



Organization for Security and Co-operation in Europe

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

Foreword

In October 2016, I had the pleasure to pay an official country visit to the Republic of Armenia and hold consultations with high-level Government officials, including with the Deputy Ministers of Justice, Labour and Social Affairs, Foreign Affairs, Head of State Migration Service, Deputy Head of Police and Deputy Chief of Investigative Committee, Deputy Prosecutor General, the judge and members of the Inter-agency Working Group on Combating Trafficking in Human Beings and the Commission on Identification of Victims of Trafficking in Human Beings and Exploitation as well as with representatives of the civil society organizations.

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

During my country visit, I appreciated the constructive discussions with the Government and civil society representatives and I would like to acknowledge, in particular, the importance of the dedicated Inter-agency Working Group on Combating Trafficking in Human Beings chaired by the Ministry of Foreign Affairs and the active role of the civil society representatives in the work of the multidisciplinary Identification Commission of Victims of Human Trafficking.

The report on the visit was finalized and presented to the Delegation of the Republic of Armenia for comments on 2 March 2017. The Delegation submitted its final comments on 14 June 2017, which are annexed to this report in their entirety.

By encouraging relevant authorities to implement the recommendations made in this report and acting in the best interest of the most vulnerable and disadvantaged members of society, I look forward to further continuing our exchange and co-operation on the occasion of a follow-up to this report.

A handwritten signature in blue ink, appearing to read 'Madina Jarbussynova'.

Madina Jarbussynova

**Report by OSCE Special Representative and Co-ordinator for Combating
Trafficking in Human Beings, Madina Jarbussynova, following her official visit
to Armenia¹
10-13 October 2016**

1. This Report presents the main findings of the official country visit to Armenia of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova (hereinafter referred to as the Special Representative), which took place from 10-13 October 2016².
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 perpetrators to justice 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 Head of State Migration Service, Gagik Yeganyan, Deputy Minister of Justice, Artak Asatryan, Deputy Minister of Labour and Social Affairs, Filaret Berikyan, Deputy Minister of Foreign Affairs, Ashot Hovakimyan, Head of the Health Inspection Service of the Ministry of Health (former Labour Inspectorate of the Ministry of Labour and Social Affairs), Artak Sahakyan, Deputy Head of Police, Gagik Hambardzumyan, Deputy Chief of Investigative Committee, Vahagn Harutyunyan, Deputy Prosecutor General, Emil Babayan, Judge of the Court of General Jurisdiction of Kentron and Nork-Marash Administrative District, Mnatsakan Martirosyan and members of the Commission on Identification of Victims of Trafficking in Human Beings and Exploitation.

The Special Representative also met with members of the Inter-agency Working Group on Combating Trafficking in Human Beings chaired by the Director of International Organizations Department of the Ministry of Foreign Affairs, Vahram Kazhoyan.

Furthermore, the Special Representative held consultations with NGOs implementing anti-trafficking projects: “Hope and Help”, Democracy Today, United Methodist Committee on Relief (UMCOR), Caritas Armenia, Return and Repatriation, Association of Audio-Visual Reporters and International Organizations such as the Yerevan office of the United Nations High Commissioner for Refugees (UNHCR), International Centre for Migration Policy Development (ICMPD), the United Nations International Organization for Migration (IOM), Save the Children, the European Union Delegation to Armenia, the United Nations Children's Fund (UNICEF), the Embassy of the United States of America in Yerevan and the Council of Europe Group of experts against human trafficking (GRETA) member, Gulnara Shahinyan.

¹ The Report was finalized on 2 March 2017

² The Special Representative was accompanied by the OSR/CTHB Executive Officer Claudio Formisano, the OSR/CTHB Assistant Officer, Radu Cucos and the National Programme Officer of the OSCE Office in Yerevan, Ovsanna Babayan.

The Special Representative visited a shelter for victims of human trafficking run by the NGO UMCOR in Yerevan and the Centre for Syrian refugees operating under the State Migration Service.

4. The Special Representative wishes to thank the Armenian authorities, and in particular, the Permanent Delegation of Armenia to the OSCE for their kind assistance in organizing and facilitating the visit. She also wishes to thank all interlocutors, from the national authorities to civil society and international organizations in Armenia, for their willingness to share their knowledge and insights.
5. Moreover, the Special Representative extends her particular thanks to the OSCE Office in Yerevan for providing strong support, knowledge and expertise both before and during the visit.
6. Consultations during the visit focused on trafficking in human beings (THB) in the country and ongoing policy, legislative and practical responses to it. More specifically, discussions were focused on identification and assistance provided to victims of all forms of trafficking, in particular the victims of labour exploitation, efforts in the area of prevention of child labour, co-operation with NGOs, as well as prosecution and conviction of traffickers. In view of increased Armenian labour emigration and the recent increase of immigration into the country, the Special Representative also discussed the issue of protection of Armenian labour migrants abroad and migrants in Armenia.
7. Over the course of the visit, the Special Representative noted with appreciation that Government officials and civil society representatives demonstrated awareness of human trafficking as a serious violation of fundamental rights, knowledge of new trends in human trafficking in the country and a readiness to tackle new threats, despite the country's difficult economic situation.
8. Furthermore, the Special Representative positively assessed the enhanced co-operation between authorities of Armenia and the OSCE Office in Yerevan in fighting human trafficking.
9. The Special Representative stressed the importance of maintaining the prevention of THB, and indeed the fight against it, as one of the main priorities on the Government agenda. She notes that a decline in political attention to the problem could jeopardize the important results achieved.

International and national legal framework

10. The Special Representative commends the Government of Armenia for having become a party to major international instruments providing high standards in the fight against trafficking in human beings, such as the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children on 1 July 2003 and the Council of Europe Convention on Action against Trafficking in Human Beings ratified on 14 April 2008.

The country also ratified a number of Conventions addressing slavery and forced labour such as the ILO Forced Labour Convention No.29 and the ILO Convention on the Abolition of Forced Labour No.105, ratified on 17 December 2004, the ILO Convention on Worst Forms of Child Labour No.182, ratified on 2 January 2005, as well as the UN Convention on the Elimination of All Forms of Discrimination against Women, ratified in 1993 and in 2006, respectively.

On a regional level, Armenia has signed the Agreement on Co-operation between CIS member States in Combating Trafficking in Persons, Human Organs and Tissues and the Interagency Agreement on Co-operation in the Sphere of Organising Execution of Criminal Punishments.

11. The Special Representative encourages Armenia to sign and ratify ILO Convention 189 concerning Decent Work for Domestic Workers, which since entering into force on 5 September 2013 serves as a powerful instrument for the prevention of THB for labour exploitation, especially for domestic servitude.

Armenia signed but has not ratified the International Convention on the Protection of the Rights of all Migrant Workers and members of their Families. The ratification of this Convention is of particular importance, taking into account the recent increase in migration to Armenia.

12. Likewise, as a participating State to the OSCE, Armenia has pledged to implement the commitments it has undertaken in the OSCE framework, in particular the 2003 Action Plan to Combat Trafficking in Human Beings, as well as its 2005³ and 2013⁴ Addendums.
13. In the national context, Armenia has established an appropriate institutional and legislative framework to prevent and counter human trafficking. Art. 132 criminalizing the offence of human trafficking, for example, was first introduced in the Armenian Criminal Code in 2003. It was amended in 2006 and 2011 to align with definitions contained in the Palermo Protocol and Council of Europe Convention respectively. In addition, the Code criminalizes trafficking in children and persons with mental disability (Art. 132.2); the knowing use of services of trafficked persons (Art. 132.3), theft, damage and forgery of documents (Art/s. 324 and 325); involving a child in the commission of actions associated with begging (Art 166.1) and involving a minor into committal of crime (Art. 165).
14. The Special Representative welcomes the adoption of the Law on Identification and Support to Persons Subjected to Trafficking in Human Beings and Exploitation which entered into force on 17 December 2014 as a key legal document on the identification, referral and protection of victims of human trafficking. Chapter 2 of the Law defines tasks and responsibilities of the Council on the Fight against Trafficking in Human Beings and Exploitation (hereinafter referred to as the Council), the Commission on Identification of Victims of Trafficking in Human Beings and Exploitation (hereinafter referred to as Identification Commission) and Non-Governmental Organizations (NGOs) as key partners in identification, referral,

³ OSCE Permanent Council Decision No. 685 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: Addressing the Special needs of Child Victim of Trafficking for Protection and Assistance, PC.DEC/685.

⁴ No.1107 on Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later, PC. DEC/1107/Corr.11.

support and protection of trafficked victims. The law cancels and replaces the National Referral Mechanism (NRM) adopted in 2008 and provides types and procedures for victim identification and terms of assistance services that victims are entitled to. Additionally, the law envisages procedures of reporting on implemented actions (Art. 26).

Other legal documents in this area include the Labour Law adopted in 2004 and amended in 2014 and 2015 repealing the authority's right to conduct routine labour inspections (Art. 34) and introducing *inter alia* regulations for terms and duration of children's work. In this regard, the Special Representative notes that Art. 3 of the Labour Law prohibits the use of forced labour and violence against employees; however it does not define the terms *forced or bonded labour*.

Among relevant legal documents, the Law on Foreigners adopted in 2006 defines conditions for legal entry and duration of stay in the Republic of Armenia. The Law on Refugees and Asylum adopted in 2008 includes provisions about unaccompanied children or those who are separated from family and are seeking asylum.

