



Organization for Security and Co-operation in Europe

Special Representative and Co-ordinator for Combating Trafficking in Human Beings

Foreword

In November 2011, I had the pleasure to pay an official country visit to Moldova and hold consultations with the Deputy Prime Minister and Minister of Foreign Affairs, Mr. Iurie Leanca, and senior government officials, as well as experts from state institutions, international organizations and civil society.

The specific objective of the country visit was to promote full implementation of the OSCE commitments in the field of anti-trafficking action and to suggest action-oriented recommendations to better prevent and respond to human trafficking.

With my country visit, I have initiated a co-operative dialogue with the Government of Moldova that has taken place over the last several months during the discussion of the new National Action Plan. I am very pleased to present the results of this co-operation in this report which is published together with the Moldovan official response, received in May 2012. I would also like to take the opportunity to congratulate the Moldovan authorities on the recent adoption of the Action Plan.

I would like to acknowledge, in particular, the constructive engagement of the Moldovan Government with regard to the establishment and enhancement of a National Referral System that aims to provide assistance and support to victims, and to prevent trafficking by also assisting people at risk. I would also like to acknowledge the importance of the dedicated permanent Secretariat to support the work of the National Committee. I look forward to further co-operation on the occasion of the Report's follow-up.

A handwritten signature in blue ink, appearing to read 'M. Giammarinaro', with a long horizontal stroke extending to the right.

Maria Grazia Giammarinaro



Organization for Security and Co-operation in Europe

Report by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, following her visit to the Republic of Moldova, 31 October – 3 November 2011¹

Introduction

1. This Report presents the main findings of the official country visit to the Republic of Moldova of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings (later referred to as the Special Representative) which took place from 31 October to 3 November 2011.²
2. The purpose of the visit was to hold consultations with government officials and experts from state institutions and civil society on human trafficking issues. More specifically, the objectives of the visit were to discuss ways to support and advance ongoing efforts to prevent trafficking, assist trafficked persons and protect their rights, as well as bring to justice perpetrators in line with OSCE commitments and relevant international standards.
3. In the course of the visit, the Special Representative engaged in direct consultations with high-level government officials, including the Deputy Prime Minister and Minister of Foreign Affairs and European Integration, Mr. Iurie Leanca, the Deputy Minister of Foreign Affairs and European Integration, Mr. Andrei Popov, the Deputy Minister of Labour, Social Protection and Family, Mr. Sergiu Sainciuc, the Deputy Minister of Internal Affairs, Mr. Iurie Cheptănar, and the Deputy Minister of Justice, Mr. Vladimir Grosu. She further met with the then Chair of the Superior Council of Magistrates, Mr. Nicolae Timofti.³ She also conducted meetings with officials from the Permanent Secretariat of the National Committee to Combat Trafficking in Human Beings, the Prime Minister's Office, the National Institute of Justice, the Department to Prevent and Combat Trafficking in Persons of the General Prosecutor's Office and the Causeni Prosecutor's Office. She also met with leading NGOs, including La Strada Moldova, Terre des hommes, the Child Rights Information Centre (CRIC) and the National Center for Child Abuse Prevention Amicul (NCCAP). In addition, the Special Representative held consultations with representatives of UNDP,

¹ The report was finalized on 23 April 2012.

² During her visit, the Special Representative was accompanied by her Executive Adviser, Ms. Liliana Sorrentino, and by the Anti-Trafficking Officer of the OSCE Mission to Moldova, Ms. Eugenia Benigni.

³ On 16 March 2012 Moldova's Parliament elected Mr. Nicolae Timofti as the fourth President of the Republic of Moldova.

UNICEF, UNHCR and IOM with a view to co-ordinating and joining efforts in supporting Moldovan state institutions and civil society in advancing anti-trafficking action. Furthermore, the Special Representative delivered remarks at the launch of the “Recommended Principles and Guidelines on Human Rights and Human Trafficking Conference” on 2 November, in Chisinau. The event was organized by the Ministry of Foreign Affairs of Moldova, the UN Office of the High Commissioner for Human Rights (UN OHCHR) and UNDP Moldova.

4. The Special Representative wishes to thank the Moldovan authorities, and in particular the Ministry of Foreign Affairs and European Integration for the excellent co-operation in arranging the visit. She also wishes to extend her gratitude to all of her interlocutors, from national authorities, civil society and international organizations, for their willingness to share their knowledge and insights on the situation. Moreover, the Special Representative extends her particular thanks to the OSCE Mission to Moldova which provided strong support, knowledge and expertise in the preparation and unfolding of the visit.
5. The programme of Special Representative’s visit did not include any meetings on the left bank of the Dniestr river. However, she had the opportunity to meet with representatives of Transdnistriean NGOs which work on human trafficking issues, including Interaction, Social Aspect, Resonance and Women’s Initiatives. The Special Representative further notes that the findings of this report do not take into account the human trafficking situation in the Transdnistriean region. However, she also expresses her view that the situation in the breakaway region poses challenges to the effective identification and assistance of trafficked persons as well as to the investigation and prosecution of traffickers.
6. Consultations during the visit focused on the human trafficking situation in the country and the ongoing policy legislative and practical responses to it, and in particular on trafficking for labour exploitation and child trafficking. Furthermore, consultations were related to the protection of rights of trafficked persons and persons vulnerable to trafficking, the prosecution of traffickers, and efforts and policies in the area of prevention.
7. The Special Representative notes with appreciation that in the course of the visit, Government officials demonstrated significant awareness of human trafficking as a serious violation of fundamental rights and dignity of individuals. She also welcomes their commitment to advancing anti-trafficking action as expressed in the Activity Program of the Government of Moldova.⁴ The Special Representative further stresses the importance of maintaining, preventing and combating trafficking in human beings (THB) as one of the main priorities on the Government agenda and notes that a decline in political attention to the problem could jeopardize the important results achieved.

