her own goods, the lost profit as a result of the violation of his/her right; non-property/moral damage includes physical and mental suffering, as well as the diminution of quality of life. In the case of damage to health, the non-property damage also includes the loss or diminution of physical capacity.

75. The revised Civil Code (Article 2029) introduces criteria for assessing and calculating compensation for lost salary or income. The basis is the average monthly net income from work or other activity of the injured person, from the last year before losing the capacity to work. If the injured party did not have any income, the court is entitled to calculate the monthly net income he/she could have had, taking into account his/her professional qualification. If the injured party did not have any professional qualification, a compensation equal to the gross amount of the minimum salary in the country is granted. Another new aspect is the advanced payment of expenses that will be supported by the injured party due to health injuries upon presentation of medical justification (Article 2034, paragraph 2).

76. In assessing compensation for moral damage, according to Article 2037 of the Civil Code, the courts should take into account the character and severity of moral damage caused to the injured party, the degree of guilt of the offender and the extent to which compensation can bring equitable satisfaction to the injured party. According to lawyers representing THB victims, the new Civil Code does not provide sufficiently clear criteria for a proper appreciation of moral damage.

77. Specialised lawyers have highlighted a number of issues when it comes to the practical implementation of the above-mentioned procedures for compensation. The compensation of the victim depends on the success of the criminal investigations, and therefore failure to collect evidence leads to the impossibility for victims to prove material and moral damages. Further, the victim cannot file a claim for compensation through civil proceedings if the prosecutor does not bring charges against the offender or if the court finds him/her not guilty. Filing a civil claim for compensation in a civil procedure separately from the criminal case is possible only after the criminal case has ended with a conviction. Another challenge is related to the fact that Articles 219-220 of the CPC[44] regarding compensation for material and moral damages are not in accordance with the provisions of the revised Civil Code, and sometimes in contradiction. For example, the CPC provisions do not foresee the right of the injured party to claim payment for the work carried out in case of forced labour exploitation.

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43 Unofficial translation.

44 Article 219 paragraphs (3) and (4) of the CPC declare as material damage: 1) treatment and care of the injured party; 2) funeral costs supported by the injured party; 3) payment of insurance, indemnities and pensions; 4) realisation of a contract on the storage of goods. And as moral damages: the victim's physical suffering, the leisure or aesthetic damage, loss of life expectancy, loss of honour due to defamation, psychological suffering caused by the death of close relatives.

78. Article 203 of the CPC stipulates that the property seized from the suspect shall be allocated to the payment of compensation for damages caused by the offence. The authorities indicated that, in accordance with this provision, the confiscated assets will be used first to compensate the victim, then to pay for court fees and finally, if there are any assets left, they can be used for special and extended confiscation. However, the authorities indicated that pursuant to Article 106, paragraph 1, of the CC, on special seizure,[45] the victim does not benefit from the seized assets. The authorities have specified that the latter provision is a general norm which must be distinguished from civil action in criminal proceedings (Article 219 of the CPC), under which compensation for damages does not depend on the confiscation of assets. Confiscated assets from perpetrators of THB are not allocated to a fund for compensating and supporting victims of THB (see also paragraph 89).

79. GRETA was informed by the Moldovan authorities that in 2018, financial investigations were carried out in 15 cases of THB and related offences, during which prosecutors requested the seizure of assets obtained through the offences, including in order to ensure the execution of civil actions. The seizure of assets with a total value of 4 238 435.25 MDL (the equivalent of €217 551) took place, including 24 land plots, eight dwellings, six vehicles, and monetary sums amounting to some 44 000 MDL (equivalent of €2 258). During the reporting period, courts ordered the confiscation of assets resulting from THB of an estimated value of over 1 350 000 MDL (equivalent of €69 283), pursuant to Articles 106 and 106, paragraph 1, of the CC.

80. Between 2015 and 2018, the number of victims of THB who received compensation from perpetrators was 24. The authorities did not provide information on the amounts of awarded compensation, nor did they specify whether compensation were effectively paid to the victims.

81. According to the authorities, the low number of compensation requests filed by victims of THB is due to the fact that victims do not wish to bring civil action. There are a number of barriers preventing victims from claiming compensation, including of psychological nature and related to the length of the proceedings. It was also stated that victims did not provide enough evidence to substantiate their claims for material damages. The lack of training on THB and the insufficient sensitivity of judges to the trauma experienced by trafficking victims is another barrier to obtaining compensation.

82. Further, there are practical difficulties in enforcing compensation orders. GRETA is concerned by the fact that victims have to cover the costs related to the enforcement of court decisions concerning compensation (pursuant to the Enforcement Code).

83. Law No. 137/2016 on the Rehabilitation of Victims of Crime, which entered into force in January 2018, foresees the setting up of a State compensation scheme for victims. At the time of GRETA's visit in October 2019, this system was not yet operational.

84. The right to compensation from the State is recognised for victims of offences committed on the territory of the Republic of Moldova, including THB (Article 165 and 207 of the CC).[46] According to Article 13, paragraph 1, of the law, the right to State compensation is granted to Moldovan citizens and foreign or stateless persons who were legally on the territory of the Republic of Moldova at the time the offence was committed. In the case of foreign victims, financial compensation is granted on the basis of international conventions to which the Republic of Moldova is a party.

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45 Special seizure is defined as "the forced and free transfer to the state of property or goods used in the commission of a crime or resulting from crimes".

46 Other offences for which state compensation is envisaged include organ trafficking (Article 158), child pornography (Article 208/1), slavery and conditions similar to slavery (Article 167), forced labour by a child (Article 168).

85. According to Article 14 of the Law, state compensation is granted if the following conditions are met: the act establishing the commission of the offence has entered into force and is final and irrevocable; the application was filed within three years of the date when the court decision came into force; the victim of the offence is recognised as a civil party to the criminal proceedings; the perpetrator does not have sufficient resources to cover the compensation; the damage caused by the commission of the offence was not and cannot be compensated from other sources (allowances, insurance payments, compensation from the perpetrator, voluntarily or forced); if within three years since the date when the judgment came into force, the enforcement procedure of the court decision on the civil action was instituted, but has not taken place or has taken place only partially. When these conditions are fulfilled, the State shall provide compensation, but not exceeding the limits specified by the law (see paragraph 86). If, on the date of the court judgment regarding the civil action in the criminal case, financial compensation has already been paid by the State, the court shall deduct the state compensation from the amount established in favour of the victim and the perpetrator shall pay this compensation amount to the state budget. If the victim is a child whose representative did not submit an application within the requisite time limit, the time limit shall begin to run from the moment the victim reaches the age of 18.

86. State compensation does not cover moral damage. Pursuant to Article 15 of the law, the following shall be taken into account when determining the amount of the state compensation to victims: a) expenses incurred by the victim for hospitalisation, health care and other medical interventions; b) damage caused to glasses, contact lenses, dentures and other objects that constitute means to support the functioning of the human body; c) damage caused by the destruction or deterioration of the victim's assets or his/her dispossession of certain goods as a result of commission of the offence; d) damage caused by loss of work capacity; e) cost of burial expenses of the victim in case of death. The compensation shall be paid from the state budget in the amount of 70% of the damage amount calculated according to Article 15, but shall not exceed the amount equal to 10 average monthly salaries (based on the year in which the victim filed the claim for financial compensation). Article 20 of the law stipulates that state compensation shall not be subject to taxation.

87. While the adoption of Law No. 137/2016 is a positive development, GRETA notes that it is too restrictive when it comes to access to state compensation. The law does not respond to the actual needs of the victim of the crime who usually needs material support immediately after committing the act (e.g. urgent medical treatment) and not after years have passed. Based on the terms established by the law, a victim of THB would apply for state compensation four to six years after the offence was committed, taking into account the average length of investigation and judicial examination of the files of this kind (three to four years) and the term granted by the law for the enforcement of court decisions (three years). Further, the eligibility criteria exclude foreign victims who were present irregularly in the country at the time of the offence. GRETA notes that foreign victims subjected to exploitation in the Republic of Moldova usually do not have legal residence in the country, which denies them entitlement possibility to apply for State compensation. The law also does not allow adult victims of forced labour (Article 168 of the CC) to benefit from state compensation, this right being recognised only to child victims of forced labour. Moreover, some provisions of the law are unclear and may be misinterpreted. For example, Article 12, paragraph 3, of the law states that "The victim does not have the right to financial compensation granted by the State if: a) the crime was committed with the voluntary participation of the victim, except for persons who have not reached the age of 18". In this regard, it is not clear what will happen in cases where a victim consented to his/her exploitation because of being in a position of vulnerability.

88. As mentioned in paragraph 16, an Interdepartmental Commission for State Compensation was established on 21 February 2018, pursuant to an order of the Minister of Justice. The Commission is an independent collegial body responsible for determining the amount of the compensation awarded by the State. It is composed of three members, including one representative from the Ministry of Justice, the Ministry of Health, Labour and Social Protection and the Ministry of Finance. The members of the Commission are appointed for a term of four years.

89. GRETA was informed that a separate budget line was initially planned for the State compensation scheme, but this did not materialise. Further, a proposal to allocate seized criminal assets to the State compensation scheme was not included in the law. According to the provisions of Article 19 of the Law on Rehabilitation of Victims, financial compensation is to be paid from the state budget. A separate budget line for the compensation scheme has not been established.

90. So far no state compensation has been awarded to victims of THB. According to the Supreme Court of Justice, there are no registered pending applications for state compensation by victims of THB. Furthermore, Ministry of Justice reported that no victim of THB had applied for financial compensation from the State.

91. The Republic of Moldova has not ratified the Council of Europe Convention on the compensation of victims of violent crimes.[47]

92. The National Institute of Justice, in partnership with the OSCE, organised two training sessions (on 9-11 October 2019 and in an online format on 14 May 2020), which included the issue of the legal provisions on state compensation; 18 judges and 21 prosecutors attended these sessions.

93. **GRETA once again urges the Moldovan authorities to take steps to facilitate and guarantee access to compensation for victims of trafficking, including by:**

- **building the capacity of legal practitioners to support victims in claiming compensation;**
- **including compensation in the training programmes of law enforcement officials, prosecutors and judges;**
- **enabling victims of trafficking to exercise their right to compensation, by ensuring access to psycho-social support and legal aid and legal assistance throughout the proceedings;**
- **introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;**
- **enabling victims to file a claim for compensation through civil proceedings even when there was no criminal conviction;**
- **ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;**
- **making full use of the legislation on the freezing and forfeiture of assets and international co-operation to secure compensation to victims of THB, and using criminal assets to fund State compensation;**
- **reviewing the Execution Code in order to remove the administrative costs for victims of THB to enforce compensation decisions made by the courts;**

47 ETS N°116 - https://www.coe.int/en/web/conventions/full-list/-conventions/treaty/116/signatures?p_auth=hnTNX0Qo

- **reviewing the legislative framework for state compensation by removing the limitations on covering the actual damage for the victim and revising the eligibility criteria with a view to making state compensation available to adult victims of forced labour and foreign victims who were present irregularly in the country at the time of the offence, ensuring that it is not conditional on failure to obtain compensation from the perpetrator through criminal and civil proceedings, and clarifying the meaning of Article 12, paragraph 3, of Law No. 137/2016.**

7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)

94. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aims at fighting trafficking in human beings or protection of human rights, the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

95. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so called "civil" confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It 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. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

96. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

97. In the Republic of Moldova, the penalties foreseen for human trafficking range from six to 12 years' imprisonment for offences involving adults (Article 165 of the CC) and from 10 to 12 years' imprisonment for offences involving children (Article 206 of the CC). The criminal procedure rules do not provide for the possibility of plea bargaining.