15. At policy level, starting from 2004, Armenia has adopted four National Action Plans (NAP) covering the periods 2004-2006, 2007-2009, 2010-2012 and 2013-2015, respectively. The fifth NAP covering the period of 2016-2018 was adopted in April 2016 and defines a comprehensive set of goals aimed at; improving the legislative framework to tackle child labour; improving public awareness at border-crossing points, healthcare and educational institutions; and implementing capacity building activities for child care and protection institutions, regional governments and local self-government bodies. In this regard, the Special Representative is particularly pleased to note the NAP task (paragraph 2.1.7) related to conducting sensitization seminars for armed forces participating in peace-keeping missions and considers it as an added value to prevent and combat human trafficking in conflict areas.
16. The Special Representative notes that the first evaluation of the NAP covering the period from 2010 to 2012 was launched in June 2012 with the assistance of the OSCE Office in Yerevan and since then no evaluation has been initiated to assess the effectiveness of anti-trafficking actions envisaged under the NAP. The Special Representative looks forward to the impending evaluation of the 2013-2015 NAP as informed by the Head of the Inter-Agency Working Group on CTHB during the visit.
17. With regard to the institutional anti-trafficking framework in Armenia, the Council to Combat Trafficking in Human Beings (hereinafter referred to as the Anti-trafficking Council) was set up in 2007 with Government Decree No. 861-A. On 18 August 2015, the Decision of the Prime Minister No 760-A renewed the mandate of the Council repealing the Decision of 2007. The Council is chaired by the Deputy Prime Minister and is composed of the Ministers of Healthcare, Sport and Youth Affairs, the Human Rights Defender, the Deputy Ministers of Justice, Foreign Affairs, Defence, Finance, Education and Science, Labour and Social Affairs, Economic Development and Investments, Diaspora, the Deputy Prosecutor General, the Deputy Director of the National Security Service, the Deputy Head of the Police, the Head of the State Migration service, the Head of the Department of International Relations of the Staff to the President, the Vice-Chairperson of the Investigative Committee.” The task of the Council is to develop policy for the fight against trafficking in human

beings and exploitation and provide general co-ordination of activities implemented by all relevant government agencies and civil society organizations involved in countering human trafficking.⁵ The Council meets a few times during the year and approves and submits an annual report to the Government developed by the Inter-agency Working Group (see paragraph 19). NGOs and international organization, including the OSCE Office in Yerevan are invited to the Council meetings as observers.

18. An Inter-agency Working Group on Combating Trafficking in Human Beings (hereinafter referred to as Anti-trafficking Working Group) reports to the Anti-trafficking Council. It was established upon the Decision of the Prime Minister of the Republic of Armenia No. 591-A of 14 October 2002 with the primary task of drafting and implementing the actions envisaged in the NAP and submitting recommendations to the Anti-trafficking Council. The Anti-trafficking Working Group is chaired by the Director of the International Organizations Department of the Ministry of Foreign Affairs of Armenia and is composed of staff from the Deputy Prime Minister's Office, the National Assembly, National Statistical Service, Ministry of Diaspora, Ministry of Defence, Ministry of Territorial Administration, Prosecutor General's Office, Investigative Committee, Employers and Trade Unions, as well as a number of NGOs, in addition to the agencies listed in para. 17. The Group meets once every two or three months, and produces semi-annual and annual reports to the Council which are then posted on the Council's/Working Group's anti-trafficking website.
19. The Special Representative positively notes the reports published by the Anti-trafficking Working Group in terms of providing detailed data on the actions taken in regard to each task envisaged in the NAP. Nevertheless, the reports do not contain an assessment of the scope of trafficking or the effectiveness of the anti-trafficking measures taken by state and non-state actors in the country. In this respect, the Special Representative also stresses the importance of monitoring and evaluating anti-trafficking measures in the country and underlines the significant role of a National Rapporteur or equivalent national monitoring and reporting mechanism as a means of obtaining the most realistic and evidence-based data on THB at the national level, to assess the scope of trafficking, the effectiveness of the anti-trafficking measures taken by the State, and, drawing from this data collection and analysis, to produce recommendations for the government and the parliament⁶. The Special Representative recommends Armenian authorities to establish an independent National Rapporteur to ensure an independent monitoring and evaluation of anti-trafficking measures in the country in order to develop effective and well-targeted policies on trafficking in human beings.⁷
20. The Special Representative notes that in Armenia a number of agencies are responsible for data collection, such as police collects data on examined THB cases and identified victims, whereas the Investigative Committee puts together the number of initiated and completed investigations and Prosecutor's Office collects data on opened criminal cases and convictions. The data of number of assisted victims is

⁵ Law of the Republic of Armenia on Identification of and Support to Persons subjected to trafficking in human beings and exploitation, Chapter II, Art. 9.

⁶ OSCE Action Plan for Combating Trafficking in Human Beings, Chapter IV, para 1, p 17.

⁷ OSCE, Ministerial Council Decision No. 14/06 "Enhancing Efforts to Combat Trafficking in Human Beings, including for Labour Exploitation, through a Comprehensive and Proactive Approach", MC.DEC/14/06, 5 December 2006.

collected by the Ministry of Labour and Social Issues. In this regard, the Special Representative reiterates the recommendations of international reports and recommends Armenian authorities to establish a unified database system with due regard to the confidentiality of data, and where possible to disaggregate statistics by sex, age, and other relevant factors as appropriate and compatible criteria for data collection, elaboration and reporting which are critical for the development and review of anti-trafficking policies and measures.

Identification, referral and assistance for victims of trafficking

21. According to NGOs met during the visit, human trafficking trends have changed in recent years, compared to previous years when primarily Armenian women were trafficked to Turkey and the United Arab Emirates (UAE) for sexual exploitation. Currently, the internal trafficking of women for sexual exploitation and men for forced labour has reportedly increased when compared to previous years. Nevertheless, numerous sources suggest that Armenia is mainly a country of origin for women and girls subjected to sexual exploitation in the UAE and Turkey and, occasionally, a destination country for Chinese and Thai women who are subjected to sexual exploitation. As a country of origin, Armenian men are trafficked to the Russian Federation for labour exploitation. This was also reflected in the state statistics of identified victims provided by Government of Armenia. Most of the victims of THB identified in recent years have been Armenian nationals with the majority of victims being women. According to official statistics, the government identified 60 victims of human trafficking for sexual exploitation and 12 victims of forced labour from 2010 to 2014. Among the identified victims, 12 were children. The Government identified 6 victims of trafficking for the purpose of organ removal in 2012. Between 2015 and 2016, among identified victims, forced labour accounted for 23 victims in comparison to 7 victims of sexual exploitation.
22. The adoption of the Law on Identification and Support to Person's Subjected to Trafficking in Human Beings and Exploitation (hereinafter referred to as the Identification Law) in 2015 enabled the establishment of the Identification Commission as a single body to confirm the status of the victim of human trafficking. The Identification Commission is chaired by the Ministry of Labour and Social Affairs and comprises representatives of law enforcement agencies, the Ministry of Labour and NGOs. The composition is approved by the Prime Minister of Armenia based on the list submitted by the Ministry of Labour and Social Affairs. The Special Representative praises the active role of civil society actors in the identification of victims of trafficking. In fact, Art. 11 of the Law prescribes equal representation of civil society organizations and state bodies in the Identification Commission. The Special Representative considers this co-operation as a benchmark that could serve as a good example for the OSCE participating States.
23. As outlined above (see paragraph 15), the adoption of the Identification Law cancelled and replaced the National Referral Mechanism for Victims of Human Trafficking adopted in 2008 and re-arranged the identification procedure for trafficked persons. The changes were made following the Council of Europe GRETA's first evaluation report which criticized the then three-stage identification mechanism as affecting the access of victims to assistance and protection measures

throughout each stage. Currently, victim identification is carried out in two stages: pre-identification and identification. As per Art. 14, during the pre-identification stage, all facts confirming or refuting a person being a victim are collected within a maximum of ten days. Upon expiry of the pre-identification period, the collected information is transferred to the Chairperson of the Identification Commission for an identification stage, who then convenes an identification session with the participation of the members and bodies involved in the pre-identification stage to decide on the status of a victim⁸.

24. As regards a victim of human trafficking, Art. 4 of the Identification Law defines a *victim* as a person subjected to human trafficking and/or exploitation who was recognized as such by the decision of the Commission and a *victim of a special category* as a person subjected to human trafficking and/or exploitation who at the time of his/her detection was a child or a person who as a result of a mental disorder is devoid of the ability to fully or particularly realize the nature and meaning of his or her actions or to control those and who was recognized as such by the decision of the Identification Commission. While the Special Representative is pleased to note the efforts of Armenian authorities in aligning the identification procedure and the overall identification mechanism and upgrading the procedure to the law, she strongly recommends authorities to supplement the law by developing a non-exhaustive list of indicators and criteria for the identification of various forms of human trafficking.
25. The Special Representative takes note of information provided by NGOs during the visit that male victims of human trafficking are usually very reluctant to self-identify themselves as a result of stereotyping and shame at having been exploited or abused. In this regard, the Special Representative draws attention to concerns raised by interlocutors that in the majority of cases, identification of victims relied upon the victim's own self-identification. According to recent research conducted by IOM Armenia, identification is a key barrier or challenge to combating trafficking in Armenia, raising concerns that victims are often not identified owing to the reduced mandate of the labour inspectorate, victims' lack of willingness to self-identify and the fact that most exploitation occurs in other countries.⁹
26. Furthermore, according to the Report of the Triennial Monitoring (2015-2017) of the External Migration Situation in the RA through Sampling Study and statistics provided by the Identification Commission, the Russian Federation remains the main country of destination for Armenian migrant workers, the number of which increased from 89.4 per cent in 2013-2014 to 94.6 per cent in 2015-2016¹⁰. Given the large numbers of men emigrating to Russia in search of employment, the Special Representative strongly recommends Armenian authorities, namely, the Police and the Identification Commission, to use proactive identification techniques without solely relying upon a victim's statement or self-identification to ensure the early identification of potential victims of labour exploitation.