⁴ See Government of the Republic of Moldova, *Activity Program European Integration: Freedom, Democracy and Welfare 2011-2014* (Chisinau, 2011), available at <<http://gov.md/lib.php?l=ro&idc=445>>, accessed 3 April 2012.

8. Over the past few years, the Government and civil society made significant progress in preventing and combating THB. Indeed, Moldova has established a complex and advanced institutional and legislative framework to prevent and counter human trafficking which includes specific legislation, National Action Plans, a National Co-ordination Mechanism and a National Referral System.⁵
9. The Special Representative notes the declining trend in the data of the Ministry of Interior on the number of registered THB cases and of identified victims.⁶ Given the ever-changing features of human trafficking and current global trends⁷, the Special Representative stresses the importance of regular monitoring of trafficking in order to carefully assess whether there is a real decline in trafficking or whether the phenomenon has changed, making it more difficult to detect. This is also crucial to fine-tune anti-trafficking responses accordingly. In particular, the Special Representative notes that while Moldova has traditionally been considered mainly as a country of origin for THB especially of women and girls for the purpose of sexual exploitation, there are growing indications of trafficking for the purpose of labour exploitation.⁸ In addition, the Special Representative considers that increased attention and efforts should be paid to the phenomenon of internal trafficking of children and adults both for sexual and labour exploitation with a view to developing targeted responses.⁹ More specifically, she believes that further strengthening the child protection system at the local and community level would contribute to enhancing both prevention of child trafficking and protection of child victims.¹⁰
10. With regard to the legislation, the Special Representative notes with appreciation the comprehensive and human rights-based approach of the Law on Preventing and Combating Trafficking in Human Beings¹¹ (hereinafter the Anti-Trafficking

⁵ See National Committee for Combating Trafficking in Persons, *National Report on Preventing and Combating Trafficking in Persons in Moldova* (2010); OSCE Mission to Moldova, IOM, *Trafficking in Human Beings and Gender Equality in Moldova, Updated Normative Acts* (Chisinau, 2011); Council of Europe, *GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, First Evaluation Round*, GRETA(2011)25 (Strasbourg, 22 February 2012).

⁶ Presentation of Ministry of Internal Affairs, Centre for Combating Trafficking in Persons, *Combating Trafficking in Persons and Illegal Migration* (Chisinau, 1 November 2011). See also La Strada Moldova, *Trafficking in Persons in Moldova. Comments Trends Recommendations*, Second Edition (March 2011).

⁷ For example, a significant trend, according to intelligence from Europol, as well as from many OSCE participating States, is the increase in trafficked children, as well as a growing recognition of the scale of trafficking for labour exploitation – although the phenomenon is still largely undetected. See Europol, *Trafficking in Human Beings in the European Union*, File No. 2565-84 (The Hague, 1 September 2011); Europol, *OCTA 2009, EU Organized Crime Threat Assessment*.

⁸ Presentation of Ministry of Internal Affairs, Centre for Combating Trafficking in Persons, *Combating Trafficking in Persons and Illegal Migration* (Chisinau, 1 November 2011): Data indicate that for the first ten months of 2011, labour trafficking cases constituted 34% of the total number of cases, while forced begging accounted for 14% and sexual exploitation for 52%. See also La Strada Moldova, *Trafficking in Persons in Moldova. Comments Trends Recommendations*, Second Edition (March 2011): for example the study indicates that between 2005 and 2010, 18% of victims were exploited for forced labour. See also La Strada Moldova, *Trafficking in Persons for Forced Labour Exploitation in the Republic of Moldova. Problems and Solutions* (Chisinau, 2011).

⁹ See La Strada Moldova, *Trafficking in Persons in Moldova. Comments Trends Recommendations*, Second Edition (March 2011), p. 49: the study indicates that between 2005 and 2010 the number of internal trafficking cases increased by five times compared to the period 2000-2004, mainly due to child trafficking. See also La Strada Moldova, *Overview of the child trafficking phenomenon in the Republic of Moldova* (2010).

¹⁰ *Alliance against Trafficking in Persons Expert Co-ordination Team (AECT), Joint Statement on Child Protection, Especially among Migrant, Undocumented, Unaccompanied, Separated and Asylum Seeking Children, to enhance Prevention of Child Trafficking* (Warsaw, 8 October 2010).

¹¹ Law on Preventing and Combating Trafficking in Human Beings, No. 241-XVI of 20 October 2005, Official Monitor of the Republic of Moldova no. 164-167/812 of 9 December 2005.

