



Organization for Security and Co-operation in Europe

Report by OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Maria Grazia Giammarinaro, following her visit to Romania, 9-12 September 2013

Introduction

1. The present Report is based on a visit to Romania by the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Maria Grazia Giammarinaro (hereinafter referred to as the SR/CTHB) from 9 to 12 September 2013.¹

2. The purpose of the visit was to hold consultations with government officials and experts from state institutions and civil society and international organizations on human trafficking issues. More specifically, the objectives of this first visit to Romania were to discuss ways to support ongoing efforts to prevent trafficking, assist trafficked persons and protect their rights, as well as improve the criminal justice response in line with OSCE commitments and relevant European and international standards.

3. In the course of the visit, the SR/CTHB engaged in direct consultations with high-level government officials, including the President of the Chamber of Deputies, the State Secretaries from the Ministries of Interior, Justice and Foreign Affairs, as well as representatives of the General Prosecutor's Office, the General Inspectorate of Romanian Police and the Labour Inspection and Directorate for Investigating Organized Crime and Terrorism (DIICOT). She also had the opportunity to meet with the National Agency against Trafficking in Persons (NAATIP) and the South Eastern Law Enforcement Agency (SELEC). The Special Representative took this opportunity to meet with civil society from various regions, international organizations based in Bucharest and to visit a newly built Governmental Centre for Victims of Trafficking as well as a Reception and Accommodation Centre for Migrants.²

4. The SR/CTHB wishes to thank the Romanian authorities, and in particular the Permanent Representation of Romania to the OSCE and the National Agency against Trafficking in Persons for their kind assistance in organizing the visit and facilitating its execution. She also wishes to thank all of her interlocutors, from the national authorities, civil society and international organizations she visited, for their willingness to share their knowledge and insights.

5. Due to time constraints, the programme of the SR/CTHB's visit was limited to the meetings held in Bucharest and did not include meetings in other regions of Romania, though she was

¹ The SR/CTHB was accompanied by her Country Visit Officer, Ms. Muriel Ethvignot and her Adviser, Ms. Aimée Comrie. The OSCE 2009 field assessment in Romania was also very useful for the preparation of this country visit.

² See Annex 2 for the list of stakeholders met during the visit.

provided with relevant information on trafficking trends and issues in the whole country. In particular, she had the opportunity to discuss the human trafficking situation with some NGOs from Bucharest and other regions.

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 sexual and labour exploitation and child trafficking. Furthermore, consultations were related to the identification and assistance provided to victims, the protection of the rights of trafficked persons and persons vulnerable to trafficking, including migrant workers, the prosecution of traffickers, and efforts and policies in the area of prevention.

7. The SR/CTHB notes with appreciation that, in the course of the visit, Government officials demonstrated significant awareness of human trafficking as a serious violation of the fundamental rights and dignity of individuals, as well as a readiness to continue to develop further co-operation with the OSCE as well as destination countries and to continuously adjust to this evolving crime.

International and national legal framework

8. In the course of the visit, the SR/CTHB commends Romania for having become a Party to major international instruments providing high standards in the fight against human trafficking, such as the UN Convention against Transnational Organized Crime and its Protocols (ratified in 2002³) and a number of UN Conventions addressing slavery and forced labour. The Special Representative noted, however, that Romania has not signed or ratified the 2011 ILO Convention 189 concerning Decent Work for Domestic Workers that serves as a powerful instrument for the prevention of Trafficking in Human Beings for labour exploitation.

Romania ratified the Council of Europe Convention on Action against Trafficking in Human Beings on 21 August 2006⁴.

As a participating State to the OSCE, Romania is bound to respect its commitments undertaken in the OSCE framework, including its 2003 Action Plan to Combat Trafficking in Human Beings and subsequent commitments.⁵

9. As a consequence of its accession to the European Union in 2007, the Romanian authorities have made significant progress in harmonizing their national legislation with relevant EU directives. The SR acknowledges efforts undertaken by Romania to quickly transpose, *inter alia*, EU Directive 2011/36⁶ into its national legislative framework. The Special Representative also welcomes the Government's decision to make the fight against organized crime, and trafficking in human beings in particular, one of the major priorities of its

³ Ratified by Law 565/2002.

⁴ Ratified by Law 300/2006.

⁵ Including the Addendum to the Action Plan as endorsed by MC Decision No. 7/13.