⁸ Law of the Republic of Armenia on Identification of and Support to Persons Subjected to Trafficking in Human Beings and Exploitation, adopted on 17 December 2014, Chapter 3 Detection and Identification of Persons Subjected to Trafficking in Human Beings and Exploitation, Arts 14- 18

⁹ Report of the Needs Assessment: Counter-Trafficking Response in the Republic of Armenia, IOM, 2016, page 15

¹⁰ Triennial Monitoring (2015-2017) of the External Migration Situation in the RA through Sampling Study, Armenian-Russian (Slavonic) University, ICMPD, 2016

27. The Special Representative is concerned to learn about the amendments made as a result of the 2013 Government Decree, which removed the Labour Inspectorate's competency to conduct labour inspections other than those based on occupational safety and health violations. This resulted in the removal of the Labour Inspectorate (which is now called Health Inspection Service) from the Ministry of Labour and its merge with the Ministry of Health in 2013. Complaints and allegation relating to labour law violations, such as labour disputes and salary payments were transferred to the examination of administrative courts. As informed by the Head of the Health Inspection Service, the inspectors operate on the basis of the Law on Inspections which requires that annual inspection programmes are approved at the beginning of the year and companies to be inspected are notified in advance. The Special Representative shares the view of interlocutors met during the visit that these changes impede the effective prevention of labour exploitation in the work place and the protection of those at risk of human trafficking and exploitation. The latter is particularly problematic given that court procedures are time consuming and expensive, with the result being a very low number of persons wishing to use this mechanism to access justice.

Additionally, the Special Representative regrets that due to the restricted mandate of health inspectors, in cases of labour law violations and unregistered work, the companies were not fined. The Special Representative is further concerned to learn of the Government's plan to further reduce the capacities and number of inspectors from 60 to 30-40. While appreciating the Government's policy to create a free business environment in the country and prevent corruption, the Special Representative considers that the above mentioned changes are contradictory to the commitments made by Armenia under the relevant OSCE commitments and ILO Conventions No.29, No.105, No.182 and No. 81 and do not contribute to the effective identification and protection of workers and create conducive environments for exploitation at work places and in an informal economies. To this end, the Special Representative urges Armenian authorities to amend the relevant legislation to ensure that work places are regularly inspected not only for safety and health conditions, but also to prevent and detect labour exploitation and protect those subjected to human trafficking and exploitation. For that purpose, the Special Representative recommends Armenian authorities to reinstate the preliminary mandate of the Labour inspectorate to conduct regular inspections.

28. The Special Representative is concerned about the findings of the OSCE study of Forced Labour and Labour Trafficking in Armenia conducted in 2015 which revealed numerous cases of child labour and child abuse in child institutions, as well as forced child labour by family members in Armenia. Additionally, the report stated that the great majority of representatives of child care institutions, both the management and the specialists, considered child labour to be normal and even justified due to hard economic condition facing the family¹¹. The Special Representative shares the concern of NGOs met during the visit on the poor operation of the Armenian three-tier child protection system. According to them, the Guardianship and Trusteeship committees have a long list of responsibilities with no proper findings and quality control standards. The Special Representative regrets that there is no national level hotline/helpline and no functional referral system to reach out to children in abusive

¹¹ Forced Labour and Labour Trafficking in Armenia, Pilot Study, OSCE Office in Yerevan, page 51.

conditions, nor indicators and criteria to facilitate the identification of child labour. In this regard, the Special Representative draws the attention of Armenian child protection authorities to a 2013 report of the UN Committee on the Rights of the Child which determined *a high rate of school drop-outs, including children younger than age 14, working in informal sectors of the economy*. Additionally, the report also noted an *increasing number of children begging in the streets or doing heavy manual work*¹². The Special Representative considers that this situation demands comprehensive responses that strengthen the system of child protection and focus on the protection of children's rights. This implies that timely, inclusive and tailored interventions and referral mechanisms must be available for responding to any type of violence against children, child abuse, or neglect, regardless of whether or not trafficking is involved. To this end, the Special Representative recommends Armenian authorities to strengthen the current system of child protection and the overall child care strategy and to tackle any type of exploitation of children, including in child institutions, by placing the rights of children at the centre of all actions to secure their best interests and build a durable solution. To remedy the situation, she recommends the establishment of a mechanism to report on child abuse and exploitation, *inter alia*, for information exchange between the Ministry of Education and Science and local authorities on children with little or no school attendance, so as to ensure effective monitoring and assessment of risks of abuse and exploitation at an early stage. To this end, she looks forward to the adoption of impending amendments proposed to the Family Code which foresees enhanced regulation of child protection mechanisms and safety guarantees for children.

29. As regards protection, Armenian legislation provides a composite framework for the protection of trafficked persons. The Special Representative would like to highlight the inclusion of numerous important provisions in the Identification Law, such as Article 19 which foresees a 30 days reflection period for trafficked persons with the possibility of extension to another 30 days upon the decision of the Identification Commission. This period can be terminated only when new facts emerge indicating that the person may not be recognized as a victim or victim of special category or upon the initiative of the potential victim. Articles 21 and 22 define the rules on support provided to victims at the pre-identification and identification stages. In this regard, the Special Representative notes that the potential victims of trafficking in the pre-identification stage may be provided with urgent support as decided by a competent body conducting pre-identification or upon a victim's declaration of their need. The assistance package is limited to temporary shelter, emergency medical aid and psychological aid. The Special Representative recommends that Armenian authorities conduct comprehensive needs and risk assessments of individuals at this stage to ensure that they are assisted according to their needs.

30. The Special Representative positively notes the provisions under Art. 22 of the Identification Law which prescribes an array of assistance and support services to effectively rehabilitate and reintegrate trafficked persons including education, employment, arrangement of a safe return and allocation of a lump sum of compensation. To this end, the Special Representative draws attention to the fact that

¹² Concluding observations on the combined third and fourth periodic reports of Armenia, adopted by the Committee at its sixty-third session (27 May – 14 June 2013), Para 49, UN Committee on the Rights of the Child, 2013
http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/ARM/CO/3-4&Lang=En

although the victims are entitled to a safe and voluntary return and repatriation, there is no official procedure for return and repatriation of victims of THB in Armenia and believes that the law can be supplemented with procedures and standards to better organize and regulate the return and repatriation system.

31. The Special Representative welcomes the provision of the Identification Law that entitles a one-time monetary compensation to trafficked persons and was informed about the approval of a regulation which would provide rules for allocation of the mentioned monetary compensation for identified victims of human trafficking in the amount of 500 EUR.¹³ However, the Special Representative shares the concerns of NGOs that the due compensation is foreseen only for victims who complete or reject the support programme and considers that victims could benefit from it in the earlier stages of identification and support.¹⁴ In addition, it is advisable that concrete provisions are enacted on the allocation of financial aid for minors, including those without parental supervision.
32. Since 2004, shelters for trafficking victims have been exclusively provided through two NGOs: Hope and Help and the United Methodist Committee on Relief (UMCOR). The NGO Hope and Help offers short-term stay and UMCOR operates a shelter for victims of trafficking providing both short and long-term accommodation and a complete assistance package. As regards the NGO funding, the Special Representative is pleased to learn that since 2010, the Armenian Government has been providing partial funding to UMCOR for the rental of the premises for shelter. According to state statistics, the number of assisted victims remained stable from 2010 to 2016 (2010:15 victims; 2011:5 victims; 2012:14 victims; 2013:18 victims; 2014:18 victims, 2015:7 and 2016:12 (24 identified by the Identification Committee during the year, half of them got assistance). While acknowledging the continuous efforts of the Armenian authorities and civil society organizations to provide quality support to trafficked persons, the Special Representative reiterates the need for a more sustainable funding of assistance and support programmes.
33. Art. 22(17) of the Law on Identification and Support envisages a temporary residence permit and/or work permit for foreign victims of human trafficking. However, there is no data on the number of victims provided with the permits since the adoption of the law.
34. During the visit, the Special Representative was informed about NGOs being the primary providers of legal aid for trafficked persons as well as source of funding for attorney costs. Art 22 (9) of the Identification Law envisages legal aid for trafficked persons in the form of legal consultation as well as the arrangement of an attorney's support. Nonetheless, the law does not provide for procedures on how to access the legal aid. The Special Representative recognizes that a precondition for access to justice is the provision of free and qualified legal assistance and recommends Armenian authorities and civil society organizations to develop simple and effective guidelines and procedures that would foster the access of victims to free legal aid.

¹³ Information provided by NGOs and the Ministry of Justice on 12 October 2016.

¹⁴ Law on the Republic of Armenia on Identification of and Support to Persons Subjected to Trafficking in Human Beings and Exploitation, adopted on 14 December 2014, Chapter 4, Art.22, para 16.