Law) and emphasizes the importance of ensuring its full and effective application, as well as regular monitoring of its implementation. Indeed, despite the enactment of anti-trafficking legislation and policy, there is still a need to enhance the capacity of law enforcement, prosecutors, judges as well as public officials in social and education services to secure a thorough and accurate understanding and implementation of all its provisions. Moreover, while noting the overall compliance of the law with international standards, the Special Representative stresses the importance of ensuring consistency of the relevant provisions of the Criminal Code with those of the Anti-Trafficking Law.¹² In addition, the Special Representative observes that the Criminal Code criminalizes forced labour (art.168) and organized begging (art. 302) which are both listed as purposes of trafficking in art. 165 Trafficking in human beings and art. 206 Child trafficking. In this regard, the Special Representative notes that arts. 168 and 302 are classified as less serious crimes compared to trafficking and that this discrepancy in the Criminal Code does not reflect the gravity of the crime. Additionally it may allow the defendant to receive a lenient penalty if not to escape penalty. In this regard, it is worth recalling a recent judgement of the European Court of Human Rights, which clearly indicates that THB, forced labour, slavery and servitude are all prohibited by Article 4 of the European Convention on Human Rights.¹³ Furthermore, the Special Representative is concerned about reports of frequent reclassification of cases from arts. 165 and 206 to art. 168, as well as with the implications of such reclassification in terms of victim assistance, protection of rights and access to effective remedies.¹⁴ Therefore the Special Representative wishes to encourage Moldovan authorities to examine and address these inconsistencies in the legislation, as well as in its implementation.

11. The Special Representative welcomes the recent establishment of a dedicated Permanent Secretariat to support the work of the National Committee and to guide the development of the next National Action Plan (NAP) on THB. In this regard, she also stresses the importance of continuing building the capacity of the Secretariat and of ensuring that it is appropriately resourced to carry out its work.
12. Furthermore, the Special Representative takes the view that the next NAP should be developed in co-operation with civil society and international organizations as per previous practice. She adds that the next NAP should build on solid empirical evidence of the features of THB in the country (e.g., *modus operandi* of criminal networks, means of abuse and coercion, major factors of vulnerability, forms of

¹² For more details see OSCE ODIHR, *Review of the Legislation on Combating Trafficking in Human Beings* (14 December 2011), Opinion-Nr.:TRAFF-MOL/189/2011.

¹³ European Court of Human Rights, *Rantsev v Cyprus and Russia* (judgment of 7 January 2010, application no. 25965/04), Article 4 of the ECHR prohibits the holding of anyone in slavery or servitude. In the *Rantsev* case the Court argues: "In view of its obligation to interpret the Convention in light of present-day conditions, the Court considers it unnecessary to identify whether the treatment about which the applicant complains constitutes "slavery", "servitude" or "forced and compulsory labour". Instead, the Court concludes that trafficking itself, within the meaning of Article 3(a) of the Palermo Protocol and Article 4(a) of the Anti-Trafficking Convention, falls within the scope of Article 4 of the Convention."

¹⁴ See La Strada Moldova, *Trafficking in Persons for Forced Labour Exploitation in the Republic of Moldova. Problems and Solutions* (Chisinau, 2011).

exploitation, etc.) and of the impact of measures previously taken, as well as on an analysis of the specific challenges to meet in order to enhance the effectiveness of the country's response. In this regard she welcomes the 2011 National Report on Preventing and Combating Trafficking in Persons in Moldova and calls for a more qualitative analysis of the features and current trends of THB to inform the next NAP.¹⁵ Furthermore, the Special Representative welcomes the efforts of the Government to allocate funds for anti-trafficking and in particular for victim assistance and encourage them to ensure allocation of necessary budgetary resources for the implementation of the next NAP.

13. The Special Representative wishes to praise the Moldovan authorities and civil society for the innovative and advanced approach that they adopted in the establishment of a National Referral System (NRS) to protect and assist victims and potential victims of trafficking in human beings. In particular, she welcomes that the National Referral System is a formalized institutional policy framework and that it is designed as a multi-agency co-operation mechanism between state actors and civil society organizations in line with the recommendations of the OSCE Action Plan to Combat Trafficking in Human Beings.¹⁶ Furthermore, the Special Representative praises the twofold objective of the NRS, i.e., that of protecting the rights of trafficked persons and that of preventing trafficking through assistance and support to potential victims. She further stresses that an important added value of this approach lies in the establishment of grounds for assistance and support which are not linked with the co-operation of victims with the authorities nor with the existence of criminal proceedings for trafficking and their outcome. She takes the view that the principle of non-discrimination¹⁷ is key to the implementation of the NRS. On the one hand the NRS should be applied in a non-discriminatory manner to all victims regardless of the form of exploitation and regardless of their migration status, as foreseen in national legislation. On the other hand criteria and mechanisms for the identification of potential victims must avoid discrimination and stigmatization of people, especially women and children.

14. The NRS is a relatively new development in the anti-trafficking work carried out in Moldova and the Special Representative wishes to emphasize the importance of ensuring regular and extensive training of all actors involved (e.g., local police, social and health services, NGOs etc.) to build their capacity to ensure due diligence and professional standards in delivery of support and protection services. She further notes that long-term support to the social inclusion of trafficked persons remains challenging, as support services are limited in scope and duration, and employment opportunities remain limited given the general

¹⁵ For example, more targeted research on internal trafficking and labour trafficking would contribute to better inform the design of specific measures of prevention, protection and prosecution.