98. According to the Moldovan authorities, in the period 2015-2018, investigations were initiated in 694 cases of THB, in which 945 adults and 210 children were identified as victims (i.e. a total of 1 155 victims, see paragraph 11). In the same period, 102 cases were discontinued. According to the General Prosecutor's office, around 5-10% of THB cases are requalified as other offences.

99. Out of 550 cases in which investigations were initiated concerning trafficking in adults, convictions were recorded in 118 cases concerning 164 offenders; 127 persons were convicted, out of whom 123 were sentenced to imprisonment. Further, out of 144 cases in which investigations were initiated for trafficking in children, 46 sentences concerned 75 offenders; 63 persons were convicted, out of whom 62 were sentenced to imprisonment. The sentences ranged from four years and 10 months, to 25 years.

100. Based on Law No. 48 of 30 March 2017, the Crime Assets Recovery Agency (hereinafter referred to as "ARBI") was created as a specialised subdivision of the National Anti-Corruption Centre (see also paragraph 159. The law stipulates the Agency's right to obtain information by way of derogation from the existing procedural rules. The transmission of information necessary for the Agency's operations by the relevant data providers, criminal prosecution bodies, courts or other competent authorities for purposes stipulated by the law does not constitute disclosure of commercial or banking secrets or disclosure of personal data. The ARBI collaborates with the Office for Prevention and Fight against Money Laundering and Financing of Terrorism, the Public Services Agency, the National Integrity Authority, the Customs Service and other relevant bodies. The National Anticorruption Centre has signed a number of co-operation agreements with other State bodies, and the Agency, being a subdivision of the Centre, may refer to them in its work.

101. Pursuant to Article 229, paragraph 2, of the CPC, the offences specified by Article 165 of the CC (trafficking in adults) and by Article 206 of the CC (child trafficking) fall into the category of offences under the competence of the ARBI when it comes to carrying out parallel financial investigations. If, in the course of these investigations, assets belonging to the subject of investigation are identified, the ARBI investigation officers may freeze the identified assets until the completion of the investigation in order to ensure that they are not disposed of, hidden, damaged or spent. Representatives of the Centre for Combating Trafficking in Human Beings (CCTP) indicated that tracking of perpetrators' assets had become more efficient since the setting-up of the ARBI. During the reporting period, the ARBI has examined 82 delegations for 78 criminal cases related to trafficking, child trafficking and pimping, and goods for a total value of 5 205 610 MDL (approximately €268 000) were seized. The ARBI is not a body with exclusive competence to carry out financial investigations, but it deals with complex and large-scale cases at the request of the criminal investigation officers or prosecutors.

102. On 18 April 2019, Guidelines on conducting parallel financial investigations were approved by General Prosecutor's Order No. 26/15 of 28 June 2018. These Guidelines aim at ensuring interaction between different actors conducting financial and criminal investigations.

103. In January 2018, the former deputy director of the CCTP was convicted of accepting bribes in a trafficking-related case and sentenced to four years' imprisonment; the case was being appealed at the time of the visit. The authorities have indicated that the defendant in this case was acquitted on 30 September 2019 by the Chişinău Court of Appeal, the decision was appealed by the prosecutor, and the case was pending before the Supreme Court of Justice.[48] Further, the director of Boarding School NO. 3 in Chişinău was indicted for sexual and labour exploitation of several children in 2017; in 2018, the director and an accomplice were sentenced to 17 years and six months and 17 years' imprisonment, respectively. The court ordered them to pay 800 000 MDL (around €41 000) in compensation to the victims. Following an appeal by the defendants' lawyer, the case was pending examination at the Chişinău Court of Appeal.[49] Other cases reported concerned a village mayor involved in labour trafficking, and the deputy head of a regional labour inspectorate accused of forced labour on an animal farm. The latter case was pending before the Căuşeni Court, from Ştefan-Vodă.[50]

48 http://agenda.csj.md/pdf_creator_penal.php?id=29525;

49 https://cac.instante.justice.md/ro/pigd_integration/pdf/generate/hearing/1-18122943-02-1a-12072019/56C2AD8D-8A90-DD11-AB9B-001E0B8014EB/9ccc830b-6182-44eb-b42d-d6975476ee2d; https://newsmaker.md/ro/au-obtinut-achitarea-totala-cum-au-fost-eliberati-toti-inculpatii-in-dosarul-sandler-despre-traficul-si-exploatarea-sexuala-a-copiilor/

50 https://jcs.instante.justice.md/ro/pigd_integration/pdf/generate/hearing/18-1-5426-29122017/9055BED2-0AE6-DD11-A55E-001E0B8014EB/48d81cd3-d2e2-489e-88c2-48718f3d5bd7;

104. By way of illustration, reference can be made to the following cases.

"Helen" case

Trial court: District Court of Chişinău

File number: No 1-472/2016

Time and duration of main trial: July 2016 – 15 September 2017 (the criminal investigation had started in January 2016)

Victim: A 25-year-old female victim of THB, with low level of education and intellectual disability, citizen of the Republic Moldova. In her childhood, she was abandoned by her parents and from the age of four she was raised in an orphanage and taught at a special school for children with learning problems.

Defendants: Two women and one man. A fourth perpetrator (man) was arrested later and prosecuted in a separate trial. Duration of trial: mid-august 2017 – end of October 2018. All the defendants are Moldovan citizens from the same family (between 27 and 54 years old) and come from the Roma minority (the mother with her son, and the niece with her husband)

Charges: Article 165, paragraph 2.d of the CC (trafficking for the purpose of forced begging)

Details of the case: The victim had been recruited in the Republic of Moldova by her grandmother, with whom the victim lived because she was homeless and without work. After two weeks, she convinced the victim to go to the Russian Federation to beg and earn money. The travel was organised by the grandmother's niece and her husband, who helped the victim arrange for a passport and organised her trip to Moscow. The fourth defendant picked up the victim at the train station in Moscow and he hosted her in his rented home. He took her passport and forced her to go out and beg in the street every day, under his supervision. She was often beaten and threatened when refusing to continue begging. The victim was exploited for a period of nine months, until she was helped to escape by the members of a religious community.

The victim was initially deceived, agreeing that she would beg for herself, paying the defendants only for travelling and accommodation in Moscow, but in reality, all the money was taken by the defendant in Moscow, which he then shared with the other defendants in the Republic of Moldova.

Sentences: The defendants were sentenced to seven to eight years' imprisonment.

Legal assistance: The victim was granted psycho-social and legal support for the duration of the proceedings, according to Law No. 241/200, which included psycho-social assistance provided by the Centre for assistance and protection of victims for four months; long-term assistance was provided for one year by the religious organisation "Inceputul Vieții". Legal assistance during the criminal proceedings was provided by a lawyer paid through an IOM project.

Compensation: The victim was awarded compensation of 15 000 MDL (approximately €800) for moral harm. According to the victim's lawyer, the compensation should have been 40 000 MDL (€2091).

Good practices:
A lawyer and a social assistant from the Shelter and from "Inceputul Vieții" were assigned to the victim to build a relationship of trust and ensure good cooperation with her. This made it possible for the victim to be involved until the end of the court proceedings. Both the lawyer and the social assistant supported the victim during all stages, from investigation to court proceedings (for example, for filing the complaint, identifying perpetrators, testifying, preparation of the civil claim for compensation of moral damages, ensuring that the victim is interviewed in the court without the defendants being present).

According to the victim's lawyer, the public prosecutor and the court were sensitised to the issue of human trafficking and followed a victim-based approach, in particular in organising the hearing of the victim and the defendants separately.

"Dediu Ion" case

Trial Court: Court of Cahul (Cantemir District)

File number: 15-1-2440-22032018

Details of the case: A Moldovan man recruited five girls using a mobile phone, messenger and video chat applications (Viber, Skype, WhatsApp), knowing that they were under the age of 16 years and abusing their vulnerability. He asked them to send intimate pictures of themselves and subsequently threatened them to share the pictures with their relatives and other persons. Creating false profiles on social networks with the intimate photo and video images of the girls, the offender convinced them to continue taking photographs in indecent positions and to participate in online video sessions.

Sentence: In September 2018, the Court of Cahul (Cantemir District) found the man guilty of trafficking in children (Article 206, paragraph 3, lit. b and f, of the CC) and child pornography (Article 208¹ of the CC) committed in the period March 2014-September 2017. The offender was sentenced to 16 years' imprisonment.

Compensation of 50 000 MDL (€2 564) was awarded to all victims by the court.

Good practices:
The victims received psycho-social and legal support during the whole procedure, provided by the State Shelter and the NGO La Strada. Legal assistance included representation of the victims during court proceedings.

The prosecutor and the court were sensitised about human trafficking. A victim-based approach was adopted, especially in organising interviews of victims separately from the defendant, using video. The prosecutor introduced the claim for compensation.

Case of THB for the purpose of labour exploitation

In May 2006, a citizen of the Republic of Moldova organised a criminal group of Moldovan citizens to engage in labour exploitation in the construction and agricultural sectors in the Russian Federation. Through deception and abusing the vulnerability of the victims, the group organised the recruitment, transportation, housing and reception of Ukrainian citizens for the purpose of servitude and forced labour. The victims' personal documents were confiscated, and they were subjected to physical and psychological violence.

In a judgment handed down in February 2018, the court recognised the organiser of the criminal group guilty of violating Article 42 (3)[51], Article 165 paragraph (3a)[52] of the CC of the Republic of Moldova and sentenced him to 11 years' imprisonment.

[51] "An organiser shall be considered the person who organises the commission of a crime or manages its commission as well as the person who creates an organised criminal group or a criminal organisation or manages the criminal activity thereof."

[52] Article 165, paragraph 3a, provides that THB committed by a criminal organised group or a criminal organisation is punished by imprisonment from 10 to 20 years, with the deprivation of the right to hold certain functions or to exercise a certain activity for a term of three to five years, and the legal person is punished with a fine in the amount of 8 000 to 10 000 conventional units, with the deprivation of the right to carry out a certain activity, or with the liquidation of the legal person.

105. GRETA was informed about criminal proceedings in human trafficking cases which were ongoing for many years, with numerous court hearings. Victims of trafficking met by GRETA during the visit spoke about numerous court hearings, some of which were cancelled and postponed, resulting in a very lengthy process. The issue of the length of criminal proceedings is apparently not specific to cases of THB. GRETA is concerned that it impacts negatively on victims of trafficking, who might be exposed to repeated confrontation with perpetrators and re-victimisation. By way of example, a victim of labour exploitation indicated that the trial which concerned him had lasted for nearly three years when the responsible judge retired and the case had to be handed over to another judge, which meant that the trial had to start from the beginning. Such situations can only contribute to the lack of trust of victims of in the criminal justice system. GRETA is concerned by the negative effect of lengthy trials on the victims and the outcome of prosecution.

106. **GRETA urges the Moldovan authorities to ensure that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ).[53]**

107. **Further, GRETA considers that the Moldovan authorities should take additional measures to ensure that THB cases are investigated promptly, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions. In this context, the Moldovan authorities should:**

- **ensure the practical implementation of the General Prosecutor Office's guidelines on investigating THB cases and financial investigations, including at regional level;**

- **strengthen the proactive investigation of THB cases, regardless of whether a complaint about the reported crime has been submitted or not, making use of special investigation techniques, where appropriate, in order to gather evidence and not to have to exclusively rely on testimony by victims;**

- **continue providing training and developing the specialisation of investigators, prosecutors and judges to deal with human trafficking cases and to ensure that they are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation.**

8. Non-punishment provision (Article 26)

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

109. As stressed by GRETA in its 2nd General Report, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the State's obligation to investigate and prosecute those responsible for THB.