Prevention of trafficking in human beings

35. In the area of prevention of human trafficking and forced labour, the Special Representative appreciates the active role of civil society organizations and journalists in organizing awareness raising campaigns on combatting THB and preventing irregular migration in schools and the use of public service announcements in raising public awareness on the risks of human trafficking. In this regard, the Special Representative would encourage conducting more journalistic investigations into various forms and root causes of human trafficking.
36. According to research conducted by Caritas Armenia, *many (Armenian) migrants in the Russian Federation encounter unexpected changes in employers' decisions coming as a surprise. Such surprises include but are not limited to: no employment/service contracts, no salary payment, less salary payment (as compared to original agreement), late salary payment, and hence employment by force.*¹⁵ In this regard, the Special Representative notes that private employment agencies are not regulated in Armenia and strongly recommends 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; ensuring licensing and monitoring of private employment agencies, including those engaged in work and travel programmes for students, to prevent abuse and exploitation.
37. Despite Armenia having previously been mainly a country of emigration, recently, there have been a rising number of migrants arriving in Armenia. According to the Armenian National Statistical Service's 2015 annual report, citizens of the Islamic Republic of Iran, India, the Russian Federation and the Syrian Arab Republic are the highest in number in terms of naturalized aliens registered in the country. On the other hand, the findings of a recent study commissioned by the Ministry of Labour and Social Affairs revealed 5,000 foreigners, primarily Chinese and Pakistani citizens working in informal workplaces in rural areas of Armenia.¹⁶ While the research was unknown to the State Migration Service met during the visit, Armenian police have indicated the presence of exploitation in particular in the construction industry where Turkish and Philippine nationals may be subject to exploitation. In this respect, the Special Representative strongly recommends Armenian authorities to take preventive measures, aimed at eradicating deceptive and exploitative practices regarding the recruitment of migrant workers in sectors which are prone to exploitation and wishes to reiterate the crucial role of labour inspectors in providing regular inspection of work places as well as the benefits of joint operations and investigations with other relevant agencies.
38. Pursuant to point 6, part 3 of Article 95 of the Labour Code, employment contracts for a fixed time-limit shall be concluded with foreigners in the period of permission to work or validity period of the right to residence. Subsequently, Article 3 of the Law on Foreigner adopted in December 2006 regulates foreigners' employment in Armenia, however, the Decree on granting and rejecting order and time-frame of a work permit, as well as authorized body granting work permit has not been yet

¹⁵ Armenian Labour Migrants in Russian Federation: Difficulties Abroad and Challenges at Home, Caritas Armenia, June 2016

¹⁶ http://www.armstat.am/file/article/demog_2016_7.pdf

adopted. Hence currently foreigners can work in the Republic of Armenia without work permits.¹⁷ In this respect, the Special Representative believes the absence of a clear mechanism to issue work permit or other type of similar authorization for employment may increase the vulnerability of foreigners and reduce the capacity of the state to identify abused workers. The Special Representative strongly recommends Armenian authorities to take preventive measures, including regularization of work permits for foreigners, aimed at eradicating deceptive and exploitative practices regarding the recruitment of migrant workers in sectors which are prone to exploitation and wishes to reiterate the crucial role of labour inspectors in providing regular inspection of work places as well as the benefits of joint operations and investigations with other relevant agencies.

39. In the course of the visit, the Special Representative also visited the Centre for Syrian refugees in Yerevan and is pleased to note the efforts of the Government in providing protection and relief assistance to 18,851 refugees and persons in a refugee-like situation, along with 54 asylum seekers and 421 stateless persons in Armenia. These figures also include 14,633 ethnic Armenian Syrians and 1,000 Iraqi Armenians. The Special Representative praises the efforts of the Armenian Government in offering three protection options to Syrian refugees such as (i) a simplified acquisition of citizenship, (ii) an accelerated asylum procedure or (iii) a privileged granting of short, mid-term or long-term residence permits, as well as the provision of a number of protection and assistance measures. However, the Special Representative was concerned to learn about the detention of asylum seekers crossing Armenian borders irregularly, including the protracted detention of asylum-seekers from Afghanistan on the grounds of “security” and incidences of discrimination when processing asylum applications of non-ethnic Armenian asylum seekers. The Special Representative believes that these practices contribute to the increased vulnerability of persons who are already very much at risk of human trafficking. Additionally, the Special Representative was informed about existing gaps in referring THB cases identified in the context of the asylum procedure and strongly recommends improving close co-operation and co-ordination between human trafficking and asylum authorities to ensure the effective and early identification, referral and protection of victims of human trafficking among asylum seekers and refugees.

Investigation and prosecution of human trafficking

40. With regard to investigation and prosecution of human trafficking and related crimes, as outlined in para. 13 of the Armenian Criminal Code, human trafficking is punished by imprisonment for a term of 7 to 12 years. In the presence of aggravating circumstances, the term ranges from 10 to 14 years with or without confiscation of property. Following the adoption of the Law on the Investigative Committee on 19 May 2014, the Government established the Investigative Committee with the task of conducting investigations of alleged crimes. According to the Armenian Criminal Procedure Code, the police have 10 days to conduct an operational intelligence and criminal procedural measures to disclose cases and once this period expires, the case is forwarded to the Investigative Committee to conduct investigation of the case. According to statistical data provided by the Armenian Police, in 2012, 14 criminal cases were initiated and 6 victims were identified and referred for assistance. In

¹⁷ http://www.smsmta.am/?menu_id=43 accessed on 29 May 2017

2013, 11 criminal cases were initiated and 15 victims were identified; in 2014, 10 criminal cases resulted in the identification of 6 victims. The number then declined in 2015 to 7 criminal cases and 5 identified victims. In 2016, Armenian police opened 7 criminal cases and identified 23 victims. The statistical data provided by the Investigative Committee showed the investigation of 14 new cases in 2015 (10 cases of sexual exploitation and 4 cases of labour exploitation) and 7 new cases in 2016 (3 cases of sexual exploitation and 4 cases of labour exploitation). While noting investigative efforts of the Armenian authorities, the Special Representative also draws attention to the fact that 2015-2016 investigative statistical data demonstrated that very few cases were sent to court and the majority of cases were either discontinued due to a lack of evidences or re-qualified under other articles. In this regard, the Special Representative notes the statement of the Investigative Committee that dismissal and requalification of THB cases to lighter offences may be due to the insufficient amount of time given to police to collect the necessary evidence needed to prove the case.

41. The Special Representative notes the findings of international studies which state that since prosecutions rely largely on victim testimonies, securing convictions is difficult.¹⁸ Victims may be reluctant to give evidence because they feel threatened or intimidated and are afraid of being prosecuted. In cases of labour exploitation, as mentioned in para. 25 of the Armenian Criminal Code, male victims of labour exploitation are very reluctant to self-identify themselves due to stereotyping and the shame of having been exploited or abused. As a result, it is thus unlikely to receive their testimonies during criminal proceedings. To remedy this, the Special Representative recommends that Armenian authorities step up their investigative efforts and prioritize proactive investigations and special investigative techniques without solely relying upon victim testimonies in investigating various forms of human trafficking.
42. According to civil society organizations, the lack of protection of children during investigations, as well as during legal proceedings, is cause for concern. The practice of repeatedly interviewing children during investigations and putting them in direct contact with the perpetrators and their families during court hearings can contribute to re-victimization of the child and cause additional trauma. The Special Representative recommends to Armenian authorities that they ensure child victims are adequately protected during the investigation process by involving child psychologists and social workers. Child friendly trial rooms ensuring their protection from intimidation should also be developed so as to avoid any further traumatization during the judicial proceedings.
43. The Special Representative is pleased to note that Armenian legislation contains a *non-punishment* clause which is fundamental for exempting victims of trafficking from civil, administrative or criminal liability for offences committed under coercion or intimidation. Article 132(5) of the Criminal Code envisages that a victim of THB is exonerated from punishment for offences of minor or medium gravity which he/she was involved in during trafficking or exploitation and was forced to commit. Article 8 of the Law on Identification exempts victims from criminal and administrative liability “for those offences in which he or she was involved under

¹⁸ Needs Assessment: Counter-trafficking Response in the Republic of Armenia, page 27, IOM, 2016.

coercion, within the course of the human trafficking or exploitation committed against him or her.” According to the Armenian authorities, no victim of THB has been prosecuted so far as there were no cases of offences committed by victims. As there is no exhaustive list of offences that might be committed by victims of trafficking in the course of or as a consequence of being trafficked and since new forms of exploitation may and do emerge, the Special Representative considers it expedient to adopt an open-ended list of offences typically related to trafficking in human beings with regard to the commission of which victims of human trafficking shall be immune from punishment. Additionally, she recommends Armenian authorities to align the clause of non-punishment in the Criminal Code and in the Identification Law and to explain the principle of non-punishment to all stakeholders.

44. The Special Representative notes that Armenian legislation does not state the irrelevance of *consent* of the victim in establishing the trafficking offence. The baseline established by the Palermo Protocol is that the consent of an adult victim to the intended exploitation is irrelevant if any of the listed means are used¹⁹. Genuine consent is only possible and legally recognized when all relevant facts are known and a person exercises free will.²⁰ The Council of Europe Convention stipulates that the consent of the victim is irrelevant where any of the means set forth in the definition of THB have been used.²¹ The Special Representative also notes that this provision was part of the Armenian NRM adopted in 2008 which was replaced with the Identification Law in 2014. While acknowledging the statement of the Armenian Government in ensuring that the *irrelevance of consent* is considered during qualification of THB cases, she encourages Armenian authorities to include an explicit reference to it in the legal provisions.
45. The Special Representative is pleased to know that Armenian legislation provides for the confiscation of criminal assets. According to Articles 232 and 233 of the Criminal Procedural Code, in order to secure civic application, arrest is imposed on the property of the suspect and the accused as well as those persons on whom financial responsibility can be put for the actions of the suspect and the accused, regardless of the type of asset. The Special Representative was informed that the court allows the Investigative Committee to acquire information from banks detailing bank account information of perpetrators, along with placing an arrest warrant out regarding the funds. However, it is difficult to trace financial flows as in most cases the accounts and properties are registered outside of Armenia. The Special Representative also takes note that in Armenia, confiscation of criminal assets is a punitive measure and is not used to compensate victims for pecuniary and non-pecuniary damages. A trafficked person can file a civil lawsuit to claim compensation. To this end, the Special Representative recommends that Armenian authorities ensure making full use of law enforcement and judicial co-operation resources to trace criminal assets and encourages the use of financial investigations in human trafficking cases, aimed at ensuring the confiscation of criminal proceeds and assets, as a measure to ensure compensation to victims.²² In this respect, the Special Representative recommends

¹⁹ UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children Trafficking in Persons Protocol, Art. 3(b).

²⁰ 2009 UNODC Model Law on Trafficking in Persons.

²¹ Art 4(b), Convention on Action against Trafficking in Human Beings adopted in 2005.