¹⁶ OSCE Permanent Council, *Decision No. 557/Rev. 1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005). See also OSCE ODIHR, *National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons A Practical Handbook* (Warsaw, 2004).

¹⁷ See art. 5 of Law on Preventing and Combating Trafficking in Human Beings, No. 241-XVI of 20 October 2005, Official Monitor of the Republic of Moldova no. 164-167/812 of 9 December 2005.

economic context.¹⁸ Moreover, the Special Representative notes that in addition to limited economic opportunities, trafficked persons may also bear the burden of stigmatization in local communities, which further hinders their reintegration and employment opportunities. Receiving assistance can identify persons as being victims of trafficking; in addition faults in data protection often contribute to disclosing confidential information. All this often leads to stigmatization, as the trafficking victim's status is associated with prostitution or failed migration.

15. With regard to the NRS, the Special Representative further notes that extending multidisciplinary support and assistance to persons vulnerable to trafficking is a crucial measure of prevention. At the same time she underlines that it is necessary to address related issues such as domestic violence and institutionalization of children in a targeted and comprehensive manner, which goes beyond the measures envisaged in the NRS.
16. One specific focus of the visit was related to the law enforcement and criminal justice responses to trafficking. The Special Representative took note of the efforts underway to enhance THB investigation as well as engagement in international law enforcement operations.¹⁹ Despite these positive signals, the Special Representative is concerned that the investigative and prosecutorial focus is primarily directed at those who engage in the recruitment and transportation acts of trafficking, thus mainly reaching out to the weak segments of the criminal enterprise engaged in THB. The Special Representative therefore encourages the authorities to adopt a wider perspective in order to detect and dismantle the network which directs the trafficking operation and makes the most profit out of the criminal business.²⁰ Furthermore, the Special Representative is concerned about the indications that women constitute a significant portion of those prosecuted and convicted for trafficking.²¹ She calls for a closer qualitative analysis of the data to understand whether the data on women perpetrators reflect a specific strategy of traffickers to minimize the risk of detection, and/or an investigative and prosecutorial focus on low-level perpetrators, and possibly a bias on the part of the police and the criminal justice system, and/or shortages in assistance and protection leading to a cycle of re-victimization and re-trafficking etc.²²

¹⁸ These challenges are recognized by the authorities and mentioned in: National Committee for Combating Trafficking in Persons, *National Report on Preventing and Combating Trafficking in Persons in Moldova* (2010) .

¹⁹ For data on investigations and prosecutions see National Committee for Combating Trafficking in Persons, *National Report on Preventing and Combating Trafficking in Persons in Moldova 2011* (Chisinau, 2012), available at <http://www.gov.md/public/files/rapoarte/Raport_Final.pdf>, accessed 23 April 2012.

²⁰ On the importance of proactive investigations, see also European Court of Human Rights, *Rantsev v Cyprus and Russia* (judgment of 7 January 2010, application no. 25965/04), para. 288 whereby the Court reiterates a procedural obligation (under Article 4 of the ECHR) to investigate situations of potential trafficking, independently of any actual complaint having been made by the victim, once the State is aware of such a situation.

²¹ See IOM, *Draft Analytical Study on the investigation and trial of trafficking in persons and related cases, Draft presented on 31 October 2011 Round Table with partners* (forthcoming publication). For example women constitute 67% of the accused persons in the 129 cases filed against 171 persons on art. 165 -Trafficking in Human Beings - of the Criminal Code. See also OSCE and UN.GIFT, *Analysing the Business Model of Trafficking in Human Beings to Better Prevent the Crime* (2010), p. 23.

²² OSCE and UN.GIFT, *Op. Cit.*, pp. 56-58.

17. The Special Representative appreciates the Government's open recognition and willingness to address corruption of public officials facilitating trafficking or involved in trafficking operations. She encourages the authorities to undertake concrete actions to address the problem and ensure timely and effective investigation and prosecution.²³
18. The Special Representative further observes that there appear to be structural challenges which hinder the full effectiveness of existing criminal legislation and affect the administration of justice.²⁴ In this context, she notes with interest the efforts underway to reform the justice sector.²⁵
19. The Special Representative wishes to draw the attention of the authorities to the need to address the specific challenges that affect criminal proceedings on THB. In particular, recent research on judicial practice in THB cases reports instances of lack of proper application of the law resulting in incorrect qualification of the crime, instances of unjustified acquittal of the offender and of unreasonably lenient penalties, as well as overreliance on the testimony of the victim and instances of re-victimization of victims/witnesses. In particular, the Special Representative is concerned about a trend observed also in other OSCE participating States by which THB cases are frequently reclassified from trafficking to migrant smuggling or pimping, from trafficking for labour exploitation to forced labour or organized begging which are codified as less serious crimes with milder penalties.²⁶ The Special Representative further observes that such instances adversely infringe upon the rights of trafficked persons, and in particular their right to effective remedies.
20. More specifically, the Special Representative is concerned about reports that signal challenges in ensuring the protection of rights of victims and victims-witnesses, including children. For example, there are reports of direct threats made to the victim in court with no action taken by the judge or prosecutor, repeated questioning of the victim, inappropriate and unrelated questions about the intimate life of the victim, and inadequate information of injured parties and witnesses about their rights.²⁷ In this context the Special Representative considers that many of these issues can be addressed with capacity building and

²³ See: National Committee for Combating Trafficking in Persons, *National Report on Preventing and Combating Trafficking in Persons in Moldova* (2010); Council of Europe, *GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, First Evaluation Round*, GRETA(2011)25 (Strasbourg, 22 February 2012), Chapter 4.