⁶ European Union, *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (5 April 2011), in Official Journal L101, 15/04/2011.

political agenda.⁷ She also appreciates the strong involvement of Parliamentarians on this issue and in particular of the President of the Chamber of Deputies who she met during the visit.

10. In addition to ratifying several international conventions and treaties, the Special Representative welcomed Romania's willingness to increase its regional and international co-operation to tackle trafficking in human beings by signing bilateral agreements and creating Joint Investigation Teams⁸, implementing judicial co-operation projects and sharing best practices with other countries in the region.⁹ Important international co-operation has also been developed in the field of asset recovery¹⁰.

The Southeast European Law Enforcement Agency (SELEC)¹¹, which is headquartered in Bucharest, is another good example of Romania's strong regional co-operation efforts. Trafficking in human beings is one of the three thematic priorities of SELEC's activities facilitating the exchange of information, organizing Task Force meetings and assisting law enforcement agencies with investigations.

The SR/CTHB acknowledges that in the field of international co-operation Romania has set a benchmark. Further evidence of its success in this area, in addition to the high numbers of joint investigation teams, are the high numbers of both informal and formal communications between law enforcement in Romania and colleagues abroad.

11. The Special Representative noted with appreciation that, in recent years, the Government of Romania has substantially improved its institutional and legislative national framework to prevent and counter human trafficking. The high rate of victims of trafficking in human beings identified in the EU as having originated from Romania¹², and the recent accession of Romania to the European Union have obviously encouraged the country to adapt and strengthen its legislation. The main legislation was adopted in 2001, 2002 and 2003¹³ and important reforms of the Criminal Code and Criminal Code Procedures in 2004 and 2009¹⁴ included more specific provisions on all forms of trafficking including against minors, in line with European and international standards¹⁵.

⁷ Annex 2, Chapter 6 of Parliament Decision no. 15/2012 (source: *National Strategy against Trafficking in Human Beings 2012-2016*).

⁸ With France, United Kingdom and Germany (source: the General Inspectorate of Romanian Police).

⁹ Law 302/2004 on international judicial cooperation refers to extradition, European arrest warrant, mutual legal assistance, transfer of sentenced persons, freezing and confiscation orders...etc.

¹⁰ According to the Ministry of Justice, Romania received 8 requests in 2012 and 14 in the first six months of 2013.

¹¹ Created in 2011 and replacing the SECI centre, it is a 12-member state law enforcement organization that brings together Police and Customs authorities. Members States are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Greece, Hungary, Moldova, Montenegro, Romania, Serbia and Turkey.

¹² Most victims detected in the EU Member States are citizens of Romania and Bulgaria (source: Eurostat Report, Trafficking in Human Beings, 2013).

¹³ Main legislation: Law on Trafficking in Human Beings 678/2001 amended by Law 230/2010, Governmental Emergency Ordinance on Romania's State Border n. 105/2002, Law 39/2003 on Organized Crime, Government Decision n. 299/2003 on the prevention and countering of trafficking in persons, etc...

¹⁴ Criminal Code of 17 July 2009, in force in 2013.

¹⁵ <<http://ec.europa.eu/antitrafficking/NIP/Romania;jsessionid=DGNhSwBZIBL3p2hG45F3GYnSmpb2ZmpsQnh97Khp60bNKhcsj3p!-1752337833>>, accessed 25 October 2013.

12. The National Agency against Trafficking in Persons is acting as the national co-ordinating body in the country. Established in 2006, its main activities include co-ordinating, evaluating and monitoring, at the national level, the implementation of policies in the field of trafficking in human beings by public institutions, as well as those in the field of protection and assistance provided to its victims.

The Agency is the link between victims of human trafficking and law enforcement bodies as well as the link between victims and NGOs providing services in this area.

The Agency co-operates with Romanian and foreign NGOs as well as with intergovernmental organizations in order to raise public awareness on human trafficking and its consequences. 15 regional centres, under the Agency's direct supervision, monitor the anti-trafficking activities performed in their areas of responsibilities.¹⁶

The Agency facilitates victims' access to information and to physical protection: in 2012, transportation to and from courtrooms was provided to 600 victims and close protection to 508. As soon as a person is presumably identified as victim, the Agency integrates their personal but confidential information in a database.¹⁷

The SR/CTHB acknowledges the strategic role of the Agency and the quality of its work in monitoring data¹⁸, raising awareness on trafficking in human beings, and co-ordinating victims' assistance services.