²² OSCE, Leveraging Anti-Money Laundering Regimes to Combat Trafficking in Human Beings.

the Armenian authorities to establish a Compensation Fund and to develop simple and effective procedures to enable trafficked persons' access to compensation.²³

46. The Special Representative welcomes the plan of Armenian authorities to criminalize legal entities for the use of trafficked labour and looks forward to the adoption of the proposed amendments to the Criminal Code in 2017.
47. In conclusion, while positively noting the commitment and the numerous steps taken in the prevention and countering of trafficking by the Armenian Government, the Special Representative encourages the authorities to continue their efforts and invites them to consider the following recommendations to enhance the implementation of OSCE anti-trafficking commitments, in particular the OSCE Action Plan to Combat Trafficking in Human Beings and its Addendums²⁴. The Special Representative and her Office stand ready to provide technical assistance, if requested, by national and local authorities as well as civil society, and welcome further dialogue and co-operation to promote the appropriate follow-up to these recommendations.

Recommendations

1. Enhance legal and policy framework by:

- Ratifying ILO Convention 189 concerning Decent Work for Domestic Workers which serves as a powerful instrument for the prevention of THB for labour exploitation, especially for domestic servitude.
- Ratifying the International Convention on the Protection of the Rights of all Migrant Workers and members of their Families. The ratification of this Convention is of particular importance, taking into account the recent increase in migration to Armenia.
- Amending Labour Law to include a definition of forced labour to ensure that those organizations and agencies bound by Labour Law provisions are guided by a clear definition.
- Establishing an independent National Rapporteur to ensure the independent monitoring and evaluation of counter-trafficking measures in the country, including the measures envisaged in the National Action Plans; Additionally, ensuring that the reports produced by the Anti-trafficking Working Group also include an assessment of the scope and effectiveness of the anti-trafficking measures taken by state and non-state actors in the country.

²³ OSCE Permanent Council, Decision No. 557/Rev.1 OSCE Action Plan to Combat Trafficking in Human Beings (Vienna, 7 July 2005), Chap. IV, para. 4.11; OSCE Ministerial Council, Decision No. 8/07 Combating Trafficking in Human Beings for Labour Exploitation (Madrid, 30 November 2007), para. 8 and 11; OSCE ODIHR Compensation for Trafficked and Exploited Persons in the OSCE Region (Warsaw, 2008); OSCE Permanent Council, Decision No. 1107 Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later (Vienna, 6 December 2013).

²⁴ OSCE Permanent Council, Decision No. 557/Rev.1 *OSCE Action Plan to Combat Trafficking in Human Beings* (Vienna, 7 July 2005); OSCE Permanent Council, Decision No. 1107 *Addendum to the OSCE Action Plan to Combat Trafficking in Human Beings: One Decade Later* (Vienna, 6 December 2013).

- Ensuring that new NAPs are developed based on the analysis and evaluation of actions provided by the previous plans.

- Establishing a unified database with due regard to the confidentiality of data, and where possible, to disaggregate statistics by sex, age, and other relevant factors as appropriate. In addition, this database should include compatible criteria for data collection, elaboration and reporting, which are critical for the development and review of anti-trafficking policies.

2. Enhance victim identification, assistance and protection by:

- Developing a non-exhaustive list of indicators and criteria to facilitate the effective identification of various forms of human trafficking and child labour.

- Strengthening the capacity of Police, the Investigative Committee and border guards to conduct the early and proactive identification of victims of trafficking for labour exploitation, in particular among Armenian migrant workers in the Russian Federation and migrant workers in Armenia without relying solely upon the victim' statement and/or self-identification.

- Placing increased attention on the phenomenon of internal trafficking of children and adults, both for sexual and labour exploitation with a view to developing targeted responses.

- Conducting a comprehensive needs and risk assessment of potential trafficked persons at the pre-identification stage to ensure that these persons are assisted according to their needs.

- Developing, together with civil society organizations, standard operating procedures for the return and repatriation of trafficked persons.

- Ensuring sustainable funding of all rehabilitation and reintegration programmes to safeguard the quality and necessary assistance services provided to trafficked persons.

- Adopting the regulation for compensation of identified victims of human trafficking and ensuring that this compensation is not dependant on the completion or rejection of the support programme for which victims are entitled to by virtue of the Law.

- Enhancing concrete measures to foster access of victims to free legal assistance and representation as well as establishing a dedicated fund for compensation for damages caused to victims of human trafficking as well as developing simple and effective procedures to enable trafficked persons' access to compensation.

- Enhancing co-operation with countries of origin and destination of human trafficking for Armenia to ensure early identification and assistance to trafficked persons.

3. Prevent child trafficking through child protection system, including by :

- Strengthening the current system of child protection and the overall child care strategy and tackling any type of exploitation of children by improving the operation of Armenia's three-tier protection system, in particular the work of the Guardianship and Trusteeship committees

by ensuring sufficient funding and quality check standards of the assistance and protection mechanisms in place for children, both in institutions and in families.

- Establishing a system/mechanism for the reporting of incidents and cases of child abuse and exploitation and developing procedures to refer and address any allegations of child abuse and exploitation.

- Developing monitoring programmes to examine the adequacy of the best interests determination process (BID) in terms of protection of the rights of each child and prevent school drop outs by introducing an apprenticeship program for children who wish to work alongside their education.

- Establishing a mechanism for the exchange of information between the Ministry of Education and Science and the local authorities on children with little or no school attendance so as to ensure the effective monitoring and assessment of risks of abuse and exploitation at an early stage.

4. Enhance the prevention of human trafficking by:

- Reinstating the mandate of labour inspectors to inspect and prevent labour exploitation in the workplace and ensuring systematic inspections, especially in sectors prone to labour exploitation, i.e., agriculture, textile, construction and tourism to prevent exploitation of migrant workers living in the country irregularly.

- Continuing to raise awareness among professionals and the general public with regard to various and emerging forms of human trafficking, highlighting trafficking for labour exploitation, forced criminality and organ removal.

- Conducting training for the staff of the temporary protection centres and reception facilities, in particular, social workers and law enforcement officials working in these facilities, to detect indicators of abuse and exploitation and to refer presumed victims for assistance to service providers.

- 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;²⁵ ensuring licensing and monitoring of private employment agencies, including those engaged in work and travel programmes for students, to prevent abuse and exploitation.

- Developing standard operating procedures and building the capacities of consular and border protection officers to identify victims of human trafficking at consulates and border points based on already existing good practices.²⁶

²⁵ 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

²⁶ "Guidelines for the Identification of Victims of Trafficking in Human Beings Especially for Consular Services and Border Guards." 2013. Accessed February 24, 2017. https://ec.europa.eu/home-affairs/sites/homeaffairs/files/e-library/docs/thb-victims-identification/thb_identification_en.pdf. "Anti-Trafficking Training for Frontline Law Enforcement Officers – Training Guide and Background Reader." ICMPD. 2006. Accessed February 24, 2017. <http://www.icmpd.org/our-work/capacity-building/trafficking-in-human-beings/publications/anti-trafficking-training-for-frontline-law-enforcement-officers-training-guide-and-background-reader/>.

- Improving co-ordination and co-operation between human trafficking and asylum authorities to ensure early identification, referral and protection of victims of human trafficking among asylum seekers and refugees.
- Conducting systematic targeted analysis/assessment of trafficking risks in relation to large flows of migrants and collecting data accordingly.
- Examining the possibility of assigning labour attachés in Armenian Embassies in countries where Armenian citizens seek employment, whose role would be to provide information and advice to Armenian citizens working abroad and additionally, exploring more effective solutions for international co-operation where Armenia does not have diplomatic ties.
- Establishing tools to provide guidance to private sector companies to manage the risk of labour exploitation in their supply chains, using existing good practices.²⁷
- Taking preventive measures, including regularization of work permits for foreigners, by developing clear procedure for issuing work permits, aimed at eradicating deceptive and exploitative practices regarding the recruitment of migrant workers in sectors which are prone to exploitation

5. Enhance the criminal justice response to all forms of human trafficking by:

- Stepping up investigative efforts and prioritizing proactive investigations and special investigative techniques without solely relying upon victim testimonies in investigating various forms of human trafficking.
- Conducting a training needs assessment of law-enforcement and judiciary in evidence collection, analysis and correct adjudication of THB cases.
- Aligning the provisions related to non-punishment of victims in Art 132 (5) of the Criminal Code and Art 8 of the Identification Law and explaining the principle of non-punishment to all stakeholders through regular capacity building activities.
- Amending relevant legislation to include an explicit reference to the *irrelevance of a victim's consent* to the intended exploitation in the legal provisions.
- Adopting an open-ended list of offences typically related to THB with regard to the commission of which victims of human trafficking shall be immune from punishment.

²⁷ "Managing the Risk of Hidden labour: A guide for Companies and Employers." 2014. Accessed February 24, 2017. https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/guidelines_risk_management_en.pdf. or "Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers in the Baltic Sea region ." 2014. Accessed February 24, 2017. <http://www.cbss.org/wp-content/uploads/2012/11/ADSTRINGO-Guidelines.pdf>.

- Making use of law-enforcement and judicial co-operation to track and seize the criminal assets and ensuring that confiscated proceeds and assets go to victims for pecuniary and non-pecuniary damages.
- Ensuring that child victims are adequately protected during the investigation period by involving child psychologists and social workers in the investigation process to avoid multiple interviewing and developing child friendly trial rooms to ensure their protection from intimidation and to avoid their further traumatization in the judicial proceedings.