²⁴ Council of Europe, Loc. Cit. See also OSCE Mission to Moldova, ODIHR, *OSCE Trial Monitoring Programme for the Republic of Moldova Final Report (April 2006 – November 2008)* (2009), available at <<http://www.osce.org/moldova/70945>>, accessed 3 April 2012.

²⁵ See Ministry of Justice of Moldova, *Action Plan to implement the Strategy of Justice Sector Reform 2011-2016* (15 November 2011, Chisinau): the Action Plan was approved by the Parliament of Moldova on 16 February 2012; European Commission External Relations Directorate-General, *European Neighbourhood and Partnership Instrument. Republic of Moldova National Indicative Programme 2011-2013*, NIP 2011-2013 — Republic of Moldova.

²⁶ See La Strada Moldova, *Trafficking in Persons for Forced Labour Exploitation in the Republic of Moldova. Problems and Solutions* (Chisinau, 2011); IOM, *Draft Analytical Study on the investigation and trial of trafficking in persons and related cases, Draft presented on 31 October 2011 Round Table with partners* (forthcoming publication).

²⁷ See OSCE Mission to Moldova, ODIHR, *OSCE Trial Monitoring Programme for the Republic of Moldova Final Report (April 2006 – November 2008)* (2009), available at <<http://www.osce.org/moldova/70945>>, accessed 3 April 2012; IOM, Op. Cit.

sensitization activities of law enforcement, judiciary and other legal professionals. Furthermore, the Special Representative is signaling to all OSCE participating States the importance of providing legal aid to victims. Timely provision of legal assistance is crucial to protect victims' rights, and in particular to support their access to effective remedies including compensation.

21. In the course of the visit the Special Representative also discussed policy efforts in the area of labour migration to prevent trafficking, and emphasized the importance of a gender-sensitive and child-friendly approach in the development of bilateral agreements on labour migration. She noted positively the efforts towards the development of bilateral agreements on social security with the main destination states of Moldovan citizens working abroad, to enhance their protection. She further stresses the importance of international co-operation both in the investigative and judicial fields, as well as with a view to ensuring protection of rights of trafficked persons.
22. In conclusion, while positively noting the Moldovan Government's commitment and the numerous steps taken in the prevention and countering of trafficking, the Special Representative encourages the authorities to continue advancing their efforts and invites them to consider the following recommendations to enhance the implementation of OSCE anti-trafficking commitments. She trusts that these recommendations may help the development of the next National Action Plan on THB and/or other related policy initiatives. Moreover, the Special Representative and her office look forward to further co-operation with the Moldovan authorities and NGOs to support the follow-up to these recommendations, in close co-ordination with the OSCE Mission to Moldova.

Recommendations

1. Ensure sustained political commitment to anti-trafficking by:

- Encouraging the establishment of parliamentary practices of conducting hearings on THB with the participation of civil society;
- Establishing a mechanism for regular presentation and debate before Parliament of the Annual Report of the National Committee for Combating Trafficking in Persons.
- Continuing to support the efforts and enhance the capacity of the Permanent Secretariat of the National Committee to Combat Trafficking in Human Beings, including through targeted training.

2. Enhance prevention of child trafficking through child protection measures, including:

- Establishing a monitoring mechanism of return procedures of unaccompanied/separated children and child victims of trafficking with the aim of examining the adequacy of the best interests determination process (BID) in terms of protection of the rights of each child;
- Strengthening the BID by ensuring that the process is participatory and that the child is heard;
- Including life skills education in the school curriculum of children, and as a priority in boarding schools;
- Prioritizing proactive investigations on child trafficking occurring internally and transnationally.

3. Enhance prevention of trafficking for labour exploitation by:

- Examining more closely informal recruitment mechanisms in the labour market and seeking ways to develop measures to curb fraudulent recruitment and improve prevention of labour trafficking;²⁸
- Ensuring licensing and monitoring of private employment agencies, including those engaged in work and travel programmes for students, to prevent abuse and exploitation;
- Ensuring that private employment agencies do not charge directly or indirectly, in whole or in part, any fees or costs to workers for their recruitment and placement;²⁹
- Enhancing capacity of labour inspectors and prioritizing labour inspections in key sectors prone to exploitation (e.g., agriculture and construction);
- Mainstreaming a gender-sensitive approach in bilateral agreements and policies on labour migration to increase opportunities to migrate regularly and safely especially targeting women, also with a view to preventing them from becoming victims of trafficking.

²⁸ OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation*, MC.DEC/8/07 (Madrid, 30 November 2007), para. 16

²⁹ ILO, *Private Employment Agencies Convention, C181* (1997), art. 7.1, <<http://www.ilo.org/ilolex/english/convdisp1.htm>>, accessed 29 March 2012, ratified by the Republic of Moldova on 19 December 2001.