It might however be useful, in terms of strengthening data collection, to establish a protocol and to share it with relevant stakeholders (i.e., NGOs) so that they clearly understand the criteria used for victims' inclusion into the database.

On the other hand, the SR/CTHB recognizes the efforts of the Agency to involve relevant NGOs in its work through their participation in the Interministerial Working Group, aiming at facilitating the inter-institutional co-operation, or through their participation in the elaboration of the National Strategy¹⁹.

The SR/CTHB raised her concern about the lack of funding available for NGOs since the Agency's restructuring in 2009, which has led to a gap in the quality of services provided to the victims. However, the SR/CTHB noted with appreciation that a new law on possible funds allocated to NGOs is currently being prepared²⁰ and encourages the authorities to take very concrete measures for its implementation.

¹⁶ <<http://anitp.mai.gov.ro/en/>>, accessed 25 October 2013

¹⁷ According to the NAATIP, around 500 victims per year are integrated in the database.

¹⁸ National Integrated System to Monitor and Assess Victims of Trafficking (SIMEV).

¹⁹ National Strategy against Trafficking in Persons for 2012-2016 (see next paragraph)

²⁰ Following the Prime Minister's decision at the end of 2012, and under the co-ordination of the Ministry of Justice, a working group was created to review the legislation: a new law allowing NGO funding is currently under review (source: NAATIP).

13. The SR/CTHB welcomes the new National Strategy adopted by the Government in December 2012 as a continuation of the previous strategy that, at the same time, also provides new objectives. The Strategy also includes a National Action Plan for 2012 to 2014.

The 2012-2016 National Strategy's main objectives include, *inter alia*, improving the quality of protection and assistance for victims to allow them to be reintegrated into society as well as to enhance the capacity to collect and analyze data on trafficking in persons. It also envisages establishing the institution of National Rapporteur.

Trends in trafficking in human beings

14. Trafficking in human beings in Romania continues to encompass all forms of trafficking. According to statistics from the authorities, the SR/CTHB notes that new trends also recently appeared in Romania. Traditionally a country of origin²¹, Romania is also becoming a transit and destination country with a reported increase in internal trafficking.²² Although trafficking for sexual exploitation remains the main form of exploitation, statistics show new trends such as trafficking for forced begging, trafficking in human cells/organ removal and an increased number of cases of trafficking for labour exploitation mainly in the sectors of agriculture, construction, the textile and clothing industry, entertainment as well as in domestic work.

Many Romanian victims trafficked abroad are trafficked through recruitment agencies using mixed forms of trafficking and located in various countries which makes it even more difficult to identify all the chains of liability²³.

15. All interlocutors met during the country visit expressed their concern about the growing number of children being trafficked in recent years. In fact, they have reported that trafficking in minors has been increasing²⁴, including for the purpose of forced and organized begging. Children in state care institutions and street children are among the most vulnerable.

Various laws and decisions apply to the situation of children in need and children who are trafficking victims²⁵ and their specific assistance. Although six assistance centres can accommodate children who are trafficking victims, services provided do not fully comply with their needs.²⁶

The Special Representative calls on the authorities to guarantee all children the highest possible level of protective services and educational and vocational programmes with the aim of increasing their ability to reintegrate into society and reducing their chance of being re-trafficked.

²¹ Main destination countries: Germany, United Kingdom, Italy, and Spain (source: General Inspectorate of Romanian Police).

²² Sources: Ministry of Interior, Ministry of Justice, NAATIP, Labour Inspection and Ministry of Foreign Affairs.

²³ Source: NGOs.

²⁴ Trafficking in children increased by 32 per cent in 2010 (source UNICEF).

²⁵ *Inter alia*, Law 272/2004 (on the protection and promotion of the child's rights), Government Decision 49/2011 (protection of child victim of trafficking), Government Decision 1443/2004 (on repatriation procedures)...etc.

²⁶ See *Answers of the Romanian authorities to the GRETA report, paragraph 137*.

Prevention activities

16. The Special Representative notes that the Government of Romania has taken various measures to prevent all forms of trafficking, including undertaking many awareness raising campaigns among the general population at national, regional and local levels and setting up a hotline to report cases.