APPENDIX I

**PROGRAMME
OF THE VISIT OF AMBASSADOR MADINA JARBUSSYNOVA,
OSCE SPECIAL REPRESENTATIVE AND COORDINATOR FOR COMBATING
TRAFFICKING IN HUMAN BEINGS TO ARMENIA**

10-13 October 2016

Monday, 10 October	
14:00-14:30	Meeting with Ambassador Argo Avakov, the Head of the OSCE Office in Yerevan <i>Location: OSCE Office in Yerevan</i>
14:30-16:30	Meeting with representatives of Non-Governmental Organizations
16:30-17:30	Meeting with the International Organization
18:00-19:00	Meeting with Gagik Eganyan, Head of State Migration Service
Tuesday, 11 October	
10:00-11:30	Visit to the Centre for Syrian refugees
11:45-12:45	Meeting with Artak Sahakyan, the Head of Labour Inspection Service
13:00-14:00	<i>Working lunch with Gulnara Shahinyan (GRETA member)</i>
14:00-15:00	Meeting with Gagik Hambarzumyan, Deputy Head of Police
15:30-16:30	Meeting with Vahagn Harutyunyan, Deputy Chief of Investigative Committee
17:00-18:00	Meeting with the National Assembly <i>Elinar Vardanyan, the Chairperson of the Standing Committee on Protection of Human Rights and Public Affairs, Hakob Hakobyan, the Chairperson of the Standing Committee on Social Affairs Hovhannes Sahakyan, the Chairperson of the Standing Committee on State and Legal Affairs of the National Assembly</i>
Wednesday, 12 October	
09:30– 10:30	Meeting with Artak Asatryan, Deputy Minister of Justice
11:15 – 12:15	Visit to the Shelter for trafficked persons operated by UMCOR
13:00– 14:00	<i>Lunch</i>

14:00– 15:00	Meeting with Mr Emil Babayan, Deputy Prosecutor General <i>Location: 5, Vazgen Sargsyan Street</i>
15:15– 16:10	Meeting with Mr. Filaret Berikyan, Deputy Minister of Labour and Social Affairs
16:15 –17:15	Meeting with members of Identification Commission
19:00	Reception, Radisson Blue Hotel, Darchin Café
Thursday, 13 October	
10:00 – 11:00	Meeting with the U.S. Embassy
11:30-12:30	Meeting with Mnatsakan Martirosyan, Judge, Court of General Jurisdiction of Kentron and Nork-Marash Administrative District
12:45- 14:15	<i>Lunch</i>
14:30– 16:15	Meeting with the members of the Inter-agency working group on combating trafficking in human beings chaired by Vahram Kazhoyan, the Head of inter-agency working group on combating trafficking in human beings, Director of International Organizations Department of the Ministry of Foreign Affairs
16:30- 17:30	Meeting with Ashot Hovakimyan, Deputy Minister of Foreign Affairs

APPENDIX II.

Comments of the Republic of Armenia on the Report of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Madina Jarbussynova, following her visit to Armenia, 10-13 October 2016

(Final comments received on 14 June 2017)

Paragraph 19. The mechanism for the development and implementation of the sector-specific policy is in the stage of development. In this case, it is more important to focus efforts towards the strengthening and reinforcement of the mechanism. The establishment of an independent National Rapporteur is not appropriate and may hinder the regular activities of the subdivision of the Ministry of Foreign Affairs of the Republic of Armenia responsible for the sector, relating to general co-ordination, the solution of the problems that have emerged, the collection, analysis of information and other organisational issues.

Paragraph 21. Paragraph 21 of the draft Report specifies that: "...human trafficking trends have changed in recent years. Currently, the internal trafficking of women for sexual exploitation and men for forced labour has reportedly increased when compared to previous years."

It is not clear as to what data was analysed for making this evaluation since the analysis of the statistical data for the instituted criminal cases does not allow making such a conclusion.

Thus: In 2014, 3 criminal cases were instituted with regard to internal trafficking, in 2015 — 6 criminal cases, in 2016 — 3 criminal cases, and in 2017 — 2 criminal cases. These statistics show that increase in the number of criminal cases instituted with regard to internal trafficking was recorded in 2015 alone, but in the years that followed, the number declined again, and this may not be evaluated as a change in the trends of trafficking and as increase in the number of cases of internal trafficking.

The same paragraph specifies the following: "Armenia is mainly a country of origin for women and girls subjected to sexual exploitation in the UAE and Turkey and, to a lesser extent, a destination country for Chinese and Thai women who are subjected to sexual exploitation."

We find that, in this case, the use of the term "to a lesser extent" does not reflect the objective reality since "to a lesser extent" means cases that are not often encountered or are encountered with long intervals, meaning not often, but repetitive cases, but there was only 1 case of sexual exploitation of Chinese women recorded in the Republic of Armenia in 2014 (the criminal case was sent to court), and only 1 case of sexual exploitation of Thai women recorded in 2013 (proceedings of the criminal case was discontinued). This implies that they are not cases that are encountered to a lesser extent, but they are occasional cases.

Paragraph 28. Paragraph 28 of the draft Report specifies that: "The findings of the OSCE study of Forced Labour and Labour Trafficking in Armenia conducted in 2015 revealed numerous cases of child labour and child abuse in child institutions, as well as forced child labour by family members in Armenia."

It should be noted that, first, the indicated study was a pilot one, it was conducted through questionnaire — anamnestic, experimental quantitative observation methodology developed by the experts of the programme for trial purposes, but not through a methodology that complies with international standards, has already been checked in practice and has been successfully applied.

Second, conclusions such as "numerous cases of child abuse and forced labour have been

revealed" are missing in the section of conclusions of the pilot study.

Third, the pilot study has presented potential cases of violations of the employment or other rights of children (that is to say, assumptions based on the indicators of the pilot questionnaire), not the cases of forced child labour, let alone numerous cases.

Paragraph 29. Support to potential victims (pre-identification stage) may include:

- (1) emergency medical aid;
- (2) provision of temporary shelters for the period of the pre-identification stage, including for his or her legal representative and for children under his or her care;
- (3) provision of general education;
- (4) in-kind aid of basic necessity;
- (5) primary psychological aid;
- (6) general consultation;
- (7) provision of care.

Paragraph 33. No foreign victims of human trafficking have been revealed since the adoption of the Law.

Paragraph 34. Pursuant to the Law of the Republic of Armenia "On the profession of advocate", free legal aid shall be provided by the Chamber of Advocates of the Republic of Armenia through the Office of Public Defender, at the expense of the State Budget. The Office of Public Defender shall also provide free legal aid to the following persons:

- (1) family members of a military servant deceased (died) while protecting the borders of the Republic of Armenia;
- (2) persons with 1st and 2nd group of disability;
- (3) convicts;
- (4) family members registered in the family insecurity assessment system and possessing insecurity points higher than "zero";
- (5) participants of the Great Patriotic War, of combat operations during the protection of the borders of the Republic of Armenia;
- (6) unemployed persons;
- (7) pensioners living alone;
- (8) children without parental care, as well as persons falling under the category of children without parental care;
- (9) refugees;
- (10) those having received temporary asylum in the Republic of Armenia;
- (11) insolvent natural persons who submit reliable data certifying their insolvency. Within the meaning of this paragraph, a natural person shall be considered as insolvent, where he or she does not have sufficient income, a cohabiting employed family member, as well as does not have under his or her ownership an immovable property other than the personal apartment, or a vehicle the cost whereof exceeds one-thousand-fold of the minimum salary;
- (12) persons with mental disorders being treated within a psychiatric organisation;
- (13) persons recognised as victims or as victims under a special category by the Commission on Identification of Victims of Trafficking in and Exploitation of Human Beings, as prescribed by law.

Paragraph 37. The Ministry of Foreign Affairs of Armenia has discussed this issue with the Ministry of Labour and Social Affairs, State Employment Agency and other relevant stakeholders: none of them were aware of the study that the Special Representative refers to

(... “the findings of a recent study commissioned by the Ministry of Labour and Social Affairs revealed 5.000 foreigners, primary Chinese and Pakistani citizens working informal in rural areas of Armenia”...). As for the link to the Armenian National Statistical Service’s Demographic Hand Book 2016 /http://armstat.am/file/article/demog_2016_7.pdf / it contains only information about foreigners who were granted resident status in Armenia.

Moreover, according to the other report "Socio-Economic Situation of RA, January-December 2015" (in Armenian and in Russian) detailed information about the reasons why the status was granted and their age and sex distribution is provided: http://armstat.am/file/article/sv_12_15r_520.pdf page 135-139.

Paragraph 39. As for the idea of "the detention of asylum seekers crossing Armenian borders irregularly", expressed in the fourth sentence of the paragraph, we would like to inform that there was only one single case, which cannot be considered as a precedent.

The information about "discrimination when processing asylum applications of non-ethnic Armenian asylum seekers" is not reliable, because no foreign citizen has been discriminated due to ethnicity, religion, nationality or other circumstance for the provision of asylum. The State Migration Service provided large number of examples to deny these allegations.

In 2011, all citizens of Côte d'Ivoire having sought asylum in the Republic of Armenia were recognised as refugees in the Republic of Armenia and received asylum due to the armed conflicts that were taking place in their country of origin. In 2014, 17 citizens of Iraq, 5 citizens of Azerbaijan and 57 citizens of Ukraine were recognized as refugees and received asylum. In 2015, 30 Muslim citizens of Iran, as well as 19 asylum seekers of Yezidi nationality were recognised as refugees and received asylum.

At the same time, the asylum applications of 19 citizens of Iraq and 3 citizens of Syria were rejected based on the fact that they could pose a threat to national security.

Paragraph 40. The paragraph 40 specifies that: "the Special Representative also draws attention to the fact that 2015-2016 investigative statistical data demonstrated that very few cases were sent to court and the majority of cases were either discontinued due to a lack of evidences or re-qualified under other articles".

It is not clear as to what statistical data and what type of calculation served as a basis for the Special Representative to come to the conclusion that the majority of cases are discontinued or the acts are re-qualified.