4. Enhance prevention of internal trafficking by:

- Conducting targeted qualitative research to analyse the features and trends of the phenomenon of internal trafficking, and in particular internal trafficking of children for the purpose of sexual exploitation and forced labour;
- Prioritizing investigation and prosecution of cases of internal trafficking;
- Enhancing protection and assistance of victims of internal trafficking, including by developing measures to facilitate - where needed and appropriate - the relocation of the person within the country taking into account his/her legitimate interests and views.

5. Enhancing assistance to victims and protection of victim rights by:

- Strengthening the National Referral System (NRS) with continued and extensive training and capacity building of multidisciplinary teams, especially at local level;
- Ensuring that the victim identification regulation builds on coherent, homogeneous and objective criteria and mechanisms to determine who are potential and actual victims, to enhance their protection and simultaneously avoid discrimination and stigmatization of people, especially women and children.
- Ensuring that the principle of confidentiality is respected by the staff employed in NRS multidisciplinary teams; in particular providing that lack of respect of the principle of confidentiality constitutes a breach of rules of engagement for personnel employed in the multidisciplinary teams;
- Ensuring that services of the NRS are accessible to foreign potential and actual victims; in particular ensuring application of the recovery period for foreign victims and provision of assistance and protection measures regardless of foreign victims' willingness to co-operate with law enforcement.

6. Enhancing law enforcement and criminal justice responses to trafficking by:

- Ensuring consistency of the relevant provisions of the Criminal Code with those of the Anti-Trafficking Law.³⁰ In particular, the Special Representative recommends that the Criminal Code's provisions on forced labour (art. 168) and organized begging (art. 302) are consistent with art. 165 Trafficking in human beings and art. 206 Child trafficking. More specifically ensuring that forced labour, organized begging and trafficking in human beings are treated as crimes of equal gravity and that the same level of assistance and protection of rights is afforded to victims of any of these crimes;³¹
- Ensuring continued regular and more extensive training on THB for law enforcement, prosecutors and judges, including by involving not only those who are joining the public service but also those already in their functions.

³⁰ For more details see OSCE ODIHR, *Review of the Legislation on Combating Trafficking in Human Beings* (14 December 2011), Opinion-Nr.:TRAFF-MOL/189/2011.

³¹ See para. 10 above.

Such training should be based on a multidisciplinary and human rights-based approach and it should include *inter alia*:

- Standards and practices to prevent secondary victimization of trafficked persons during investigation, prosecution or trial such as avoiding unnecessary repetition of interviews (e.g., through full and effective application of art. 109 of the Criminal Procedure Code - pre-trial examination before the investigating judge), avoiding visual contact between victims and defendants; avoiding unnecessary questions on the victim's private life. Particular attention should be paid to standards and practices to protect child victims of trafficking in criminal proceedings, such as allowing interviews to take place on specifically designed child-friendly premises and through specifically trained professionals (e.g., in co-operation with NGOs such as NCCAP Centre Amicul, La Strada Moldova etc.);
- Examination of factual circumstances needed to demonstrate abuse of a position of vulnerability as a means of trafficking;
- Cases in which the trafficking experience had a serious psychological impact on the victim (e.g., post-traumatic stress disorder etc.);
- Cases and practices to illustrate the importance of requesting and conducting a psychological expertise in order to quantify damages to the victim in view of compensation;
- Standards and practices to ensure compliance with data protection regulations;
- Ensuring that law enforcement and prosecutorial authorities inform and explain to victims their rights in a language that they understand, and in particular the right to legal assistance and representation including by pro-bono lawyers, the right to be accompanied by a trustworthy person (e.g., a psychologist or social worker) and the right to compensation for damage suffered.³² The information provided should also include how the victim can access and exercise those rights, including for claiming compensation for harm suffered;³³
- Delivering specific training to enhance the capacity of pro-bono and legal aid lawyers representing victims of trafficking as one of the measures in the next National Action Plan. Furthermore, such training should include a focus on how to bolster victim compensation claims, and recommend that compensation claims for material and moral damages be supported with a full array of appropriate evidence, including if necessary, psychological expertise to attest to the full impact of the damages endured by victims;
- Ensuring that criminal investigations aim at detecting and dismantling the whole criminal network behind the trafficking operation, including those who organize and/or direct and those who aid and abet. To this end, ensure making full use of law enforcement and judicial co-operation resources;

³² In accordance with the relevant provisions of the Criminal Procedure Code, i.e., art. 58.2

³³ OSCE Ministerial Council, *Decision No. 5/08 Enhancing Criminal Justice Responses to Trafficking in Human Beings through a Comprehensive Approach* (Helsinki, 5 December 2008), paras. 6 and 10; OSCE Ministerial Council, *Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation* (Madrid, 30 November 2007), para. 3.

- Promoting efficient prosecution of money laundering and the use of financial investigations techniques from the very beginning of any THB investigation. To this end, increasing capacity building of law enforcement and prosecutors to use such advanced investigation techniques with a view to tracing, freezing, seizing and confiscating proceeds of crime;
- Enhancing efforts to combat corruption linked with THB by:
 - Prioritizing investigation and prosecution of THB cases allegedly involving public officials;
 - Heightening disciplinary accountability of law enforcement, prosecutors and judges for acts or omissions harmful to the integrity of investigation, prosecution and court proceedings relating to THB and other serious crimes.