110. GRETA considers that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of treating them differently depending on the prosecutor in charge of the case.

53 https://rm.coe.int/cepej-2018-26-en-rapport-calvez-regis-en-length-of-court-proceedings-e/16808ffc7b

111. As noted in GRETA's second evaluation report on the Republic of Moldova, Article 165, paragraph 4, of the CC provides that "a victim of THB is exempted from criminal liability for crimes committed by him/her in connection with this procedural status". The same wording is included in Article 206, paragraph 4, of the CC concerning child trafficking. Further, Article 32 of the Anti-Trafficking Law provides that a victim of THB shall be exempted from criminal, administrative and civil liability for actions committed by him/her in relation to his/her status as a victim.

112. According to the Moldovan authorities, between 2017 and the first three months of 2019, there were no victims of THB who had committed an offence in connection with their procedural status, and therefore no victims had to be excluded from criminal liability under the above-mentioned provisions.

113. However, GRETA was informed that there was sometimes a lack of co-ordination between prosecutions involving the same person both as a victim of crime and as a defendant. GRETA was informed that a 17-year-old girl trafficked for the purpose of sexual exploitation was at the same time accused of recruiting victims in a separate case. Civil society organisations have referred to other cases where girls were prosecuted for recruiting other girls for sexual exploitation, pointing to the lack of social programmes of rehabilitation and reintegration to help victims overcome the trauma and return to a normal life.[54] The legislation does not provide for the possibility of linking a case in which the same person has the status of an injured party with a case in which he/she is the accused.

114. **GRETA considers that the Moldovan authorities should continue raising awareness amongst police officers, prosecutors and judges of the importance of effectively applying the non-punishment principle and ensure its harmonised interpretation.**[55]

9. Protection of victims and witnesses (Articles 28 and 30)

115. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

116. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 have to do with extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

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[54] http://lastrada.md/rom/articole/copiii-sunt-purtati-prin-sistem-pana-cand-pot-trece-de-la-statutul-de-victima-la-c-225

[55] See OSCE, Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking, 2013, available at: https://www.osce.org/secretariat/101002?download=true

117. In the Republic of Moldova, Law No. 105 of 16 May 2000 on the Protection of Witnesses and Other Participants to Criminal Proceedings provides for a broad range of protection measures for witnesses and victims of very serious crimes, including THB. The protection measures provided for in law include change of identity, residence or place of work, as well as urgent measures such as personal protection, surveillance of the witness's home, or temporary placement in a safe place. The application of protection measures is authorised by the prosecutor or the court. The decision is mandatory for the body bearing the responsibility to ensure the witness protection.

118. According to information provided by the authorities, during the reporting period, only three persons were granted special protection as victims of THB. As noted in GRETA's second report, in order to obtain protection for a witness in criminal proceedings, it is necessary to prove that there is a real threat to the life and health of the witness. According to the authorities, the low number of victims offered special protection is due to the low number of requests received, as the measure cannot be imposed without the consent of the beneficiary of protection.

119. Article 110 of the CPC enables the investigative judge or the court to interview witnesses without them being physically present, by means of technical devices. According to GRETA's second report, in 2012, audio-video equipment for the interviewing and recording of victims and witnesses, including by teleconference in real time, was installed in the Courts of Appeal and Prosecutor's Offices of Chişinău, Balti, Cahul, with funding from the US Department of State and the support of IOM. This special measure is also applicable to vulnerable adult victims/witnesses. According to specialised lawyers and NGOs involved in the field of THB, such measures have not been applied so far in cases of human trafficking.

120. Since March 2017, the Centre for Combating Trafficking in Persons (see paragraph 126) has had two special rooms for interviewing children and adult victims, equipped with the support of the US Embassy and the IOM Mission to the Republic of Moldova, in a manner which avoids re-victimisation.

121. There is reportedly only one court (in Ciocana district in Chişinău) with a room specifically designed for interviewing witnesses. Prosecutors, NGOs and victims have complained about the conditions in this room, and a complaint was reportedly filed to the Supreme Council of Magistrates and Supreme Court. The authorities have specified that the equipment of courts with rooms for interviewing witnesses will happen gradually within the limits of the available financial resources.

122. GRETA was informed that guidelines on special conditions for court proceedings had been issued. Such special conditions, which include the use of specifically designed rooms, are mandatory for children up to 14 years of age. The judge decides whether a hearing should take place under special conditions or not. However, it is up to the prosecutor to request this, and to ensure that all stages are in line with the legal requirements and that there are no risks that evidence collected is declared inadmissible. According to NGOs and lawyers met by GRETA, judges often refuse to apply the above-mentioned special measures, in particular when the victim is older than 14 (see also paragraph 150). By way of example, GRETA was informed of the case of a 17-year-old girl who was pregnant and under pressure from the trafficker, yet the judge refused to apply Article 110, paragraph 1, of the CPC. Judges have reportedly become increasingly reluctant to make use of specially designed spaces within NGO premises for interviewing children, with the assistance of specialists, psychologists and other services.

123. GRETA is concerned by the practice of in-person confrontation (cross-examination) of victims and persons accused of THB during the investigation phase, which may be requested by the lawyers of the accused and it is very difficult for the investigator or prosecutor to justify a refusal. Further, as noted above (see paragraph 105), victims have to go through repeated court hearings and GRETA was informed that traffickers intimidate victims over the phone or through messages. Due to the fact that proceedings continue for years and suspects are released from remand custody after 12 months, it is easy for them to put pressure on victims.

Abstract from an interview with a victim of trafficking: "I went through three court hearings already and I know that another three are planned before the end of the year. The perpetrators attended the second and third hearings and it was extremely difficult and stressful for me to be in the same room with them. I do not know how long it will last."

124. **GRETA urges the Moldovan authorities to take additional steps to:**

- **make use of the available measures to protect vulnerable victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after the court proceedings;**

- **build the awareness of all actors in the criminal justice system on how to avoid re-victimisation and stigmatisation of victims of THB through training and awareness-raising, as well as prioritising the rights, needs and interests of victims;**

- **ensure that cross-examination (direct confrontation) of victims of THB and offenders does not take place in order to avoid re-victimisation and ensure the psychological integrity of the victim;**

- **avoid repeated and lengthy questioning of victims of THB by setting up adequate procedures and internal regulations.**

10. Specialised authorities and co-ordinating bodies (Article 29)

125. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and coordinating bodies should, as far as possible, be composed of women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

126. As explained in GRETA's second report, the Centre for Combating Trafficking in Persons (CCTP), which is a specialised investigation department within the National Inspectorate of Investigation of the General Police Inspectorate, has been restructured. The CCTP was previously divided into three regional teams which dealt with all forms of THB within their respective territories. Since August 2014, three investigation sections have been created to deal with different forms of exploitation across the country: the first investigation section deals with combating THB for sexual exploitation, the second with THB for labour exploitation and begging, and the third with child trafficking and THB in organs, tissues and cells. At the time of GRETA's visit in October 2019, the CCTP had 43 staff positions, of which 28 were investigative police officers and 11 criminal investigation officers. Investigative officers are responsible for gathering evidence and criminal investigation officers are in charge of building the legal case on the basis of the evidence. The CCTP has experienced recent management and operational staff changes and the significant staff turnover could have a negative impact on the CCTP's ability to investigate cases.

127. GRETA was informed that there are currently more than 1 000 vacancies in the Moldovan police. Efforts invested in capacity-building and institutional memory are often lost due to the high staff turnover in the police, which also makes it challenging to ensure co-operation between police investigation officers and prosecutors. There is also reportedly a lack of investigators outside Chişinău with experience in dealing with THB.

128. Within the Special Investigation Division of the General Border Police Inspectorate of the Ministry of Internal Affairs there is a so-called Section No. 1, composed of four staff members specialised in combating illegal migration and trafficking in human beings. These employees are directly involved in identifying and documenting cases of trafficking in human beings.

129. Pursuant to Article 270, paragraph 1, point d, of the CPC, the Prosecution Office for Combating Organised Crime and Special Cases carries out the prosecution of THB cases or trafficking in children whenever these cases are thought to have been committed by organised criminal groups or by criminal organisations. Prosecutors specialised on THB cases must have at least three years of experience and attend specialised training on THB. A specialised Section on Combating Trafficking in Human Beings, composed of 20 prosecutors, was established at the General Prosecution Office; it monitors the work of the territorial prosecution offices and provides practical and methodological assistance to prosecutors. The authorities have specified that there are 10 prosecutors in the Anti-Trafficking and Investigation of Cybercrime Bureau of the Prosecution Office for Combating Organised Crime and Special Cases. Further, there are five prosecutors in the Anti-Trafficking Bureau, created on 27 December 2017 by Order of the Chief Prosecutor of the Chişinău Prosecutor's Office, who are hierarchically subordinated to the Chief Prosecutor of the Chişinău Prosecutor's Office. At the same time, there are five prosecutors at the Section for Combating Trafficking in Human Beings of the General Prosecutor's Office. These three entities are separate and have different subordination. The Anti-Trafficking Section of the General Prosecutor's Office continues to be operational and has been working, *inter alia*, on drafting a guide on parallel financial investigations, elaboration of a draft law amending and supplementing Article 89 of the Contravention Code, harmonising the practice on criminal cases of trafficking in human beings and related crimes, and providing methodological assistance.

130. On 18 December 2018, based on the Prosecutor General Order No. 54/28, amendments were made to Orders No. 47/4 of 9 December 2016 and No. 44/15 of 24 November 2016, and the offences specified in Article 208-1 ("child pornography") and Article 175-1 ("luring of minors by adults for sexual purposes") of the CC were included in the monitoring activity of the General Prosecutor Office's Section for Combating Trafficking in Human Beings.

131. Prosecutors met by GRETA noted that the lack of specialisation of judges to deal with THB cases was a problem. In this context, GRETA was informed that a pilot project was initiated pursuant to the Chișinău Court order of 18 June 2019, according to which a specialised panel of judges to deal with THB cases and related crimes was set up. The panel is located in the Buiucani office of the Chișinău Court and consists of 12 judges. THB cases are allocated to the panel, on a random basis, through the Integrated Case Management Programme. Moreover, in order to implement the decision of the Superior Council of Magistracy No. 198/10 of 17 April 2018, by the Chișinău Court of Appeal order of 10 May 2018, a specialised panel of three judges was set up to examine THB cases. Further, a group of 12 specialised judges was created within the Chișinău Court designated to carry out the trial of cases involving THB and related crimes (Order of the Chișinău Court No. 22 of 18 June 2019). Consequently, as of May 2018, the Integrated Case Management Programme distributes for examination the THB cases to these specialised judges. In November 2018, specialised judges were trained by IOM, with funding from the US Embassy in Chișinău. According to Superior Council of Magistracy Decision No. 34/3 from 24 January 2020, there has to be a specialisation of judges in the field of trafficking in human beings and related crimes in all courts.