Pursuant to the statistical data submitted by the Investigative Committee of the Republic of Armenia:

- out of 21 criminal cases investigated by the Investigative Committee of the Republic of Armenia in 2015, the proceedings of 5 cases (23,8% of investigated criminal cases) were discontinued, and the act was re-qualified under 4 criminal cases (19% of investigated criminal cases).

- out of 17 criminal cases investigated by the Investigative Committee of the Republic of Armenia in 2016, the proceedings of 2 cases (11,7% of investigated criminal cases) were discontinued, and the act was re-qualified under 3 criminal cases (17,6% of investigated criminal cases).

It is obvious from the examination of the mentioned statistical data that discontinuing the proceedings of the majority of cases investigated during 2015-2016, or re-qualifying the acts thereby are out of the question; the mentioned assessment does not correspond to the reality and is extremely exaggerated.

The same paragraph also specifies that: "In this regard, the Special Representative notes the

statement of the Investigative Committee that dismissal and requalification of THB cases to lighter offences may be due to the insufficient amount of time given to police to collect the necessary evidence needed to prove the case".

There is a misunderstanding here as well; representatives of the Investigative Committee of the Republic of Armenia have never made such a statement since basically limitation of the period for obtaining evidence is not provided for.

The Special Representative probably confused the period for obtaining evidence with the 10-day period prescribed by the Criminal Procedure Code of the Republic of Armenia for checking the lawfulness of the reason for and the sufficiency of grounds for initiating a criminal case based on a report of crime.

Pursuant to Article 180 of the Criminal Procedure Code of the Republic of Armenia, reports of crimes shall be considered and disposed of promptly, and in case of a need to check the lawfulness of the reason for and the sufficiency of grounds for initiating a case — within 10 days upon the receipt thereof. Additional documents, explanations, other materials may be requested within the mentioned period, as well as inspection of the crime scene may be conducted; in case sufficient grounds for suspicion of committing a crime exist, persons may be apprehended and subjected to personal search, samples may be taken for study, and calls for expert examinations may be made. These are the exhaustive actions that may be carried out from the moment of receiving the report of a crime until the moment of initiating a criminal case – within 10 days.

Pursuant to Article 181 of the Criminal Procedure Code of the Republic of Armenia, one of the following decisions shall be adopted as a result of consideration of reports of crimes:

- (1) on initiating a criminal case;
- (2) on rejecting the initiation of a criminal case;
- (3) on transferring the report according to jurisdiction.

This implies that the legislator has prescribed a 10-day period after receiving a report of a crime not for obtaining evidence or qualifying the act, but exclusively for checking the lawfulness of the reason for and the sufficiency of grounds for initiating a criminal case.

Pursuant to Article 182 of the Criminal Procedure Code of the Republic of Armenia, in case a reason and grounds for initiating a criminal case exist, the prosecutor, investigator, inquest body shall render a decision on initiating a criminal case when there are reasons and grounds for the institution of a criminal case. The reason and ground for initiating the criminal case, the article of the criminal law by elements of which the case is initiated, the future course of the case after institution thereof shall be indicated in the decision.

This implies that initiating a criminal case is only initiating the proceedings into the case, and which, exclusively, gives an opportunity to render procedural decisions and commit actions, as well as commence preliminary investigation. Initiation of a criminal case does not necessarily mean initiation of criminal prosecution or qualification of an act; hence, initiation of a criminal case under elements of Article 132 of the Criminal Code of the Republic of Armenia (trafficking in human beings) does not mean that criminal prosecution has been initiated against any person under that Article, or it is established that the person has committed such an act, or the criminal case must mandatorily be forwarded to court. The investigator is authorised to carry out investigative and other procedural actions only after initiating a criminal case, through which evidence is obtained and, as a result of the complete assessment thereof, it is determined whether or not any person has committed an act prohibited by the Criminal Code, and, if yes, which Article in particular provides for the act.

The fact that criminal cases are initiated, and a part thereof are later discontinued, proves that the Police or the Investigative Committee do initiate investigation – initiate a criminal case on each report of trafficking in human beings, and do not refuse to conduct investigation, which is commendable, not troubling. Specification of a particular Article of the Criminal Code in

the decision on initiating a criminal case may not be arbitrary; it must comply with the content and features of the report of the crime.

The person initiating a criminal case may not and does not have the right — at the moment of rendering a decision — to reasonably assume what kind of evidence would be obtained as a result of investigative and procedural actions to be carried out in the future following the initiation of a criminal case, what circumstances or elements of crime are to be established thereby. The case, circumstances thereof, the involvement of the suspect and accused therein, the elements of crime provided for by the Criminal Law and the guilt of the person in committing the act proscribed by the Criminal Law may only be established on the basis of the evidence obtained following initiation of the criminal case.

In observance of the above-mentioned provisions of the current legislation of the Republic of Armenia and on the basis of the reports containing elements of trafficking in human beings, a criminal case is mandatorily initiated under elements of Article 132 of the Criminal Code of the Republic of Armenia, a preliminary investigation is conducted, and as a result of comprehensive and objective examination and assessment of evidence obtained during the preliminary investigation it is established whether or not the act of the person contains *corpus delicti* of any act provided for by the Criminal Code, and if yes, which Article in particular provides for the *corpus delicti* his or her act contains, and the criminal prosecution is initiated in conformity with that, charges are brought against him or her under the relevant Article of the Criminal Code, irrespective of the fact under which Article the criminal case has been initiated, and if not, the proceedings in the criminal case are discontinued.

Let us present examples of criminal cases initiated under elements of trafficking and later discontinued:

1. In 2015, a citizen of the Republic of Armenia filed a report to the Police on the fact that another citizen of the Republic of Armenia — by deception, with the pretext of working as a cook — had transferred her to a stone working shop located in the Russian Federation and subjected her to sexual exploitation there. As the report on the crime contained elements of sexual exploitation of human beings, a criminal case with regard to the incident was initiated under the elements of Article 132 of the Criminal Code of the Republic of Armenia. The preliminary investigation into the criminal case (testimonies of victims, witnesses and other investigative actions) established that the above-mentioned person had actually received an offer to work as a cook at the stone -working shop, left for the Russian Federation where she worked as a cook for a few months. While doing the job, the owner of the stone working shop had suggested that she had a sexual intercourse with him and would always be rejected; one time, he attempted to rape her under the influence of an alcoholic drink. Thus, the evidence collected during the preliminary investigation into the criminal case established that there was no case of exploitation of human beings, and therefore, the criminal case initiated with regard to the case of exploitation was discontinued, and another criminal case was initiated with regard to the newly detected incident — rape attempt.

2. In 2016, a citizen of the Republic of Armenia filed a report to the Police on the fact that her spouse had left for the Russian Federation with a view to getting a job and was hired at the institution owned by another citizen of the Republic of Armenia. After a while, the employer, taking advantage of the inflated debt generated from the material damage incurred thereby, took his passport, deprived him of the opportunity to return home and subjected him to labour exploitation. As the report on the crime contained elements of labour exploitation of human beings, a criminal case with regard to the incident was promptly initiated under the elements of Article 132 of the Criminal Code of the Republic of Armenia. The preliminary investigation into the criminal case established that, for the purpose of justifying to the family members his failure to return to the Republic of Armenia for a long period of time, the “potential victim” informed them on the phone that he had allegedly caused material damage

to the employer, the employer had taken his passport for the purpose of compensating the damage in full and, as a result, he could not return to the Republic of Armenia. His family members filed a report to the Police on a reasonable assumption that he was being subjected to labour exploitation. Taking account of the fact that the evidence obtained during the preliminary investigation, including the testimony of the "potential victim" having returned to the Republic of Armenia during the preliminary investigation established that the an incident of crime was absent, the proceedings of the criminal case were discontinued.

In both of the presented examples, law-enforcement bodies did not have the right to refuse to conduct investigation and, moreover, they were obliged to commence proceedings of the case, i.e. to initiate a criminal case. In both cases, criminal cases should be initiated in no other way than under Article 132 of the Criminal Code since the contents of the reports contained elements of trafficking in human beings. At the moment of initiating both criminal cases, law-enforcement bodies could not reasonably assume what kind of evidence they could obtain during the preliminary investigation into the criminal case and what circumstances could be established thereby.

Is initiating a criminal case under the elements of Article 132 of the Criminal Code of the Republic of Armenia, establishing the objective reality and only thereafter discontinuing the criminal case a matter of concern? We believe that it is not a matter of concern, but is commendable. On the contrary, we believe that having a biased approach to the reports on the crime and refusing to initiate proceedings in the case — to initiate a criminal case — could be not only a matter of concern, but also condemnable.

Let us present an example of criminal cases initiated under the elements of trafficking, and the act was later re-qualified:

In 2016, the Police of the Republic of Armenia received a report on the fact that a pregnant woman had sold her newborn child for USD 3000. Taking account of the fact that the report on the crime contained elements of trafficking in human beings, a criminal case with regard to the incident was initiated under the elements of Article 132 of the Criminal Code of the Republic of Armenia. The assessment of abundant evidence obtained during the preliminary investigation into the criminal case established that the person had taken the infant not for exploitation, but for the purpose of taking his or her care, for which Article 168 of the Criminal Code of the Republic of Armenia provides for liability; thus charges were brought against the biological mother of the child, the person having taken the child, and the two medical workers assisting them in that process under Article 168 of the Criminal Code of the Republic of Armenia, i.e. the act was re-qualified, and the criminal case on these 4 persons was sent to court.

In this case as well, the criminal case should have been initiated in no other way than under Article 132 of the Criminal Code since the content of the report contained elements of trafficking in human beings. As a result of the assessment of the evidence obtained in the above-mentioned criminal case, the preliminary investigation body was obliged to re-qualify the act under Article 168 of the Criminal Code of the Republic of Armenia since criminal liability for buying a child to take his or her care, or selling a child to transfer to the care of the caretaker is prescribed under that Article and not under Article 132.