APPENDIX I

RESPONSE TO THE OSCE REPORT ON HUMAN TRAFFICKING (received 30 May 2012)

The Government of the Republic of Moldova welcomes the visit of Ms. Maria Grazia Giammarinaro during the period of 31 October-3 November 2011. During this visit, the Government showed openness for dialogue and cooperation with the OSCE Special Representative and Coordinator for Combating Trafficking in Human Beings.

The Moldovan authorities take note of the Report and its general conclusions/recommendations, which reflect the situation in the area of human trafficking at that specific period of time. These were carefully examined and taken into account in the process of drafting the *National Action Plan for preventing and combating trafficking in human beings* (THB) for 2012-2013.

The Government also appreciates that during her visit Ms. Giammarinaro had the opportunity to make a contribution at the Conference *“Launching of the Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking”*, jointly organized on the 2nd of November by the Government of the Republic of Moldova, in partnership with the Office of the High Commissioner for Human Rights (OHCHR) and UNDP Moldova. During 4 substantive sessions of the event, the discussions tackled positive practices, challenges and eventual solutions in the area of THB, through the lens of a human rights-based approach to THB and according to the 11 principles & guidelines of the OHCHR.

Taking into consideration the evolutions and developments that took place in the mean time, the Government of the Republic of Moldova presents the following comments, which are expected to be published as an Addendum to the Report.

Paragraph 10

As a result of the consultations with relevant national and international stakeholders on the legislative framework in the area of human trafficking, relevant actions are under preparation to ensure the compliance of legal provisions on human trafficking with international standards and the consistency of the Criminal Code provisions with the Anti-trafficking law. In this regard, the national authorities, under the coordination of the National Committee for Combatting Trafficking in Human Beings (THB), and with the support of the International Organization for Migration (IOM) Mission to Moldova plan to create a Working Group who will analyze the legislative gaps concerning human trafficking and will subsequently participate directly in the process of amending relevant legislative acts.

With regard to capacity building activities for the law enforcement officials, regular seminars and training courses are organized on the topics of victim identification, protection and assistance, interaction with the National Referral System etc. Law enforcement officials also take part in regional and international training initiatives.

Paragraph 11

Referring to the activity of the Permanent Secretariat of the National Committee for Combating Trafficking in Human Beings (PS): in March 2012, the IOM Mission to Moldova with the support of the US Embassy to the Republic of Moldova launched a project for capacity building of the PS. The main objectives are:

- to develop a communication strategy of the SP, which will facilitate the dialogue between the national authorities, international organizations and civil society;
- to establish a mechanism for data collection and harmonization in the area of THB and other related crimes;
- to develop methodology for monitoring the implementation of the *National Action Plan for preventing and combating trafficking in human beings for 2012-2013*.
- to identify the capacities of the Government to create a compensation fund for victims of human trafficking.

Paragraph 12

The Government has applied a multidimensional and multi-stakeholder approach in the process of drafting the *National Action Plan for preventing and combating trafficking in human beings for 2012-2013*. For maintaining the previous practice of active involvement of non-governmental organizations (NGOs) and international organizations (IOs) in this phase, an Inter-Departmental Working Group of larger format was set up. The SP secured the examination and eventual inclusion of proposals of the Working Group members in the Action Plan. It is worth mentioning that an absolute majority (75 out of 105) of the activities listed in the Draft Action Plan will be realized with the direct support of NGOs and IOs, while the share of involvement of NGOs and IOs in the implementation actions of the Action Plan increased to about 70 %.

The Draft Action Plan was compiled with due consideration to regional standards in this area, as well as the results of assessing the previous 4 Action Plans. In order to reinforce the strategic aspect of planning and ensure mainstreaming on THB, a new additional section was included in the Draft Action Plan, listing the problems identified following the recommendations of 7 international and national reports on THB, and namely:

- Global Report on Trafficking in Human Beings of the US Department of State (TIP 2011);
- Group of Experts on Action against Trafficking in Human Beings Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova for 2011 (GRETA Report-first evaluation round);
- First progress report of implementation by the Republic of Moldova of the Action Plan for visa regime liberalization;
- Report of the Working Group on the Universal Periodic Review concerning Republic of Moldova, adopted on 16 March 2012 by the United Nations Human Rights Council;
- Conference Report "Launching of the Commentary on the Recommended Principles and Guidelines on Human Rights and Human Trafficking", 2 November 2011;
- National Report on preventing and combating THB for 2010/2011.

With regard to the quality of the 2011 National Report on Preventing and Combating Trafficking in Persons in Moldova, the final version of the document and the 2 annexes were published on the website of the Government on 6 April 2012. (<http://gov.md/libview.php?1=ro&idc=578&id=4919>). Additionally, according to line of action 1.5.1. of the Action Plan for 2012-2013, an *Analytical Report regarding the national policies on preventing and combating THB in the Republic of Moldova* will be issued.

Paragraph 14

With the purpose of capacity building of the National Referral System (NRS) and multidisciplinary teams, the national authorities in cooperation with IOM and the Red Cross have developed and approved the program of trainings for 2012, which targets also community-level specialists. Additionally, the responsible institution representatives will hold monthly outreach visits at local level, in order to assess and monitor the situation.