132. **GRETA welcomes the recent introduction of specialisation of judges and considers that the Moldovan authorities should ensure that there is a sufficient number of specialised and trained investigators, prosecutors and judges to deal with THB cases throughout the country. Training on THB should be integrated into the regular training curricula of relevant professional groups, including law enforcement officials, prosecutors, judges, forensic experts, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff.**

11. International co-operation (Article 32)

133. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments[56] on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

134. The Republic of Moldova has a co-operation agreement with Eurojust and another one with Europol on operational and strategic co-operation. The CCTP uses international tools and channels such as Interpol and SELEC/GUAM to obtain operative information in the course of criminal investigations, special investigation actions or other measures to identify and arrest persons. In 2018, 400 requests were sent to the Centre for International Police Co-operation.

135. Since 2018, the Moldovan authorities have attempted to initiate two Joint Investigation Teams (JIT), without success. Prosecutors reported that one of the challenges they face is the lack of co-operation from countries of destination (e.g. Greece, Ukraine, the Netherlands and Italy).

136. Pursuant to Article 32 of the Convention, nine applications requesting international legal assistance in criminal matters were submitted in 2017 to investigate cases, including within countries of destination or transit. In particular, assistance of the following authorities was requested: the Russian Federation (four cases), Israel (two cases), Romania, Ukraine, Belgium, Spain, and the Czech Republic (one each).

137. In 2018, 26 requests for rogatory commissions were filed on THB cases concerning adults (of which 10 were to the Russian Federation and the remainder to Germany, Greece, Hungary, Italy, Lithuania, Poland, Romania, Turkey, Ukraine and the USA). Of those, nine were terminated, and 17 are pending. With respect to cases of child trafficking, three requests for rogatory commissions were submitted (to the Russian Federation and Romania), of which one has been terminated and two were pending at time of writing. The General Prosecution Office of the Republic of Moldova received three requests for rogatory commissions (from the Netherlands, Ukraine and France) concerning THB cases.

138. According to the authorities, in 2018, the Ministry of Justice received a request for mutual legal assistance, which was sent to the court for consideration. The outcome of the examination of the request for legal aid was sent to the requesting competent authorities.

[56] For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, and the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

139. In November 2018, Moldovan prosecutors and police officers attended an OSCE-supported workshop on investigating cases of transnational trafficking[57]. The workshop was organised jointly by the OSCE Mission to Moldova, the Moldovan General Prosecutor's Office and the General Police Inspectorate, with the support of the European Union Judicial Co-operation Unit (Eurojust). The best practices of setting up and managing joint investigation teams (JITs) were the focus of the hands-on course delivered by the Eurojust experts, who specialize in providing financial, legal and practical support to the operational activities of JITs. The setting up of JITs on human trafficking cases is one of the activities envisaged under the 2018-2020 Action Plan of the Moldovan Anti-Trafficking Strategy. Under the guidance of the trainers, the participants elaborated a standard inter-state JIT agreement, organised a mock JIT co-ordination meeting and identified strategies to raise funds to support the operations of a joint team. According to the chief of the Section to Combat Trafficking in Human Beings at the General Prosecutor's Office, the participation in this training was useful for establishing contacts and building trust among the international partners to ensure the speedy exchange of information and intelligence, as well as the collection of evidence. This should facilitate the detection and investigation of cases of trafficking.

140. **GRETA welcomes the Moldovan authorities' participation in international co-operation in the area of combating THB and invites them to strengthen their efforts in this respect, in particular when it comes to financial investigations, collaboration between labour inspection agencies, and sharing information to ensure the safe return of victims of trafficking.**

12. Cross-cutting issues

a. gender-sensitive criminal, civil, labour and administrative proceedings

141. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.[58]

142. Women encounter obstacles with respect to access to justice within and outside the legal system. Some of these obstacles are of a legal or institutional nature, while others have socio-economic and cultural grounds. The legal and institutional barriers include discriminatory or insensitive legal frameworks, including legal provisions that are explicitly discriminatory; gender blind provisions that do not take into account women's social position; and gaps in legislation concerning issues that disproportionately affect women. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or child care.[59] Such obstacles, and remedies to them, are listed in a Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".[60]

143. The Moldovan authorities have referred to Law No. 5/2006 on Ensuring Equal Opportunities for Women and Men, which aims at preventing and eliminating all forms of discrimination based on gender, and contains provisions on ensuring equal rights of women and men in the political, economic, social, cultural and other spheres of life.

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57 https://www.osce.org/mission-to-moldova/403259

58 CEDAW General recommendation No. 33 on women's access to justice, CEDAW/C/GC/33, 3 August 2015, paragraph 8.

59 Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13, available at https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5

60 Available at: https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e

144. GRETA refers to the list of issues and questions raised by CEDAW in relation to the sixth periodic report of the Republic of Moldova, according to which the authorities should make efforts to facilitate women's access to justice, implement the provision of free legal aid services, and increase women's awareness of their rights.[61]

145. According to the National Legal Aid Council, between 2015-2019, out of the five victims of THB who received legal aid, two were women. At the same time, according to the Ministry of Health, Labour and Social Protection, in 2015-2019, the number of female victims who received legal assistance at the specialised centres was as follows: 2015 - 36 (26 adults and 10 children); 2016 - 37 (30 adults and 7 children); 2017 - 29 (23 adults and 6 children); 2018 - 15 (11 adults and four children); 2019 – 15 (12 adults and three children).

b. child-sensitive procedures for obtaining access to justice and remedies

146. Provisions concerning child victims are contained in the CPC as well as Law No. 140 of 14 June 2013 on the Special Protection of Children at Risk and Children Separated from Their Parents. Further, according to Article 571, paragraph 1, of the Family Code, "the child has the right to compensation for material and moral damage caused by harm to his/her body or to his/her health integrity or by the violation of non-patrimonial rights as a result of violence, neglect, exploitation or evasion in any other way of the parents to exercise parental rights and obligations, which have harmed the life and health of the child, as well as by the non-fulfilment or inadequate fulfilment by a public authority or institution of the obligation established by the normative acts for the purpose of protection against the risk of occurrence of a certain prejudice".[62]

147. The legislation underlines the importance of ensuring the child's best interests in the decision-making process, including when involved in criminal proceedings. Article 10, paragraph 6, of the CPC guarantees respect for the interests of child victims and witnesses at all stages of the criminal proceedings. The Moldovan authorities have indicated that in the case of identified child victims who have reached the age of 14, the criminal investigation officer shall communicate to the victim his/her rights and obligations as provided by Article 58 of the CPP, Law No. 241 of 20 October 2005, Law No. 137 of 29 July 2016 and Law No. 105 of 16 May 2008, including the legal possibilities for obtaining compensation and the available remedies.

148. According to Article 110, paragraph 1, of the CPC, the interviewing of a child witness under the age of 14 in criminal cases related to sexual crimes, human trafficking or domestic violence shall be conducted by the investigative judge in specially equipped rooms, which have audio-video recording equipment, with the involvement of a psychologist (or other professional who has been trained on child-friendly interviewing techniques) who puts the questions to the child. There are eight child-friendly interview rooms located within district Prosecutors' Offices.

149. The Moldovan authorities have referred to the Methodological Guide on Case Investigation involving Child Victims and Witnesses of Crime (approved by Order of the General Prosecutor No. 25 of 3 August 2015), which prosecutors are required to adhere to. This order prescribes that prosecutors should carry out a limited number of interviews with children.

150. In the case of children between 14 and 18 years of age, the application of the above-mentioned special interviewing conditions is at the discretion of the judge. GRETA was informed that judges often refuse to apply such special conditions and permit the offender to be present during the interviewing of the child. According to specialised lawyers met by GRETA, even if the child is not in the interviewing room together with the offender, due to poor sound isolation in some premises, he/she can hear what the offender is saying.

[61] http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsgOTxO5cLIZ0CwAvhyns%2byJVt1l3neBhFB17U650pgS2PDW78ShitskbkhOQ0dw8OFlwDXzqXfrOMEKaFsFs24N7p%2bLF69vAePdDjWeeQ26S

[62] Unofficial translation.

151. **GRETA urges the Moldovan authorities to ensure that all child victims of THB, including children older than 14, are in practice afforded special protection measures. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.[63]**

c. role of businesses

152. The 2018-2023 National Strategy for Prevention and Combating Trafficking in Human Beings and the Action Plan for 2018-2020 on its implementation contain objectives and actions aimed at establishing co-operation with the private sector with the aim of raising awareness and informing employers about the risks and consequences of THB. The Permanent Secretariat has initiated a number of training sessions for employers in the agricultural sector, informing them about THB and its consequences. On 5 December 2019, and on 18 and 25 February 2020, the Permanent Secretariat, in partnership with IOM and the US Embassy, organised three workshops on "Legal employment procedure and avoidance of labour exploitation situations" for representatives of companies in the agricultural sector. During the elaboration of the new Action Plan for 2021-2023, the possibility of organising new workshops will be examined.

153. The CCTP signed on 18 June 2019 a Collaboration Agreement with the Association of Recruitment Agencies of the Republic of Moldova, on the organisation and implementation of activities related to the legalisation and facilitation of employment activities abroad. In particular, the agreement refers to activities aiming at information dissemination and promotion of truthful job opportunities as well as at raising awareness of Moldovan citizens about the legal possibilities of employment. A separate agreement with taxi companies has not been signed, but during the criminal investigation, the CCTP co-operates closely with them.

154. According to the Moldovan authorities, Law No. 131/2015 on public procurement establishes the levers to prevent trafficking in human beings and labour exploitation. According to this law, the contracting authority has the obligation to exclude from the procedure for awarding a public procurement contract any tenderer or candidate of which it is aware that, in the last five years, has been convicted, by the final decision of a court, for participating in the activities of criminal organisations or groups, for corruption, for fraud and/or money laundering, for terrorist offences or crimes related to terrorist activities, terrorist financing, child labour and other forms of trafficking in human beings, or breach of applicable obligations in the field of environment, labour and social security. The provisions of Law No. 131/2015 are implemented by secondary normative acts.

155. **GRETA considers that the Moldovan authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights[64] and Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business,[65] with a view to raising awareness of the important role and responsibility of businesses to prevent human trafficking, support the rehabilitation and recovery of victims, and provide access to effective remedies.**

156. **Further, GRETA considers that the Moldovan authorities should adopt legislation promoting transparency in supply chains to enable scrutiny of companies' performance to prevent THB and labour exploitation.**

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63 Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies).

64 http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

65 Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States on human rights and business, adopted by the Committee of Ministers on 2 March 2016 at the 1249th meeting of the Ministers' Deputies.

d. measures to prevent and detect corruption

157. In paragraph 103, reference was made to cases of THB involving public officials. The two previous GRETA reports also referred to such cases.[66] Corruption, particularly in law enforcement and the judiciary, impeded prosecutions and influenced the outcomes of cases, including prosecutions of complicit officials.

158. Other Council of Europe legal instruments, in particular those designed to combat corruption, money laundering and cybercrime, are also relevant to combating human trafficking. The Council of Europe body with the main role to play in the fight against corruption is the Group of States against Corruption (GRECO). Its country reports are relevant in addressing structural shortcomings in preventing corruption, including potentially in a THB context. According to GRECO's reports, the Republic of Moldova has developed a sizeable anti-corruption normative and institutional framework over the years, but implementation remains problematic. The country's track record in the implementation of GRECO recommendations issued in former rounds is generally positive, with a compliance rate of about 83%. In spite of these efforts, the perception of corruption in the Republic of Moldova remains high. Transparency International's Corruption Perception Index ranked the Republic of Moldova as 120th among 198 countries in 2019, down from 94 in 2012. The Republic of Moldova also has a high level of people reporting payment of bribes, with nearly 30% of respondents admitting doing so in Transparency International's 2013 Global Corruption Barometer.[67] Of these, 34% reported paying a bribe to the judiciary. Despite the high number of corruption-related cases reported in the media, sanctions are low and impunity is rampant. GRECO's report on the Republic of Moldova[68] also referred to cases of corruption in the judiciary.