We insist with confidence that in this case there is no reason for concern as well.

Paragraph 41. In paragraph 41 of the draft Report and sub-paragraph 1 of paragraph 5 of the "Recommendations" Section, the Special Representative recommends that Armenian authorities step up the investigative efforts and prioritize proactive investigations and special investigative techniques without solely relying upon victim testimonies in investigating various forms of human trafficking.

In this regard, it is noteworthy that pursuant to part 3 of Article 17 of the Criminal Procedure

Code of the Republic of Armenia, bodies conducting criminal prosecution shall be obliged to undertake all the measures provided for by this Code to ensure comprehensive, complete and impartial examination of circumstances of a case, to reveal circumstances proving the guilt and exculpating the suspect and the accused, as well as mitigating and aggravating their liability.

It follows from the above-mentioned provision that the criminal prosecution bodies conduct a comprehensive, complete and impartial examination in each criminal case, i.e. they do not rely on, or are restricted only to testimonies of the victim or the potential victim. Moreover, in all cases when the victim or the potential victim refuse to co-operate with the preliminary investigation body and does not want to tell the truth, the preliminary investigation body undertake all the measures to find out the factual circumstances of the incident.

In addition, Article 183 of the Criminal Procedure Code of the Republic of Armenia prescribes the exhaustive list of acts provided for by the Articles of the Criminal Code, the cases with regard to which are initiated in no other way than upon the complaint of the victim. The act provided for by Article 132 of the Criminal Code of the Republic of Armenia is not included in the list prescribed by Article 183 of the Criminal Procedure Code of the Republic of Armenia; therefore the position of the victim or the potential victim cannot be of absolute importance for initiation of criminal cases with regard to cases of trafficking in and exploitation of human beings, or deciding on the course thereof.

Paragraph 42. In paragraph 42 of the draft Report, the Special Representative expressed concern about the fact that the practice of repeatedly interviewing children during investigations can contribute to re-victimisation of the child and cause additional trauma. Concurrently, the same paragraph and sub-paragraph 7 of paragraph 5 of the "Recommendations" Section recommended that Armenian authorities ensure that child victims are adequately protected during the investigation process by involving child psychologists and social workers to avoid multiple interviewing.

It is noteworthy that during the preliminary investigation into criminal cases, the interviewing of children, particularly child victims of trafficking, is always conducted with the participation of a child psychologist and his or her legal representative (parent). In case the participation of the legal representative is impossible, the guardianship and curatorship body is appointed as the legal representative of the child victim upon the decision of the preliminary investigation body and the representative thereof is also present during the investigative actions. In addition, maximum measures are undertaken in each criminal case to minimise the number of child interviews. The double interview of a child is conducted only in case when, following his or her interview, the preliminary investigation body finds new information that has been unknown during the previous interview and addressing questions thereon to the child is strongly necessary. In addition, sometimes on the advice of specialists — child psychologists, and based on the best interests of the child, the interview is conducted in stages to avoid causing additional trauma.

Moreover, the authorities of the Republic of Armenia always endeavour to improve the sector. Thus, the Ministry of Justice of the Republic of Armenia drafted the legislative package "On making amendments and supplements to the Criminal Procedure Code of the Republic of Armenia", which was sent to all interested agencies to receive opinions.

Paragraph 43. In paragraph 43 of the draft Report, the Special Representative, citing the provision provided for by part 5 of Article 132 of the Criminal Code of the Republic of Armenia, pursuant to which the victim of crimes provided for by Articles 132 and 132.2 of the same Code is exonerated from punishment for offences of minor or medium gravity which he/she was involved in during trafficking or exploitation and was forced to commit,

recommended prescribing open-ended list of offences typically related to trafficking in human beings with regard to the commission of which victims of human trafficking shall be immune from punishment.

We believe that accepting this recommendation is not grounded for the reason that part 5 of Article 132 of the Criminal Code of the Republic of Armenia already prescribes that the victim shall be released from criminal liability for crimes of only minor or medium gravity committed thereby.

It is noteworthy that the Criminal Code of the Republic of Armenia also specifies the physical or mental coercion as a circumstance excluding criminality of an act.

Thus:

Pursuant to Article 45 of the Criminal Code of the Republic of Armenia:

1. Causing harm through physical or mental coercion to the interests protected under criminal law shall not be deemed a crime where, as a result of which, the person could not control his or her actions (inaction).
2. The issue of criminal liability in cases when harm is caused to the interests protected under criminal law through such mental and physical coercion which does not deprive the person of the capability to control his or her actions shall be settled, having regard to the provisions of Article 44 of this Code.

Paragraph 44. Paragraph 44 of the draft Report specifies that: "Armenian legislation does not state the irrelevance of consent of the victim in establishing the trafficking offence. The baseline established by the Palermo Protocol is that the consent of an adult victim to the intended exploitation is irrelevant if any of the listed means are used." In the above-mentioned paragraph, as well as in sub-paragraph 4 of paragraph 5 of the "Recommendation" Section, the Special Representative recommended amending relevant legislation to include an explicit reference to the irrelevance of a victim's consent to the intended exploitation in the legal provisions.

It is noteworthy that there is no need for such legislative wording since for re-qualification of the act the means used by the alleged perpetrator and the method for committing the alleged crime are taken into consideration, not the consent given by the victim as a result thereof. Thus, where the victim gave his or her consent as a result of use of means and methods for committing a crime listed in part 1 of Article 132 of the Criminal Code of the Republic of Armenia, the consent thereof is deemed "invalid" and is not taken into consideration as required under international legal instruments.

In addition, pursuant to Article 33 of the Criminal Procedure Code of the Republic of Armenia:

1. Based on the gravity and nature of the crime committed, prosecution in the criminal procedure shall be conducted through public and private procedures.
2. Cases of private prosecution shall be deemed the cases with regard to crimes provided for by Article 183 of this Code.
3. Cases with regard to all other crimes shall be deemed the cases of public prosecution.

Thus, pursuant to Article 183 of the Criminal Procedure Code of the Republic of Armenia, cases with regard to trafficking in or exploitation of human beings are deemed the cases of public prosecution, whereby the criminal prosecution is conducted regardless of the consent of the victim; therefore, there is no need to make an explicit reference to the current legislation in relation to the specified issue.

Paragraph 45. In paragraph 45 of the draft Report, the Special Representative recommended the use of financial investigations in human trafficking cases to ensure

compensation to victims.

It is noteworthy that during the investigation into criminal cases initiated with regard to cases of trafficking in human beings, measures provided for by law are undertaken to detect the assets belonging to perpetrators, as well as those derived from criminal activity.

In addition, the Criminal Code of the Republic of Armenia and the Criminal Procedure of the Republic of Armenia regulate in detail the issues of compensation for the damage caused to victims.

Thus:

Pursuant to Article 158 of the Criminal Procedure Code of the Republic of Armenia:

1. A civil action in a criminal procedure may be instituted at any moment starting from the initiation of a criminal case until the court retires to deliberation room to render a criminal judgement.
2. A civil action shall be instituted against a suspect, accused or a person on whom liability in rem may be imposed for actions of the accused.

Pursuant to Article 232 of the Criminal Procedure Code of the Republic of Armenia:

1. An attachment of property shall apply for the purpose of securing a civil action, possible confiscation, levy of property and judicial expenses.
2. An attachment shall be imposed on the property of a suspect and an accused, as well as on the property of those persons who may be held materially liable for actions of the suspect or accused, irrespective of the type and whereabouts of property.
 - 2.1. Pursuant to Article 103.1 of the Criminal Code of the Republic of Armenia, an attachment shall be imposed on the property subject to levy, irrespective of the fact that it is owned or possessed by the person having committed the crime or any third party.

Pursuant to Article 233 of the Criminal Procedure Code of the Republic of Armenia:

1. An attachment on property by the bodies conducting criminal proceedings may be made solely when evidence collected under the case afford sufficient ground to assume that the suspect, accused or the person possessing the property may conceal, waste or exhaust the property subject to confiscation.
 - 1.1. The body conducting criminal proceedings shall promptly impose attachment on the property subject to levy provided for by part 1 of Article 103.1 of the Criminal Code of the Republic of Armenia.
2. An attachment of property shall be made based on a decision of the inquest body, investigator or prosecutor.

Pursuant to part 3.2 of Article 172 of the Criminal Procedure Code of the Republic of Armenia, criminal prosecution bodies may obtain information containing bank secret with regard to persons involved as a suspect or an accused in the criminal case, official information on transactions in securities by the Central Depository prescribed by the Law of the Republic of Armenia "On securities market", as well as information containing insurance secret based on a court decision on search or seizure.

Pursuant to Article 103.1 of the Criminal Code of the Republic of Armenia, any property directly or indirectly generated or received as a result of committing a crime, income or other types of benefits received from the use of that property, tools and means used or intended to be used for the commission of such crime, as a result of which property has been received, the property designed for terrorism financing, income or other types of benefits received from the use of that property, objects of smuggling transferred through the border of the Republic of Armenia by smuggling as provided for by Articles 215.1, 235.1 and 267.1 of this Code, and in the absence thereof — the property equivalent thereto, except for the property of bona fide third party, property necessary for the compensation of damages caused to the victim or civil plaintiff by crime, shall be subject to levy in favour of the State.

Thus, issues of compensation for damage caused to the victims, including the victims of trafficking, are regulated by the current legislation.

In addition to the above-mentioned, it would be desirable to make a reference to the handbook “Combat against trafficking and forced labour in armed forces” drafted on the initiative of the Center for Human Rights and Integrity Building of the Ministry of Defence of the Republic of Armenia and with the support of the U.S. Embassy in Armenia, based on which trainings were organised not only for the Peace-keeping Brigade of the Ministry of Defence of the Republic of Armenia, but also for the staff of the military commissariats of the Republic of Armenia and other subdivisions.