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LAW OF THE REPUBLIC OF MOLDOVA

Criminal Code of the Republic of Moldova

No.985-XV of 18 April 2002

Official Monitor of the Republic of Moldova No.128-129/1012
of 13 September 2002

(EXCERPTS)

Article 165. Trafficking in human beings

(1) The recruitment, transportation, transfer, harboring or receipt of a person, **with or without her consent**, for the purpose of commercial and non-commercial sexual exploitation, forced labor or services, slavery and slavery-like conditions, using a person in armed conflicts or in criminal activities, removal of organs or tissues for transplantation, by means of:

- a) threat of use or use of physical or psychological violence non-dangerous for a person's life and health, including through abduction, confiscation of documents and servitude for the repayment of a debt whose limits are not reasonably defined;
- b) deception;
- c) abuse of a position of vulnerability or abuse of power, by giving or receiving payments or benefits to achieve the consent of a person having control over another person;

shall be punished with imprisonment between 7 and 15 years, **with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 2 to 5 years, and a legal entity shall be sanctioned with a fine in an amount of 3000 to 5000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.**

(2) Actions provided by paragraph 1) of the present article committed:

- a) repeatedly;
- b) against two or more persons;
- c) against a pregnant woman;
- d) by two or more persons;
- e) **by a decision-making person or by a person with high-ranking position;**
- f) accompanied by dangerous violence for a person's life, physical or psychological health;
- g) by way of torture, inhuman or degrading treatment to ensure the person's compliance or through rape, physical bondage, use of a weapon or threat or disclosure of confidential information to the person's family and other persons as well through other means;

shall be punished with imprisonment between 10 and 20 years **with deprivation of the right to occupy certain positions or to exercise certain activity for a period of 2 to 5 years, and a legal entity shall be sanctioned with a fine in an amount of 5000 to 7000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.**

(3) Actions envisaged by paragraphs (1) or (2) of the present article, committed:

- a) by an organized criminal group or criminal organization;
- b) that resulted in serious bodily harm or mental illness to the person, in the person's death or suicide,

shall be punished with a imprisonment between 15 and 25 years, with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 3 to 5 years or with life imprisonment, and a legal entity shall be sanctioned with a fine in an amount of 7000 to 9000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.

4) the victim of trafficking in human beings shall be exempted from criminal liability for the offences committed by him/her in connection with this status.

[Art. 165 amended by Law No. 376-XVI from 29 December 05, entry into 31 January 06]

Article 206. Trafficking in children

(1) Recruitment, transportation, transfer, sheltering or reception of a child, or giving, or receiving payments or benefits in order to obtain the consent of the person who is in control of the child for the purpose of:

- a) commercial or non-commercial sexual exploitation, prostitution, use in the pornography industry;
- b) forced labor or services exploitation;
- c) slavery exploitation or in conditions similar to slavery, including illegal adoption;
- d) using the child in armed conflicts;
- e) using the child in criminal actions;
- f) removal of organs or tissues for transplant;
- g) abandonment outside the country,

shall be punished with imprisonment for between 10 and 15 years with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 2 to 5 years, and a legal entity shall be sanctioned with a fine in an amount of 3000 to 5000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.

(2) Same actions, accompanied by:

- a) use of physical or psychological violence against the child;
- b) subjecting the child to sexual abuse and commercial or non-commercial sexual exploitation;
- c) use of torture, inhuman or degrading treatment to ensure the child's compliance or accompanied by rape, taking advantage of physical dependence of the child, using a weapon, threat of disclosure with divulgation of confidential information to the child's family or to other persons;
- d) subjecting the child to slavery or similar to slavery conditions;
- e) use of the child in armed conflicts;
- f) removal of organs or tissues for transplant,

shall be punished with imprisonment for between 15 and 20 years with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 2 to 5 years, and a legal entity shall be sanctioned with a fine in an amount of 5000 to 7000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.