The SR/CTHB acknowledges the efforts already undertaken and encourages the Romanian authorities to continue, but also to target more specifically the most vulnerable population, including children who represent almost one third of victims identified.²⁷

Although she recognizes that the financial crisis has had a negative effect in the country, by decreasing the quality of services available and sharply increasing the vulnerability of certain groups of people, she calls on the authorities to offer alternatives to Romanians at risk, and to improve the provision of basic services at the community level, which requires a stronger social investment from authorities.

Identification of victims

17. In 2012, 1,041 victims were identified²⁸ which is a comparably significant number. The SR/CTHB recalls that having a high number of identified victims may reflect the strong capacity of institutions involved in victim identification. As in many countries, identification is difficult when dealing with a hidden crime: it is difficult for instance for labour inspectors to identify victims in private homes and hidden places, but also for NGOs to carry out outreach activities in the case of exploitation for the purpose of prostitution. As far as illegal migration is concerned, special attention should be given to migrants in detention centres as possible victims of trafficking, although not primarily identified as such.

The SR/CTHB recalls that co-operation between law enforcement agencies, labour inspectors and NGOs is essential to carry out this crucial first step.

She also appreciates efforts of the Ministry of Foreign Affairs in conducting training sessions for its consular staff and providing them with an information guide²⁹.

18. Joint Order 335/2007 establishes the National Victims Identification and Referral Mechanism³⁰ which aims to adopt a unitary and co-ordinated response for all anti-trafficking

²⁷ Source: NAATIP.

²⁸ Ibid.

²⁹ Guide published in 2011. Also, note that the Ministry of Foreign Affairs of Romania participated in the third OSCE workshop on THB for domestic servitude in diplomatic households in The Hague in October 2013. On this topic, see also: OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Unprotected Work, Invisible Exploitation: *Trafficking for the Purpose of Domestic Servitude*, Occasional Paper Series no. 4 (Vienna, 2010).

³⁰ For NRM see: OSCE Permanent Council, *Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005) and OSCE Office for Democratic Institutions and Human Rights (ODIHR), *National Referral Mechanisms. Joining Efforts to Protect the Rights of Trafficked Persons: A Practical Handbook* (Warsaw, 2004).

institutions and organizations. It contains the fundamental principles and legal framework of actions and measures to be undertaken, concrete identification methods and referral procedures.³¹

It appears that, in practice, the mechanism could be better implemented as the related provisions and responsibilities are not sufficiently understood by relevant stakeholders (i.e., ministries), especially regarding operational procedures for victim repatriation.³²

As mentioned by several NGOs during the visit, the lack of funds, on one hand, and lack of awareness of referral procedures on the other hand, have serious consequences on victim repatriation measures as well as victim safety. In many cases, NGOs are not informed sufficiently nor in a timely manner about repatriation cases, which impedes their ability to adequately take care of victims upon their return to Romania. The Special Representative is concerned about this situation, as it fosters possible re-trafficking of victims.

She also stresses that such a mechanism should always be implemented on the principle of non-discrimination or stigmatization of victims.

Furthermore, a comprehensive National Referral Mechanism should provide a framework for co-operation between all relevant actors from state and civil society to identify victims and assist them in claiming their rights as well as preventing trafficking and bringing offenders to justice.

The SR/CTHB welcomes the fact that the authorities are aware of the situation and that they are willing to strengthen the National Referral Mechanism through the improvement of capacity for early identification and referral of victims to specialized services, as mentioned in the new National Strategy.³³

Victim assistance and protection

19. According to various NGOs, respecting victims' rights effectively and ensuring access to full protective services remains a major issue in Romania, as in many other participating States.

Although the SR/CTHB notes with appreciation that the Romanian legislation is comprehensive and complies with international standards³⁴, the right to a reflection period (90 days)³⁵ is in practice not always respected³⁶. The Special Representative is particularly concerned about this situation, as it

³¹ <<http://ec.europa.eu/antitrafficking/NIP/Romania;jsessionid=DGNhSwBZIBL3p2hG45F3GYnSmpb2ZmpsQnh97Khp60bNKhcjsq3p!-1752337833>>, accessed 25 October 2013.