159. Pursuant to the Integrity Law No. 82/2017, a number of authorities are ensuring control over the integrity of public entities and officials. The essential anti-corruption role is held by the National Anti-corruption Centre (NAC) and the National Integrity Authority (NIA). The NAC is the national authority specialised in the prevention and fight against corruption, corruption-related acts and acts of corruptive behaviour. NAC has organisational, functional and operational independence and performs a range of tasks relate to preventing, detecting, investigating and curbing corruption. It also performs the tasks of the Secretariat of the Monitoring Group for National Integrity and Anti-corruption Strategy implementation. The NIA is responsible for verifying the assets and personal interests, conflicts of interest, incompatibility restrictions, and limitations of public agents. The NIA works closely with the NAC Centre and with the Anti-Corruption Prosecutor's Office in deciding when to recommend further investigations.

160. The Anti-Corruption Prosecutor's Office is a specialised office in charge of leading all the criminal investigations conducted by the investigators of the National Anti-Corruption Centre, but it may also conduct its own criminal investigations. The main role in assuring the integrity mechanisms of the police is played by the Internal Protection and Anti-Corruption Service of the Ministry of Internal Affairs.

161. Given that corruption continues to present a significant challenge for the Moldovan authorities and remains one of the main impediments for development, a Joint EU/Council of Europe Project was launched on "Controlling Corruption through Law Enforcement and Prevention (CLEP)". It is being implemented in line with the Council of Europe Action Plan for the Republic of Moldova (2017-2020) and aims at strengthening the anti-corruption framework in the Republic of Moldova in line with the Council of Europe's conventions and other treaties.

162. **While welcoming the steps taken to adopt legislation and set up specialised anti-corruption agencies, in combating corruption, GRETA considers that the Moldovan authorities should introduce measures aimed at addressing corruption in a THB context in the National Anti-Corruption Strategy.**

66 See paragraph 155 of the first GRETA report and paragraph 175 of the second GRETA report on the Republic of Moldova.
67 https://www.transparency.org/gcb2013
68 See the 4th evaluation report round report on "Corruption prevention in respect of members of parliament, judges and prosecutors" by GRECO.

V. Follow-up topics specific to the Republic of Moldova

1. Measures to prevent and combat trafficking for the purpose of labour exploitation

163. In GRETA's second evaluation report, GRETA considered that the Moldovan authorities should take further steps in the area of preventing trafficking for the purpose of labour exploitation, such as raising awareness of the risks of human trafficking for the purpose of labour exploitation, strengthening the monitoring of recruitment and temporary work agencies, and working closely with the private sector.

164. Law No.105/2018 on the Promotion of Employment and Unemployment Insurance, which entered into force on 10 February 2019, replacing Law No. 180/2008 on Labour Migration, regulates the activity of private agencies that facilitate employment abroad. The Public Services Agency has the power to withdraw or suspend the operation licences of the private agencies for violations of the legislation. If private agencies are suspected of organising illegal migration, the law enforcement bodies initiate criminal proceedings under Article 362, paragraph 1, of the CC. At the same time, the National Employment Agency keeps records of the individual labour contracts submitted by private agencies, and co-ordinates the agreements concluded between private agencies and foreign intermediaries or employers.

165. In 2019, the Ministry of Health, Labour and Social Protection was expected to carry out a comprehensive analysis of the legal framework regarding the regulation of the operation of private agencies and its compliance with international standards. As a result, a draft law amending a set of legal acts, with a special focus on emigration for labour purposes, was prepared and approved by Parliament by Law No. 137 of 16 July 2020. Its implementation will start in January 2021. The new legal provisions contain a series of adjustments to the monitoring and control process related to private recruitment agencies, and create new responsibilities for the service providers for migrants in the recruiting period, as well as post-employment.

166. On the basis of Order No. 24/345 of 14 November 2018, the CCTP inspected 62 private agencies facilitating employment in the Republic of Moldova and abroad (out of a total number of 83 registered companies); following the verification, 17 agencies ceased operations or their license was withdrawn.

167. GRETA was informed that, in addition to the agriculture sector, there is an increase in labour exploitation in the construction sector in certain countries, including the Russian Federation and Ukraine. According to data gathered by the NGO La Strada on the basis of calls to the hotline (see paragraph 40), in the last five years, there has been an increase in the number of male victims of THB for the purpose of labour exploitation. Moreover, the hotline's statistical data for 2019 show worrying trends concerning misinformation aimed at Moldovan citizens looking for jobs abroad. For instance, more and more Moldovans are convinced that with the visa regime liberalisation, employment in the EU states is possible and legal on the exclusive basis of the biometric passport.[69]

[69] For more information, see http://lastrada.md/pic/uploaded/Hotline%20Campaign%20Report_%202019-2020_%20EN.pdf

168. In July 2013, the CCTP signed a co-operation agreement with the State Labour Inspectorate on prevention and early identification of THB for labour exploitation and forced labour, which foresaw joint operations and exchange of data. An amendment to the law removed the possibility of carrying out labour inspections without prior notification to the employer, which affected the Labour Inspectorate's ability to detect irregularities. The Moldovan authorities indicated that according to the Action Plan 2020-2023, approved by Governmental Decision No. 636/2019 and due to be implemented by March 2020, regulations will be changed and labour inspections reintroduced. On 1 July 2020, the Government approved and submitted to Parliament for examination a draft law to amend the following laws: Law No. 140/2001 on the State Labour Inspectorate; the Labour Code; the Contraventions Code; Law No. 186/2008 on Occupational Safety and Health; and Law No. 131/2012 on State Control over Entrepreneurial Activity. The draft law was elaborated in order to ensure the re-establishment of the State Labour Inspectorate's control functions in the fields of occupational safety and health and labour relations, ensuring its functional integrity and compliance with ILO Conventions No. 81 of 1947 on labour inspection in industry and trade and No. 129 of 1969 on labour inspection in agriculture. At the time of writing, the draft law was being examined by the Parliament.

169. There are some 83 labour inspectors in the Republic of Moldova. According to representatives of the Ombudsman's office, the mandate of labour inspectors is too limited, and the Ombudsman had made proposals as to legislative amendments back in 2016. GRETA was informed during the third evaluation visit that due to limited human resources, especially in the regions, labour inspectors rarely perform inspections in the field.

170. In 2018, five workshops were organised by the Permanent Secretariat of the NCCTHB, with the support of IOM, for staff of the Territorial Commissions for the prevention and combating of THB, on the identification of victims and presumed victims of THB. A workshop entitled "Measures to combat the phenomenon of trafficking in human beings for labour exploitation and other purposes: Identification of Victims and Presumed Victims of Trafficking in Human Beings" was organised by the Ministry of Health, Labour and Social Policy, in partnership with the OSCE, on 6 December 2018. Further, on 11-19 April 2019, labour inspectors were trained on THB for the purpose of labour exploitation, as well as the prevention and combating of exploitation in the workplace.

171. Between March and May 2019, a national information campaign funded by the US Embassy was carried out focusing on risks of human trafficking for the purpose of labour exploitation abroad.[70] According to the report on the campaign, due to the absence of safe alternatives for work migration, Moldovan citizens accept short-term jobs even if they are aware of the risks related to trafficking. Further, there is a limited access of Moldovan citizens to the relevant public services, such as the National Employment Agency. Another observation is that law enforcement bodies are slow to react when it comes to investigating private employment agencies.

[70] La Strada Moldova, Migration of citizens of the Republic of Moldova for work purposes – risks associated with human trafficking and forced labour, Conclusions and observations from the national information campaign, available at: http://lastrada.md/pic/uploaded/MIGRATION%2520OF%2520CITIZENS%2520OF%2520THE%2520REPUBLIC%2520OF%2520MOLDOVA%2520FOR%2520WORK%2520PURPOSES%2520-%2520RISKS%2520ASSOCIATED%2520WITH%2520HUMAN%2520TRAFFICKING%2520AND%2520FORCED%2520LABOUR_2019.pdf

172. **While commending the efforts taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA urges the Moldovan authorities to take further steps to prevent and combat THB for the purpose of labour exploitation, in particular by:**

- **designing and implementing awareness campaigns for people who intend to search for jobs abroad and seasonal workers, as part of which it is clarified that the issuance of a biometric passport does not automatically provide a right to travel or work abroad;**
- **increasing the number of labour inspectors and expanding their mandate to enable them to play a frontline role in the prevention and identification of THB for the purpose of labour exploitation, including by ensuring that they can carry out unannounced inspections;**
- **training labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;**
- **strengthening co-operation between law enforcement officers, labour inspectors, financial police, tax authorities, trade unions, and other civil society actors, with a view to collecting the evidence necessary for successfully prosecuting cases of THB for the purpose of labour exploitation;**
- **strengthening the monitoring of private recruitment agencies;**
- **working closely with the private sector to promote corporate social responsibility, in line with the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business.**

2. Social and economic initiatives for groups vulnerable to THB

173. The importance of combating the root causes of THB through social and economic initiatives for groups vulnerable to THB has already been stressed in GRETA's previous reports.

174. The Roma communities are vulnerable to THB due to their precarious living conditions, lack of access to work, education and services. The Moldovan authorities are currently implementing a Roma Action Plan for 2016-2020,[71] the main objectives of which are to create an inclusive and effective educational system which will contribute to the integration of the Roma population, to increase the employment of Roma people, to improve the health status of the Roma population and ensure their non-discriminatory access to medical services, to ensure decent living conditions for Roma people and improve the quality of their live, and to improve Roma participation and reduce discrimination.

175. The Ministry of Health, Labour and Social Protection, in partnership with the IOM Mission to the Republic of Moldova, organised on 12-13 December 2017 and 19-20 July 2018, training sessions on "The role of community mediators in dealing with THB cases and domestic violence, in settlements inhabited by Roma or by mixed population." The goal of these seminars was to inform community mediators, social workers and multi-disciplinary team co-ordinators of the changes in the legal framework, case identification and assistance methodology, and the creation of a communication and co-ordination platform for handling the assistance offered at central, local and inter-regional levels.[72]

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71 See 5th State Report submitted to the Advisory Committee on the Framework Convention for the Protection of National Minorities.

72 Community mediators and social workers from the districts of Rîşcani, Hîncești, Soroca, Floreşti, Străşeni, Nisporeni, Bălți, Ştefan-Vodă, Drochia, Călăraşi and Cimişlia attended these training events.

176. However, GRETA was informed that there continued to be impediments to the Roma population's access to justice. Roma victims are reportedly not treated respectfully and are not taken seriously by law enforcement officials, judges and State legal aid representatives.

177. The Ministry of Education, Culture and Research organised several initiatives to inform and raise awareness of THB among young people. Around 55 000 pupils from primary and secondary schools took part in various activities on the prevention of THB and related issues. The implementation of interactive programmes for the prevention of THB in vocational technical education was carried out through various activities within the compulsory discipline of Civic Education and through extracurricular activities on the prevention of dangers associated with THB with the participation of about 2 000 people, including students, teachers, parents and pedagogues. About 60 activities dedicated to anti-trafficking were organised in higher education institutions via seminars, roundtables, educational classes and conferences attended by about 4 500 students.