A Study on the system of social protection from the perspective of legal-normative framework for ensuring a multidisciplinary approach to the needs of the beneficiary was issued with the support of IOM, with the purpose of analyzing the legal framework and activity of multidisciplinary entities at all levels. Besides that, a *Guide regarding the identification of victims and potential victims of THB* was adopted on 20 February 2012, which serves as an important operational instrument for all components of the NRS.

APPENDIX II

AGENDA OF THE OSCE SPECIAL REPRESENTATIVE AND CO-ORDINATOR FOR COMBATING TRAFFICKING IN HUMAN BEINGS IN MOLDOVA³⁴ 31 October – 3 November 2011

Sunday 30 October 2011

15:15 Pick-up from airport and transfer
.....

17:00 Preparation meeting
.....

19:30 Dinner

Monday 31 October 2011

07.30 Breakfast with **Mr. Philip Remler**, Head of Mission
.....

09.00 – 09.45 Meeting with **Mr. Andrei Popov**, Deputy Minister, Ministry of
Foreign Affairs and European Integration
.....

10.00 – 11.00 Meeting with **Mr. Nicolae Timofti**, Chair of the Superior
Council of Magistracy
.....

11.15 – 12.30 Meeting with **Mr. Sergiu Sainciuc**, Deputy Minister, Ministry of
Labor, Social Protection and Family
.....

12.45 – 13.45 Working lunch with **Ms. Ana Revenco**, Director, NGO La
Strada
.....

14.00 – 15.15 Meeting with **Mr. Eduard Bulat**, Head of the Anti-Trafficking
Department, General Prosecutor's Office
.....

15.30 – 16.30 Meeting with **Mr. Vladimir Grosu**, Deputy Minister of Justice,
Ministry of Justice
.....

16.45 – 18.15 Meeting with **International Organization for Migration (IOM)**:
• **Mr. Martin Wyss**, Chief of Party
• **Ms. Irina Todorova**, Prevention and Protection
Programme Co-ordinator

³⁴ The Special Representative and Co-ordinator for Combating Trafficking in Human Beings and her Executive Adviser were accompanied for certain meetings by Ambassador Philip Remler, Mr. Jan Plešinger and Ms. Eugenia Benigni from the OSCE Mission in Moldova.

- **Ms. Tatiana Catana**, Lawyer

- 19.30 Working dinner with the **NGO Terre des Hommes**:
- **Mr. Roman Poznanski**, Director
 - **Ms. Mariana Ianachevici**, Project Coordinator
 - **Ms. Dorina Ardelean**, Transnational project coordinator

Tuesday, 1 November 2011

- 09.00 – 10:15 Meeting with **National Institute of Justice**:
- **Mr. Veaceslav Didac**, Deputy Director
 - **Ms. Viorica Puica**, Head of Research and Training Department
- 10.30– 12.00 Meeting with **Ministry of Internal Affairs**:
- **Mr. Iurie Cheptanaru**, Deputy Minister of Internal Affairs, Head of Police Department
 - **Mr. Victor Sotchi**, Head of Department of International Cooperation and European Integration
 - **Mr. Valeriu Hincu**, Director of the Center to Combat Trafficking in Persons
 - **Mr. Alexandru Besleaga**, Head of Investigations Section
 - **Mr. Iurie Podarilov**, Head of Criminal Section
- 12.15– 13.30 Working lunch with **Ms. Ecaterina Berejan**, Secretary, Permanent Secretariat of the National Committee to Combat Trafficking in Human Beings
- 14.00 – 15.00 Meeting with **Ms. Silvia Lupan**, Child Protection Officer, UNICEF
- 15.30 – 16.30 Meeting with **UNHCR Representation in Moldova**:
- **Mr. Peter Kessler**, Representative
 - **Mr. Octavian Mohorea**, Associate Legal Officer
- 16.30 – 18.00 Meeting with **NGO Child Rights Information Centre (CRIC)**:
- **Mr. Cezar Gavriluc**, Director
 - **Ms. Aliona Stepan**, Project Coordinator
- 18.00 – 19.00 Meeting with **Ms. Daniela Simboreanu**, President, National Center for Child Abuse Prevention (NCCAP): AMICUL

Wednesday 2 November 2011

- 09.50- 10:00 Introductory meeting with **H.E. Iurie Leanca**, Minister of Foreign Affairs
-
- 10.00 – 18:00 **Conference “Launching of the Recommended Principles and Guidelines on Human Rights and Human Trafficking”**
-
- 10:30 – 11:30 Meeting with **NGOs from Transdnistria:**
- **Ms Juliana Abramova**, Executive Director, Rezonance
 - **Ms Oksana Alistratova**, Interaction
 - **Ms. Elena Petrova**, Social Aspect, Women’s Initiatives (Zhenskie Initiativy)
-
- 13:00 – 14:30 Meeting with **Mr. Ion Oboroceanu**, Head of Causeni Prosecutor’s Office
-
- 15:35 – 18:00 Closing address at **Session IV – Consolidating national capacities for combating trafficking in human beings**
-
- 19:00 Dinner with **Ms. Navi Pillay**, UN High Commissioner for Human Rights and **Ms. Kaarina Immonen**, UNDP Resident Representative and UN Resident Coordinator in Moldova

Thursday 3 November 2011

- 8:30 – 9.30 Meeting with **Mr. Victor Lutenco**, Adviser, Office of the Prime Minister
-
- 11:30 Flight to Vienna