³² See GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against trafficking in Human Beings by Romania*, and *Answers of the Romanian authorities to the GRETA report* (2012). See also: NAATIP, *Transnational Study on the Characteristics of Policies in the Field of Trafficking in Human Beings for Labour Exploitation 2009-2011*, as well as the National Strategy against Trafficking in Persons 2012-2016, p. 10, "definition of the problem".

³³ National Strategy against Trafficking in Human Beings 2012-2016, general objective 2.

³⁴ In particular Laws 378/2001 and 211/2004 as well as article 26 of Law 678/2001 on various assistance services offered to victims (such as medical, psychological, legal, social, witness protection programme).

³⁵ Law 678/2001, article 39 index 1 for foreigners and index 2 for Romanian victims.

³⁶ Source: NGOs

puts victims in a very difficult situation. She has been informed about cases involving the expulsion of illegal migrants who have been trafficked and immediately expelled from Romania instead of being treated as victims and having access to protective services and to compensation.

Therefore, the Special Representative recalls that access to rights and to assistance should always be unconditional, regardless of victims' readiness to co-operate with authorities or their legal status.

Likewise, NGOs met during the visit mentioned that, despite legal provisions, access to services remains challenging for victims, in particular access to medical or psychological services.

20. According to officials and NGOs, access to shelters remains a major issue in Romania. Although state and non-state shelters have been established³⁷, this system does not fully respond to the specific needs of trafficking victims.³⁸ Furthermore, the lack of financial and human resources significantly reduces the quality of services provided.³⁹

During her visit the Special Representative had the pleasure to visit the first newly built state shelter dedicated to adult victims of trafficking in Bucharest. In this regard, she would like to encourage the authorities to allocate more funding to victim accommodation and effective access to high-quality services. In this respect, she welcomes the new National Strategy that envisages reconfiguring the services system to protect and assist victims.⁴⁰

Furthermore, she highlights that more formalized and stronger co-operation with NGOs or the direct allocation of funds to NGOs to run shelters would be favourable. Adequate training should also be provided to all staff working in state or non-state shelters.

21. The Special Representative also recalls that, as mentioned in the OSCE Action Plan, the authorities should provide victims of trafficking with temporary or permanent residence permits and/or legalization of employment. Romanian legislation⁴¹ meets the requirement of EU Directive 2004/81/EC by granting temporary residence permits of up to six months.

22. Providing victims with free legal counselling as soon as they are identified is essential for their rehabilitation and for encouraging them to report crimes. In this regard, the Romanian legislation complies with international standards⁴². However, the Special Representative is concerned about the difficulties for victims to effectively access legal counselling. According to

³⁷ Adult premises: 9 Governmental Centres and 4 NGO shelters in the country; Children premises: 6 Governmental Centres and 1 NGO shelter. 1 additional NGO shelter provides accommodation for both minors and adults (Source: NAATIP, October 2013).

³⁸ See: GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against trafficking in Human Beings by Romania*, and *Answers of the Romanian authorities to the GRETA report (2012)*, para. 137. See also: *National Strategy against Trafficking in Human Beings 2012-2016*, p.9.

³⁹ Sources: NGOs and International Organizations as well as *Answers of Romanian authorities to the GRETA Report -2012*. Victims of trafficking can be accommodated in shelters for a period of up to 90 days with the possibility of extending this period to up to six months, depending on the duration of the criminal proceedings.

⁴⁰ National Strategy against Trafficking in Persons 2012-2016 p.9 "definition of the problem" and p.11 "General objectives".

⁴¹ Article 39 of Anti-trafficking Law 678/2004 and Government Ordinance 194/2002.

⁴² Article 44 of Law 378/2001.

NGOs, the lack of resources and information among probation services as well as the lack of coordination and awareness among key stakeholders hampers full access to legal aid from the very beginning of the assistance process.

23. Victims' access to justice and remedies, including access to a compensation fund, has been a priority for the Special Representative both as a preventive and protective measure as it empowers victims and deters exploitation. The Special Representative emphasized that making compensation a reality for every trafficked and exploited person is a crucial aspect of an empowerment strategy that enables trafficked persons to move forward with their lives and prevents re-trafficking. In this regard, she encourages the use of proactive and financial investigations in human trafficking cases, aimed at ensuring the confiscation of criminal proceeds and assets, as a measure to ensure victim compensation, deterrence for the perpetrators and also funding for further state action.