178. While welcoming the actions taken, **GRETA considers that the Moldovan authorities should continue to strengthen the prevention of THB through sustained social, economic and other measures to empower groups vulnerable to THB, especially women, children, young people and Roma, including by promoting access to the labour market and by providing access to vocational education. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB.**

179. **Further, GRETA considers that the Moldovan authorities should provide resources to trained community mediators to enable them to identify potential victims and victims of trafficking within the Roma communities, and strengthen efforts to ensure access to justice for persons from these communities.**

3. Identification of victims of trafficking

180. As explained in GRETA's second evaluation report, a National Referral System (NRS) has been established across the Republic of Moldova, with multidisciplinary teams set up in all regions. Article 15 of the Anti-Trafficking Law stipulates that the identification of victims of THB shall be carried out by the competent public authorities with the support of NGOs or by NGOs that have reasonable grounds to believe that a person is a victim of trafficking. Guidelines on Identification of Victims and Potential Victims of THB were approved by Order No. 33 of 20 February 2012 of the Ministry of Labour, Social Protection and Family. These guidelines set out the steps to be taken by central and local authorities, NGOs and service providers when identifying victims of THB. The guidelines have two annexes containing questionnaires for identifying victims and potential victims of THB. An updated version of these annexes was included in the 2014 Regulation of the operation of territorial multidisciplinary teams.

181. Nevertheless, GRETA was informed that the referral of victims did not always function as foreseen in the guidelines and that problems were caused by the turnover of multidisciplinary team members. There is still no institution with the competence to establish the status of victim of THB in the Republic of Moldova. GRETA was informed that the Ministry of Health, Labour and Social Police was in the process of reforming the NRS and that a body will be created with a clear competence to grant the status of victim of THB. Consultations on the reform of the NRM are ongoing. **GRETA would like to be kept informed of the outcome of this process.**

182. According to the CCTP, the phenomenon of human trafficking is evolving and perpetrators increasingly use information and communication technologies (ICT) to recruit, control and exploit victims (including online sexual exploitation of children). At the same time, police officers do not use ICT to identify victims and lack training and skills to address these new trends.

183. Another challenge is related to the increase in the number of male victims of THB for the purpose of labour exploitation (80% of those trafficked for labour exploitation are men). Actors involved in identification, investigation, prosecution, assistance and protection are reportedly not used to dealing with male victims of THB. Additionally, there is a shortage of assistance and support services for male victims (see also paragraph 60.

184. GRETA refers to a recent report, published in 2000, by La Strada Moldova entitled "Migrants' vulnerability to human trafficking and exploitation in the Republic of Moldova", according to which there are important gaps in the identification of foreign victims of THB in the country, as well as the investigation of such cases. Primary data collected in the study indicate that the authorities have difficulties in identifying irregular migrants at risk of THB and exploitation, because the necessary tools and resources are missing. According to the report, the most common forms of exploitation of migrants on the territory of the Republic of Moldova are cases of exploitation through labour and begging. The main countries of origin of foreign victims of THB are the former countries of the USSR (Ukraine, Russian Federation, Uzbekistan) as well as some countries of Asia (Turkey, Bangladesh, Pakistan) and Africa.[73]

185. **GRETA considers that the Moldovan authorities should strengthen the identification of victims of THB, and in particular:**

- **ensure that the National Referral System is effectively implemented, by continuous and systematic training of all relevant professionals;**

- **develop training for law enforcement on how to use ICT to identify victims of THB and gather evidence, in co-operation with specialised NGOs and the private sector;**

- **pay increased attention to the proactive identification of victims of THB for the purpose of labour exploitation, victims of internal trafficking, and victims among asylum seekers and migrant workers.**

4. Assistance to victims, including effective access to public health care

186. As explained in GRETA's first and second reports on the Republic of Moldova, the provision of assistance to victims of THB is regulated by Article 20 of the Anti-Trafficking Law. By Government Decision No. 898 of 30 December 2015, minimum quality standards were approved for services responsible for the support and protection of victims of trafficking in human beings. The Regulation on operation of the territorial multidisciplinary teams within the National Referral System (Government Decision No. 228 of 28 March 2014) clarified the roles of responsibilities of the entities participating in these teams with regard to victim assistance.

187. According to the authorities, in the period 2015-2018, a total of 354 victims of THB (164 women, 111 men, 54 girls and 25 boys) benefited from assistance provided by the seven centres providing assistance and protection of victims of violence, two of which are specialised for victims of trafficking (in Chişinău, see paragraph 189, and Cahul), while the other five (in Anenii Noi, Causeni, Drochia, Hincesti and Bălți municipalities) provide assistance to victims of different forms of violence.[74] The overall capacity of the seven centres is 174 places and they are financed from the state budget. These centres were allocated budgetary funding of 7 540 900 MDL (approximately €386 500) in 2018, 10 362 100 MDL (approximately €532 800) in 2019, and 4 765 300 MDL (approximately €245 000) in the first half of 2020.

73 http://lastrada.md/pic/uploaded/Raport_migratie_en_2020.pdf

74 http://www.antitrafic.gov.md/public/files/National_Report_2019.pdf

188. In practice, assistance to victims of THB continues to depend on the financial support of international organisations and in recent years, there has been less such support, which has negatively impacted the availability of assistance services. The main challenge remains the lack of long-term support, social housing and assistance to find employment. Social workers try to stay in contact with victims once they have left the centres, but they lack the means to ensure proper monitoring, despite the high risk of re-trafficking, given some victims' vulnerability. The reform of the NRS foresees developing longer-term rehabilitation services for victims of THB, by involving civil society and international organisations.

189. Another point of concern is the increase in the number of male victims of THB and the lack of proper infrastructures to assist and accommodate them. The above-mentioned seven centres are in principle not intended to accommodate male victims of THB. According to NGOs, the Ministry of Health, Labour and Social Protection sometimes accommodated such victims in an institution for the elderly in Chişinău, which is not adapted to the needs of victims of THB. The authorities have stated that the repair and re-equipment of five rooms (for up to 10 persons) has been completed and a shelter for male victims of THB will be opened in the autumn of 2020 by the National Social Assistance Agency, in partnership with IOM.

190. The GRETA delegation visited once again the Chişinău Centre for assistance and protection of victims and potential victims of human trafficking, which is subordinated to the Ministry of Labour, Social Protection and Family. The centre continues to have 24 places (10 of which are for children) and provides assistance 24 hours per day, seven days a week.

191. The specialised centres reportedly do not accommodate foreigners; accordingly, foreign victims of THB would be placed in facilities which are not adapted and not equipped to accommodate vulnerable victims of THB with special needs in terms of assistance. Reference is made in this context to the report by La Strada Moldova entitled "Migrants' vulnerability to human trafficking and exploitation in the Republic of Moldova".[75]

192. In accordance with Article 4 of the Law on Compulsory Health Insurance No. 1585 of February 1998, the Government provides for free insurance for 11 categories of persons[76] subject to compulsory health insurance. Initially there were 15 categories, but four were excluded from this list in November 2018 by Law No. 175/2018. Furthermore, according to Article 6 of the Law, these categories of people can benefit from the State health insurance when they have an identity document and a document confirming that they are registered as one of the 11 above mentioned categories of unemployed persons.

193. Victims of THB accommodated in the specialised assistance and protection centres are not covered by the Unique Programme of Compulsory Insurance Medical Assistance. Given that other categories of vulnerable people are covered, social service providers try to be creative and they sometimes provide victims of THB or domestic violence one of the status listed above so that they can benefit from the health insurance. This problem was raised several times during meetings of the NCCTHB. Further, despite efforts made by the authorities to simplify the process of obtaining Moldovan citizenship, some victims of THB still face problems in obtaining documents which are key to access health and other assistance services. GRETA remains concerned about the lack of access for victims of trafficking to health care services (outside the scope of emergency care).

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75 http://lastrada.md/pic/uploaded/Raport_migratie_en_2020.pdf

76 Children under the age of 18; pupils and students covered by the education system, including pupils and students studying abroad; pregnant women and women in childbirth; persons with disabilities; retired persons; unemployed registered with territorial employment agencies; persons caring at home for persons with a severe degree of disability who need care and/ or constant monitoring by another person; mothers of four or more children; persons from poor families entitled to receive social benefits in accordance with the Law on Social Benefits No. 133/ 2008; persons enjoying international protection included in the integration programme for the period of its implementation; living person who is an organ donor.

194. By letter No. 01-6/74 of 14 June 2019, the Ministry of Health, Labour and Social Protection has requested to plan for the period of 2019-2023 activities on the initial and continuous training of doctors and health care workers to increase their awareness of the need to identify potential victims of THB and their referral to the relevant authorities. Courses were planned on the topic "Prevention and combating trafficking in human beings" for specialists in: family medicine, emergency medicine, medical assistance in obstetrics and gynaecology, prenatal healthcare, mental health care, narcology, neurology and community assistance (hospital stage). According to updated information provided by the authorities, two to four hours of training on THB have been provided to the above-mentioned medical specialists. In 2019, 368 medical workers and 280 health-care specialists in were trained.

195. **GRETA urges the Moldovan authorities to make additional efforts to comply with their obligations under Article 12 of the Convention and ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:**

- **provide adequate funding to the centres for assistance and protection of victims and presumed victims of human trafficking, including by making it possible to use confiscated proceeds of THB offences, as foreseen in Article 15, paragraph 4, of the Convention;**

- **set up centres providing assistance, including accommodation, to male victims of THB;**

- **ensure that all victims of THB are guaranteed effective access to public health care by reviewing Law No. 175/2018 and including them in the categories of vulnerable persons to be covered by health insurance;**

- **increase co-operation between public agencies to issue identity documents to victims of THB in a more efficient way;**

- **provide long-term assistance to victims of THB and facilitate their reintegration into society.**

5. Prevention of child trafficking and identification of, and assistance to, child victims of trafficking

196. In its second evaluation report, GRETA welcomed the efforts made to prevent trafficking in children through improving the registration of children at birth, awareness-raising in schools and promoting safe use of the internet. It also requested the Moldovan authorities to continue these efforts, paying particular attention to Roma children and their enrolment in school. GRETA also recommended the Moldovan authorities to strengthen their efforts, in particular by ensuring that the relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, providing adequate support and services to child victims of trafficking, including appropriate accommodation, and ensuring long-term monitoring of the reintegration of child victims of trafficking.

197. Government Decision No. 270 of 8 April 2014, adopted on the basis of Law No. 140 of 2013 on the Special Protection of Children at Risk and Children Separated from Their Parents, expressly establishes the introduction of an inter-sectoral co-operation mechanism for the identification, assessment, referral, assistance and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking. Related guidelines have been developed in compliance with the family, civil, labour and social protection and criminal legal frameworks.

198. According to information provided by the Moldovan authorities, in 2018, 43 children were identified as victims of internal THB (39 girls and four boys), of whom 36 victims (including 35 girls) were exploited for sexual purposes and seven for labour exploitation (four girls and three boys). Further, eight children were exploited in Romania (five girls and one boy for labour purposes, and two boys for sexual purposes), four children (one girl and three boys) were exploited for labour purposes in Greece, a boy was identified as a victim of THB for the purpose of begging in Ukraine, a girl was identified as a victim of THB for purposes of sexual and labour exploitation in Ukraine and Belarus, and there were also three identified cases of girls being trafficked for the purpose of sexual exploitation in UAE, Turkey and Kosovo[77] (one in each country). Most children come from social-economical vulnerable families and are deprived of parental care.

199. An increasing number of cases concern children and young adults from rural areas communicating via social networks or websites offering job opportunities. Some are offered work in bars or as hairdressers in Chişinău, but in reality are forced to provide sexual services. Most of the time they cannot afford to pay their return home so they are trapped in exploitative situations. NGOs informed GRETA about a number of cases of recruitment and exploitation online, especially with children coming out of boarding schools and orphanages. The main challenge for the investigation of such cases is that law enforcement officials do not know how to find evidence.

200. Children in street situations are a particularly vulnerable group to THB. GRETA refers to the Qualitative Study on Children in Street Situations in the Republic of Moldova,[78] published in 2017 by *Terre des hommes* Moldova, with the support of the Ministry of Health, Labour and Social Protection, the Chişinău Department for the Protection of the Rights of the Child, the General Police Inspectorate and UNICEF Moldova. This publication analyses the nature and the evolution of the phenomenon and identifies mechanisms for protection of these children and for preventing other children to be in street situations.

201. As noted in paragraph 177, educational institutions carry out a series of awareness-raising activities focused on prevention of THB. The topic of THB is addressed through compulsory school subjects as well as in optional subjects.

202. GRETA notes that in 2018 there were four registered unaccompanied children from Bangladesh in the Republic of Moldova.

203. As mentioned in GRETA's second report, Article 27 of the Anti-Trafficking Law stipulates that if there are reasons to believe that a victim of THB has not reached the age of 18, he/she is presumed to be a child until age determination has been carried out. Age determination is performed by a forensic examination based on anatomical and physiological characteristics and an X-ray of the bones. GRETA noted that this method of age assessment does not take into account psychological, cognitive or behavioural factors and asked the authorities to review the age assessment procedures, ensuring that the best interests of the child are effectively protected, and taking into account the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child. The authorities informed GRETA that, whenever in the criminal investigation the exact age of the presumed victim of THB is not known, but the suspicion is that the victim is a child, law enforcement bodies apply to the Forensic Medicine Centre and request that an age assessment by forensic expertise investigation is made. The Forensic Centre reported being interested in being trained on THB-related issues. The authorities have indicated that the possibility of introducing training for specialists at the Forensic Medicine Centre will be examined in the context of preparing the new National Action Plan 2021-2023.

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77 All reference to Kosovo whether to the territory, institutions or population, in this report shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

78 https://childhub.org/en/child-protection-online-library/children-street-situations-republic-moldova

204. In its second evaluation report, GRETA considered that the Moldovan authorities should ensure that the return of victims of THB is conducted with due regard to their rights, safety and dignity, including the right to non-refoulement (Article 40 (4) of the Convention), and in the case of children, by fully respecting the principle of the best interests of the child. The Regulation on the procedure for repatriation of children and adult victims of THB, persons in difficulty and unaccompanied children was approved by Government Decision No. 948 of 7 August 2008. Under its provisions, in 2015-2019, the Ministry of Health, Labour and Social Protection, in partnership with IOM, organised the repatriation of 99 unaccompanied children (58 boys and 41 girls) to the Republic of Moldova. There is no information on the number of victims of THB among these children.

205. **GRETA once again urges the Moldovan authorities to strengthen their efforts to improve the prevention of child trafficking and the identification of, and assistance to, child victims of trafficking, in particular by:**

- **utilising the results of research, and paying increased attention to the link between THB in children and the use of ICT;**
- **strengthening the capacity and resources of child protection professionals;**
- **raising awareness of child trafficking and its different manifestations (including forced begging, forced marriage and forced criminality);**
- **ensuring a protective environment for children in street situations and unaccompanied or separated asylum-seeking children;**
- **ensuring that specialised NGOs receive adequate funding.**

6. Recovery and reflection period

206. The legal provisions concerning the recovery and reflection period have not changed since the second evaluation by GRETA. Article 20, paragraph 3, of the Anti-Trafficking Law, which applies both to Moldovan and foreign citizens, stipulates that victims of THB are offered a reflection period of 30 days. Article 2, paragraph 14, of the Anti-Trafficking Law defines the purpose of the reflection period, which is to recover, escape the influence of traffickers and take a decision on whether to co-operate or not with law enforcement bodies.

207. Several institutions are involved in the granting of the recovery and reflection period: the Centre for combating trafficking in persons, the National Co-ordination Unit, and specialists from centres for assistance and protection of victims and potential victims of THB. However, there are no clear regulations and criteria for granting the recovery and reflection period. The Moldovan authorities indicated that additional guidance was issued by the Prosecutor General's Office in 2017 on how victims should be informed about assistance services, including the recovery and reflection period.

208. According to the Moldovan authorities, in the period 2015-2018, a total of 177 victims of THB were granted a recovery and reflection period. The majority of them were Moldovan citizens identified in the Republic of Moldova or returned to the country after being exploited abroad. In the period 2015-2018, 11 foreign victims of THB benefited from assistance during the reflection period (in 2015, seven children from Germany; in 2016, two victims from Ukraine; in 2017, a Ukrainian boy; and in 2018, a Ukrainian woman; all of them were repatriated following the provision of assistance for varying periods of time, according to their individual needs).

209. **GRETA considers that the procedure for granting a recovery and reflection period should be spelled out and all agencies likely to come across victims of THB (including migration and asylum authorities) should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators. Further, the authorities should ensure that victims of human trafficking are systematically informed of the recovery and reflection period.**

Appendix 1 - List of GRETA's conclusions and proposals for action

The position of the proposals for action in the text of the report is shown in parentheses.

Topics related to the third evaluation round of the Convention

Right to information

- GRETA considers that the Moldovan authorities should strengthen the provision of information in different languages (including online) to presumed victims and formally identified victims of trafficking regarding their rights, the services available and how to access them, and the implications of being recognised as a victim of trafficking. This concerns in particular information on the right to compensation (see also paragraph 93). Law enforcement officers should continue being trained and instructed on how to properly explain to victims their rights (paragraph 43).

Legal assistance and free legal aid

- GRETA urges the Moldovan authorities to strengthen their efforts to facilitate and guarantee access to justice for all victims of THB irrespective of their income by ensuring that they receive specialised legal assistance and free legal aid at an early stage, including by:
  - providing training to lawyers of the State legal aid centres on the rights of victims of trafficking;
  - putting in place a system through the Bar Association or the National Council for State-guaranteed Legal Assistance to certify lawyers who are qualified to provide legal aid to victims of trafficking and to ensure that victims of trafficking and defendants in THB cases are not represented by the same lawyers;
  - ensuring adequate funding for legal assistance and free legal aid for victims of THB, including when it is provided by specialised lawyers from NGOs (paragraph 53).

Psychological assistance

- GRETA considers that the Moldovan authorities should ensure the provision of free psychological counselling and assistance to all victims of THB, including men and foreign victims, regardless of whether they are accommodated in the Centre of Assistance and Protection. The Moldovan authorities should also further develop the capacity of psychologists in the field of THB, including in the regional sub-divisions of assistance to victims of THB (paragraph 63).

Access to work, vocational training and education

- GRETA welcomes the steps taken by the Moldovan authorities to facilitate employment for victims of THB and considers that the Moldovan authorities should continue taking steps to provide access to the labour market for victims of THB and their economic and social inclusion (paragraph 67).

Compensation

- GRETA once again urges the Moldovan authorities to take steps to facilitate and guarantee access to compensation for victims of trafficking, including by:

  - building the capacity of legal practitioners to support victims in claiming compensation;

  - including compensation in the training programmes of law enforcement officials, prosecutors and judges;

  - enabling victims of trafficking to exercise their right to compensation, by ensuring access to psycho-social support and legal aid and legal assistance throughout the proceedings;

  - introducing a procedure through which victims are entitled to obtain a decision on compensation from the offender as part of the criminal trial and requiring courts to state, where applicable, why compensation is not considered;

  - enabling victims to file a claim for compensation through civil proceedings even when there was no criminal conviction;

  - ensuring that the collection of evidence about the harm the victim has suffered, including the financial gain from the exploitation of the victim, is part of the criminal investigations with a view to supporting compensation claims in court;

  - making full use of the legislation on the freezing and forfeiture of assets and international co-operation to secure compensation to victims of THB, and using criminal assets to fund State compensation;

  - reviewing the Execution Code in order to remove the administrative costs for victims of THB to enforce compensation decisions made by the courts;

  - reviewing the legislative framework for state compensation by removing the limitations on covering the actual damage for the victim and revising the eligibility criteria with a view to making state compensation available to adult victims of forced labour and foreign victims who were present irregularly in the country at the time of the offence, ensuring that it is not conditional on failure to obtain compensation from the perpetrator through criminal and civil proceedings, and clarifying the meaning of Article 12, paragraph 3, of Law No. 137/2016 (paragraph 93).

Investigations, prosecutions, sanctions and measures

- GRETA urges the Moldovan authorities to ensure that the length of court proceedings in cases of trafficking of human beings is reasonable, in line with the case-law of the European Court of Human Rights (related to Article 6, paragraph 1 of the ECHR) and the standards set by the European Commission for the Efficiency of Justice (CEPEJ) (paragraph 106);

- GRETA considers that the Moldovan authorities should take additional measures to ensure that THB cases are investigated promptly, prosecuted successfully, and lead to effective, proportionate and dissuasive sanctions. In this context, the Moldovan authorities should:

  - ensure the practical implementation of the General Prosecutor Office's guidelines on investigating THB cases and financial investigations, including at regional level;

- strengthen the proactive investigation of THB cases, regardless of whether a complaint about the reported crime has been submitted or not, making use of special investigation techniques, where appropriate, in order to gather evidence and not to have to exclusively rely on testimony by victims;

- continue providing training and developing the specialisation of investigators, prosecutors and judges to deal with human trafficking cases and to ensure that they are not re-qualified as other offences which carry lighter penalties and deprive victims of THB of access to protection, support and compensation (paragraph 107).

Non-punishment provision

- GRETA considers that the Moldovan authorities should continue raising awareness amongst police officers, prosecutors and judges of the importance of effectively applying the non-punishment principle and ensure its harmonised interpretation (paragraph 114).

Protection of victims and witnesses

- GRETA urges the Moldovan authorities to take additional steps to:

  - make use of the available measures to protect vulnerable victims and witnesses of THB and to prevent intimidation during the investigation, as well as during and after the court proceedings;

  - build the awareness of all actors in the criminal justice system on how to avoid re-victimisation and stigmatisation of victims of THB through training and awareness-raising, as well as prioritising the rights, needs and interests of victims;

  - ensure that cross-examination (direct confrontation) of victims of THB and offenders does not take place in order to avoid re-victimisation and ensure the psychological integrity of the victim;

  - avoid repeated and lengthy questioning of victims of THB by setting up adequate procedures and internal regulations (paragraph 124).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the recent introduction of specialisation of judges and considers that the Moldovan authorities should ensure that there is a sufficient number of specialised and trained investigators, prosecutors and judges to deal with THB cases throughout the country. Training on THB should be integrated into the regular training curricula of relevant professional groups, including law enforcement officials, prosecutors, judges, forensic experts, labour inspectors, social workers, child welfare staff, health-care staff, and diplomatic and consular staff (paragraph 132).