In Romania, legislation foresees access to a state compensation fund⁴³, a special commission set up in each tribunal receives the requests. The Special Representative praises the Romanian authorities for such a good practice, although NGOs and officials recognize that few victims⁴⁴ have been able to actually benefit from it. The difficulties encountered by victims claiming compensation might be due to a lack of information, complicated procedures or to the absence of an appropriate way to assess the extent of the damages caused to victims. The Special Representative welcomes the will of the Ministry of Justice to evaluate and assess the mechanism and the reasons why too few victims benefit from it.

Furthermore, she welcomes the new Laws adopted in 2012⁴⁵ as well as the specific objectives mentioned in the National Strategy⁴⁶ which should increase the possibility for victims to receive compensation.

Prosecution and convictions

24. The SR/CTHB noted with appreciation the high numbers of prosecutions and convictions: in 2012, 667 persons were prosecuted and 427 traffickers were convicted.⁴⁷ In addition, the number of severe sentences handed down to traffickers has constantly increased since 2009.

The Romanian police force has specialized officers, of which 18 per cent are female officers⁴⁸, dealing with trafficking cases in 15 regional offices and 27 units.⁴⁹ Furthermore, the Directorate for Investigating Organized Crime and Terrorism (DIICOT) is a specialized structure that has been

⁴³ Law 211/2004 articles 21 to 34. The funds can be obtained from the State, through the Ministry of Justice's budget (source: Ministry of Justice).

⁴⁴ 7 victims in 2009, 7 in 2010 and 2 in 2011 (source: Ministry of Justice).

⁴⁵ Law 28/2012 modifying the Criminal Code Procedure which foresees the possibility to sell some assets before rendering a final court decision, and law 63/2012 on extended confiscation.

⁴⁶ National Strategy against Trafficking in Human Beings 2012-2016, general objective 2.

⁴⁷ In comparison, there were 480 prosecutions and 276 convictions for trafficking in 2011 and 415 prosecutions and 203 convictions in 2010 (Source: NAATIP).

⁴⁸ Source: NAATIP.

⁴⁹ Source: General Inspectorate of Romanian Police.

created at the Prosecutor General's Office⁵⁰ which plays an important role in the successful criminal justice response.

The Romanian authorities continue to provide training⁵¹ to law enforcement agencies that also benefit from international co-operation expertise and the exchange of best practices. The SR/CTHB encourages the Romanian authorities to continue to train all relevant officials in this field.

Joint Investigation Teams are also conducted by labour inspectors, the police and the gendarmerie or immigration services. The SR/CTHB welcomes the creation of such entities and acknowledges the important work that has been achieved, leading to a high number of prosecutions and convictions, in contrast to many other countries in the region.

Although during her visit no specific cases have been reported, the SR/CTHB wishes to recall the importance of implementing the non-punishment⁵² clause for victims of trafficking, regardless of their legal status, for administrative and criminal offences committed in the course of, or as a consequence of, being trafficked.⁵³

25. Although victims should be encouraged to report crimes of trafficking, the SR/CTHB recalls that, as stated in the OSCE Action Plan, investigators and prosecutors are encouraged to carry out investigations and prosecutions without relying solely and exclusively on witness testimony. It is recommended to explore alternative investigative strategies (including financial and forensic ones) to preclude the need for victims to be required to testify in court, or lessen the burden on those that do give evidence.

⁵⁰ It was set up by Law 508/2004 and is composed of 280 prosecutors, 200 administrative staff and 40 specialists, see <<http://www.diicot.ro/images/documents/english%20presentation.pdf>>, accessed 25 October 2013.

⁵¹ E.g., from the Romanian Police Education and Training Center or from the NAATIP.

⁵² Reference to the non-punishment clause in article 20 of Law 678/2001 (source NAATIP).

⁵³ See OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, *Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking* (Vienna, April 2013), <<http://www.osce.org/cthb/101002>>, accessed 18 March 2014.

Recommendations

1. Strengthen the co-ordinating role of NAATIP by:

- Encouraging NAATIP to continue to monitor data and ensuring full transparency in data collection (i.e., explaining it to NGOs);
- Assessing and analyzing the numbers of victim (before and after trials);
- Increasing NAATIP's concrete and practical collaboration with NGOS.

2. Enhance prevention of all forms of trafficking by:

- Continuing to develop awareness raising campaigns for the general population, including on the role of some recruitment agencies in THB;
- Developing awareness and outreach activities targeting the most vulnerable people (most specifically women and children) and the most at-risk sectors, as well as locations such as detention centres; informing workers about their rights;
- Increasing awareness among government officials, private sector and trade unions as well as the diplomatic corps on all forms of trafficking;
- Disseminating information on new legislation and providing advice on its implementation for police, judges and prosecutors, and NGOs;
- Training all police forces (including transport, border and migration officers) to increase their capacity to better identify possible victims and to treat them as such;
- Training Labour Inspectors in preventing measures to be taken together with employers and trade unions and in better identifying victims and reporting cases to the police with a special focus on protecting illegal migrants;
- Increasing co-operation with the private sector to foster the social responsibility of employers and the involvement of social partners.

3. Strengthen the criminal justice response:

- Encouraging investigators and prosecutors to carry out investigations and prosecutions without relying solely on witness testimony and to develop alternative investigative strategies (including financial investigations);
- Training stakeholders to consider people as victims by demonstrating an abuse of a position of vulnerability as a means of trafficking;

- Continuing to train judges on the implementation of anti-trafficking legislation, in particular on the provisions of the new laws and best practices, including on the non-punishment provision for victims of trafficking.

4. Improve assistance to victims and protection of victims' rights by:

- Improving the training of all police forces to have a more victim-centred approach, most specifically focusing on victims' rights (reflection period), access to protective services and the non-punishment clause;
- Amending the legal provision on non-punishment, with an open list of offences to which it should apply, in order to facilitate its implementation;
- Reviewing the referral mechanism and effective access to full protective services and disseminating it to all stakeholders, including NGOs and probation services;
- Improving the repatriation mechanisms and co-ordination between actors involved in destination countries and in Romania, so that victims are fully informed about their rights and State authorities and NGOs can better take care of victims upon return; allocating additional funds for improving travel conditions and ensuring their security;
- Provide victims and witnesses with full protection (including witness protection if needed) and access to comprehensive services regardless of their status (especially foreign victims) or their readiness to co-operate with authorities;
- Allocating adequate and sufficient funds to state services for victim assistance as well as funds to NGOs that provide the relevant services;
- Providing third-country nationals with work permits and access to protective services during criminal proceedings, and avoid expelling them before they have the opportunity to claim financial compensation and other payments.
- Analyzing the impediments to easy access to free Legal Aid, and suggesting improvements that could be made;
- Analyzing the obstacles to accessing the compensation fund and suggesting improvements that could be made;
- Trying to improve reintegration of victims in order to avoid the possibility of being re-trafficked, knowing the limits in the context of the financial crisis;
- Improving access to shelters with services of quality according to the specific needs of victims of THB by training staff and allocating funds accordingly.

5. Strengthen co-operation with NGOs by:

- Increasing co-operation between law enforcement agencies, NAATIP, Probation Services and NGOs for increased protection of victims;
- Increasing long-term allocated funding to improve the NGOs' role as trusted and competent partners to run shelters and provide protective services, while also simplifying the administrative procedures for their registration.

6. Enhance prevention of child trafficking and protection of children's rights by:

- Taking special protective and preventive measures that take into account the special needs and the best interests of children, at all stages, especially for vulnerable children in state care institutions and street children;
- Ensuring that all children (including foreigners and unaccompanied minors) have access to full protective services including educational and vocational programs by increasing available funding accordingly.

ANNEX I

RESPONSE TO THE OSCE REPORT ON HUMAN TRAFFICKING (received 5 August 2014)

- Valuing the consistent partnership that ANITP has been fostering with the non-governmental organisations, SRCTHB considers that the consolidation of relations with other relevant actors (including NGOs) is very useful, with the aim of “understanding the criteria for inclusion of human trafficking victims in the national database”, which is administered by the ANITP.

Comment: The structure and data type concerning human trafficking victims, implemented in SIMEV, is undertaken based upon the indicators established by the ANITP, after consulting the NGOs.

- Ref. 16 – Affirming that Romania’s economic difficulties (i.e. financial crisis) have had a negative effect... through the fall in quality of services granted to victims of human trafficking, SRCTHB calls on the Romanian authorities to “offer alternatives to Romanians found in risk situations, to improve services offered at community level, something that requires a social investment on part of the authorities”

Comment: The economic difficulties have not affected the quality of the services offered to the victims of human trafficking. Currently, a draft bill is in the process of public consultation; it is aimed at regulating the granting of public funds, in order to sustain programs of the NGOs, including those active in the area of human trafficking prevention and assistance for the victims of human trafficking. As soon as the legislative process will be completed, the ANITP will initiate the financial support programmes for the NGOs.