International co-operation

- GRETA welcomes the Moldovan authorities' participation in international co-operation in the area of combating THB and invites them to strengthen their efforts in this respect, in particular when it comes to financial investigations, collaboration between labour inspection agencies, and sharing information to ensure the safe return of victims of trafficking (paragraph 140).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA urges the Moldovan authorities to ensure that all child victims of THB, including children older than 14, are in practice afforded special protection measures. In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice (paragraph 151);

Role of businesses

- GRETA considers that the Moldovan authorities should strengthen engagement with the private sector, in line with the UN Guiding Principles on Business and Human Rights and the Council of Europe Committee of Ministers Recommendation CM/Rec(2016)3 on human rights and business, with a view to raising awareness of the important role and responsibility of businesses in supporting the rehabilitation and recovery of victims, and to provide access to effective remedies (paragraph 155);

- GRETA considers that the Moldovan authorities should adopt legislation promoting transparency in supply chains to enable scrutiny of companies' performance to prevent THB and labour exploitation (paragraph 156).

Measures to prevent and detect corruption

- While welcoming the steps taken to adopt legislation and set up specialised anti-corruption agencies, in combating corruption, GRETA considers that the Moldovan authorities should introduce measures aimed at addressing corruption in a THB context in the National Anti-Corruption Strategy (paragraph 162).

Follow-up topics specific to the Republic of Moldova

Developments in the institutional and policy framework for action against human trafficking

- GRETA reiterates its recommendation from the second evaluation report and considers that the Moldovan authorities should examine the possibility of establishing an independent National Rapporteur or designating an already existing independent mechanism for monitoring the anti-trafficking activities of state institutions (paragraph 24).

- In the absence of an independent National Rapporteur, GRETA considers that the Moldovan authorities should commission an external, independent evaluation of the implementation of the National Action Plan (paragraph 25).

- Further, GRETA urges the Moldovan authorities to strengthen the co-ordination of anti-trafficking action by increasing the number of staff members in the Permanent Secretariat dealing with the development and co-ordination of the implementation of the National Action Plan (paragraph 26).

Measures to prevent and combat trafficking for the purpose of labour exploitation

- While commending the steps taken since the second evaluation to prevent and combat trafficking for the purpose of labour exploitation, GRETA urges the Moldovan authorities to take further steps to prevent and combat THB for the purpose of labour exploitation, in particular by:

  - designing and implementing awareness campaigns for people who intend to search for jobs abroad and seasonal workers, as part of which it is clarified that the issuance of a biometric passport does not automatically provide a right to travel or work abroad;

  - increasing the number of labour inspectors and expanding their mandate to enable them to play a frontline role in the prevention and identification of THB for the purpose of labour exploitation, including by ensuring that they can carry out unannounced inspections;

  - training labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;

  - strengthening co-operation between law enforcement officers, labour inspectors, financial police, tax authorities, trade unions, and other civil society actors, with a view to collecting the evidence necessary for successfully prosecuting cases of THB for the purpose of labour exploitation;

  - strengthening the monitoring of private recruitment agencies;

  - working closely with the private sector to promote corporate social responsibility, in line with the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business (paragraph 172).

Social and economic initiatives for groups vulnerable to THB

- GRETA considers that the Moldovan authorities should continue to strengthen the prevention of THB through sustained social, economic and other measures to empower groups vulnerable to THB, especially women, children, young people and Roma, including by promoting access to the labour market and by providing access to vocational education. Further efforts should be made to promote gender equality, combat gender-based violence and stereotypes, and support specific policies for the empowerment of women as a means of combating the root causes of THB (paragraph 178);

- GRETA considers that the Moldovan authorities should provide resources to trained community mediators to enable them to identify potential victims and victim of trafficking within the Roma communities, and strengthen efforts to ensure access to justice for persons from these communities (paragraph 179).

Identification of victims of trafficking

- GRETA considers that the Moldovan authorities should strengthen the identification of victims of THB, and in particular:

  - ensure that the National Referral System is effectively implemented, by continuous and systematic training of all relevant professionals;

  - develop training for law enforcement on how to use ICT to identify victims of THB and gather evidence, in co-operation with specialised NGOs and the private sector;

  - pay increased attention to the proactive identification of victims of THB for the purpose of labour exploitation, victims of internal trafficking, and victims among asylum seekers and migrant workers (paragraph 185).

Assistance to victims, including effective access to public health care

- GRETA urges the Moldovan authorities to make additional efforts to comply with their obligations under Article 12 of the Convention and ensure that all presumed and identified victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:

  - provide adequate funding to the centres for assistance and protection of victims and presumed victims of human trafficking, including by making it possible to use confiscated proceeds of THB offences, as foreseen in Article 15, paragraph 4, of the Convention;

  - set up centres providing assistance, including accommodation, to male victims of THB;

  - ensure that all victims of THB are guaranteed effective access to public health care by reviewing Law No. 175/2018 and including them in the categories of vulnerable persons to be covered by health insurance;

  - increase co-operation between public agencies to issue identity documents to victims of THB in a more efficient way;

  - provide long-term assistance to victims of THB and facilitate their reintegration into society (paragraph 195).

Prevention of child trafficking and identification of, and assistance to, child victims of trafficking

- GRETA once again urges the Moldovan authorities to strengthen their efforts to improve the prevention of child trafficking and the identification of, and assistance to, child victims of trafficking, in particular by:

  - utilising the results of research, and paying increased attention to the link between THB in children and the use of ICT;

  - strengthening the capacity and resources of child protection professionals;

  - raising awareness of child trafficking and its different manifestations (including forced begging, forced marriage and forced criminality);

- ensuring a protective environment for children in street situations and unaccompanied or separated asylum-seeking children;

- ensuring that specialised NGOs receive adequate funding (paragraph 205).

Recovery and reflection period

- GRETA considers that the procedure for granting a recovery and reflection period should be spelled out and all agencies likely to come across victims of THB (including migration and asylum authorities) should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators. Further, the authorities should ensure that victims of human trafficking are systematically informed of the recovery and reflection period (paragraph 209).

Appendix 2 - List of public bodies, intergovernmental organisations and civil society actors with which GRETA held consultations

Public bodies

- Permanent Secretariat of the National Commission for Combating Trafficking in Human Beings (NCCTHB)
- Ministry of Internal Affairs
  - Centre for Combating Trafficking in Persons
  - General Inspectorate of the Border Police
  - Bureau for Migration and Asylum
  - Centre for Combating Cybercrime
- Ministry of Justice
  - Interdepartmental Commission for State Financial Compensation
- Ministry of Finance
- Ministry of Foreign Affairs and European Integration
- Ministry of Health, Labour and Social Protection
  - State Labour Inspection
- Ministry of Education, Culture and Research
- General Prosecutor's Office
- Prosecutor's Office for Combating Organised Crime and Special Causes
- Chişinău District Court
- National Institute of Justice
- National Legal Aid Council
- Centre for Forensic Medicine
- National Employment Agency
- Public Services Agency
- Security and Intelligence Service
- Diaspora Relations Bureau
- Ombudsman's Office
- Parliament

Intergovernmental organisations

- International Organization for Migration (IOM)
- Organization for Security and Co-operation in Europe (OSCE), mission in Moldova

Civil society organisations

- AVE Copiii Association Moldova
- Centre of Assistance and Development of Social initiatives "Vmeste" (Together)
- CNFACEM Moldova
- Interaction
- La Strada 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 Moldovan authorities 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 21 October 2020 and invited them to submit any final comments. The comments of the Moldovan authorities, submitted on 23 November 2020, are reproduced hereafter.

Permanent Representation of the Republic of Moldova
to the Council of Europe

No. FRA-CoE/352.6/ 598

Strasbourg, 23 November 2020

Dear Ms. Executive Secretary,

I have the honour to enclose herewith the compilation of the Government's comments on the final Report concerning the implementation of the Council of Europe Convention on action against trafficking in human beings by the Republic of Moldova, in the context of the third evaluation round.

I remain available for any additional queries.

Sincerely yours,

Corina Călugăru
Ambassador
Permanent Representative

Ms Petya Nestorova
Executive Secretary of the Council of Europe
Convention on Action against Trafficking in Human Being

Strasbourg

Comments of the Government of the Republic of Moldova on Group of Experts on Action against Trafficking in Human Beings' (GRETA) Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova (third evaluation round)

The Government of the Republic of Moldova takes note of the findings and recommendations of the Report and expresses acknowledgement to the Group of Experts on Action against Trafficking in Human Beings (GRETA) for the efforts in producing the Third evaluation round Report on the actions taken by the Republic of Moldova to comply with the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings.

The Government also reiterates its commitment in further deploying efforts in implementing the provisions of the Council of Europe Convention on Action against Trafficking in Human Beings and assures to undertake further measures to implement the recommendations of the Report.

In this regard, the Government presents its additional comments on the Report, as follows:

Paragraph 162: The National Anticorruption Center undertakes measures to prevent and combat acts of corruption, acts related to acts of corruption and corrupt acts in the public and private sectors, as well as intervening in all areas affected by corruption, including trafficking in human beings. For this reason, the proposed inclusion in the National Strategy of Integrity and Anticorruption of concrete actions on prevention and combating corruption in the field of trafficking in human beings, to be implemented and reported on by the Center, is considered to be unnecessary.

Paragraph 167 & 172: Since 2014, when the visa free regime for the Schengen Area was introduced, the Government has been constantly involved in information campaigns on travel rules in the European area. Moreover, the subject of the visa-free regime with the EU is frequently addressed by officials during their participation in TV shows, round tables, public events, especially with regard to citizens' rights and obligations in the context of visa free travel based on biometric passports. The authorities always reiterate that the visa-free regime does not offer the right to work in the EU.

Moreover, the Government produced a regularly updated Guide on free movement in the European area, which is a useful and easily accessible information tool on the website of the Ministry of Foreign Affairs and European Integration. The guide expressly states that "Visa liberalization allows only short-term travel, without the right to work, study, family reunification or other purposes." The paper version of the Guide, which is distributed to citizens on various occasions, is also available. Also, several video spots were developed. Information on visa-free travel in the EU is also available on the websites of other government agencies. In addition, the topic is addressed each year in the context of the awareness raising activities organized for Europe Day and the anniversary of launch of the visa-free regime. This has always been a good opportunity for public institutions such as the MFAEI and the Border Police to engage the public on the implications of the visa-free regime, which includes: participation in television broadcasts, interviews, participation in conferences and debates, publication of statistical information on crossing the state border.

Paragraph 191: During the reference period, 21 victims of THB, who were not citizens of the Republic of Moldova were placed in the Center for providing assistance and protection for victims and potential victims of THB from Chisinau and benefited from the range of necessary services (e.g. psychological, medical, social services, placement, etc.) based on the principle of non-discrimination and in accordance with the provisions of art. 24 of Law 241/2005 on preventing and combating THB.

Paragraph 204: With reference to the information included in paragraph 204 on the repatriation of victims of trafficking, we present below more accurate data on the total number of repatriations: in accordance with the provisions of the mentioned Regulation, during 2015-2019, the Ministry of Health, Labor and Social Protection organized the repatriation of 36 adults, out of which approximately 30 were victims of human trafficking. The repatriation missions were financed from the State Budget. At the same time, during the same period, 99 unaccompanied children, identified on the territory of other states (58 boys and 41 girls) were repatriated and provided with the adequate form of protection.

On the recommendations included in appendix, with regard to the proposal for action to put in place "a system through the Bar Association or the National Council for State-guaranteed Legal Assistance to certify lawyers who are qualified to provide legal aid to victims of trafficking and to ensure that victims of trafficking and defendants in THB cases are not represented by the same lawyers" we underline that such specialization already exists, as proof to that is the fact that the official website of the National Council for State Guaranteed Legal Aid contains a dedicated section "Authorized lawyers" which includes a sub-section "Specialized lawyers", where one of the categories is "Specialized lawyers providing state guaranteed legal aid to victims of crime" which also includes victims of trafficking in human beings.