- Ref. 17 – Invoking statistical data, SRCTHB mentions the existence of a “new trend” in relation to the forms of victim exploitation – that of human trafficking for cells or human-origin organs – as well as a rise in the number of cases regarding human trafficking for the purpose of labour exploitation, “mainly in agriculture, construction industry, textile industry, domestic work and entertainment;”

Comment: ANITP’s data do not indicate the existence of human trafficking for human-origin cells or organs. Such cases have not been reported. With regard to the trafficking for the purpose of labour exploitation, this does not constitute a “new trend”, but rather one that has been perpetuated over the last years (reports in this regard may be consulted).

- Ref. 18 – SRCTHB brings to attention the need to improve the manner in which the National Mechanism for Identification and Referral (MNRI) is implemented, as well as the insufficient mediatisation of the victim referral procedures, by some of the NGOs.

Comment: Any non-governmental organisation that grants support to the victims of human trafficking is required to know the provisions of the MNIR in detail. These offer, inter alia, information related to the identification and referral procedures for victims of human trafficking. Also, within an external financing project, MNIR will be reviewed, in order to provide much better clarity and fluency in responding to the specificities of such a process, one that implies multidisciplinary intervention of both institutional and non-governmental actors with responsibilities in this regard.

- Ref. 19 – SRCTHB draws the attention to the fact that, although the current legislation provides for a reflection period for victims of human trafficking, this “provision is not always respected”. Also, it signals the fact that access to assistance services for victims should be made possible unconditionally, at all times, without any relation to the victim’s willingness to cooperate with the authorities.

Comment: There have been no reports to the ANITP about any situations that could confirm the abovementioned. In case where ANITP would identify or would be brought to attention such a situation, it intervenes promptly, in order to ensure that each human trafficking victim benefits from both the period of reflection as well as from any other assistance services, provided in current legislation, free of any condition in relation to the victim’s willingness to collaborate with judicial authorities. The legal context compels to inform the victims of their rights; having at the same time prepared an assessment record in which the date when the reflection period starts is registered.

- Ref. 20 – SRCTHB has expressed its concern for the “difficulties encountered by victims of human trafficking in having access to legal counselling services”;

Comment: From our available data from the Probation National Direction (“Direcția Națională de Probațiune”) in 2013, probation services have received three assistance and counselling requests; only two victims were present at the probation service. They have benefitted from psychological counselling services. In 2013, in the probation services’ records there has been no recorded assistance and counselling requests from human trafficking victims of any nationality other than Romanian. As the law stands, victims of human trafficking with nationalities other than Romanian benefit from the rights provided by Law no. 211/2004 (art. 8 para. (2), art. 14 para (2), art. 21 para (2), Ch. 51), as well as Law no. 678/2001 (refer to the stipulations of Ch. 5 of the law).

ANNEX II

Bodies and organizations met during this visit:

State Minister of Internal Affairs, Mr. Florea OPREA

State Minister of Justice, Ms. Simona Maya TEODORIU

State Minister of Foreign Affairs, Mr. Bogdan Aurescu

General Inspectorate of Romanian Police: Mr. Florentin Robescu, Deputy General Inspector

National Agency against Trafficking on Persons (NAATIP): Mr. Romulus Ungereanu, director

President of the Chamber of Deputies, Mr. Valeriu Zgonea

Deputy Prosecutor General, Mr. Codrut Olaru and prosecutors from the Directorate for Investigating Organized Crime and Terrorism

State General Inspector, Mr. Ciprian Georgian Dragomir

Southeast European Law Enforcement Centre: Mr. Gürbüz Bahadır, Director General of SELEC

Director of the Holding Centre for Irregular Migrants and Asylum Seekers

The SR/CTHB also met with representatives of UNICEF, IOM and UNHCR, as well as with representatives of international and local NGOs.

The SR/CTHB visited the Governmental Centre for the Protection and Assistance of Victims of Trafficking in Bucharest as well as a Reception and Accommodation Centre for Migrants.