(3) Actions envisaged by paragraphs (1) and (2) of this article and:

- a) committed repeatedly;
- b) committed against two or more children;
- c) committed by a decision-making person or by a person with a high-ranking position;
- d) committed by an organized criminal group or criminal organization;

e) resulted in the child's death, his/her suicide, serious bodily injury or mental illness, shall be punished with imprisonment for between 20 and 25 years with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 3 to 5 years or with life imprisonment, and a legal entity shall be sanctioned with a fine in an amount of 7000 to 9000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.

(4) the victim of trafficking in children shall be exempted from criminal liability for the offences committed by him/her in connection with this status.

[Art. 206 amended by Law No. 376-XVI from 29 December 05, entry into 31 January 06]

Article 220. Pimping

(1) Encouraging or forcing to prostitution or advantaging of practising the prostitution, or making profits out of practicing prostitution by a person, as well as recruiting a person for prostitution, shall be punished by fine in the amount of 200 to 800 conventional units or by imprisonment for between 2 and 5 years.

(2) The same acts:

- a) committed in regard to a minor;
- b) committed by an organized criminal group or a criminal organization;
- c) that resulted in serious consequences,

shall be punished by imprisonment for between 4 and 7 years.

Article 362¹. Organization of illegal migration

(1) Organization, for a financial gain, of the illegal entry and/or residence on a state's territory of a person that is not its citizen or resident, committed through:

- a) fabrication, keeping, sale or use of fake official documents;
- b) illegal issuing or obtaining of documents or through a fake declaration;
- c) use of official documents by a person other than the legal holder,

shall be punished by a fine in the amount of 300 to 500 conventional units or by imprisonment for between 3 to 5 years, with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 1 to 3 years, and a legal entity shall be sanctioned with a fine in the amount of 1000 to 2000 conventional units, with deprivation of the right to exercise a certain activity or with liquidation of the enterprise.

(2) The same actions committed:

- a) repeatedly;
- b) against two or more persons;
- c) by two or more persons

shall be punished by fine in the amount of 500 to 800 conventional units or by imprisonment for between 3 to 5 years, with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 1 to 3 years, and a legal entity shall be sanctioned with fine in the amount of 2000 to 3000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.

(3) The actions defined in paragraphs (1) and (2):

- a) committed by an organized criminal group or by a criminal organization;
- b) that resulted in serious damage to the public interests or to the rights and interests protected by law of the physical and legal persons,



shall be punished by a fine in the amount of 800 to 1000 conventional units or by imprisonment for between 5 to 7 years, with deprivation of the right to occupy certain positions or to exercise a certain activity for a period of 1 to 3 years, and a legal entity shall be sanctioned with fine in the amount of 3000 to 5000 conventional units, with deprivation of the right to exercise a certain activity, or with liquidation of the enterprise.

[Art. 362¹ amended by Law No. 376-XVI from 29 December 05, entry into 31 January 06]



PARLAMENTUL
REPUBLICII MOLDOVA



PARLIAMENT
OF THE REPUBLIC OF MOLDOVA

Law on Preventing and Combating Trafficking in Human Beings

(Unofficial Translation prepared by the OSCE Mission to Moldova, January 2006)

No. 241-XVI of 20 October 2005

Official Monitor of the Republic of Moldova no. 164-167/812
of 9 December 2005

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The Parliament hereby adopts the present organic law.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of the Law

The present Law regulates legal relationships concerning:

- a) preventing and combating trafficking in human beings;
- b) assistance framework for preventing and combating trafficking in human beings, for protection, and for granting assistance to victims of such trafficking;
- c) cooperation of public administration authorities with non-governmental organizations and other representatives of civil society in preventing and combating trafficking in human beings;
- d) cooperation with other states and international and regional organizations competent in the field.

Article 2. Main Terms

In the present law, the following main terms will be used:

- 1) trafficking in human beings – recruitment, transportation, transfer, harbouring or receipt of a person, by means of threat of force or use of force or other forms of coercion, of abduction, fraud, deception, of abuse of authority or a situation of vulnerability, or by means of offering or receiving payments or benefits of any kind in order to obtain the consent of a person who has control over another person for the purpose of exploitation of the latter;
- 2) trafficking in children – recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, even if these actions were not accomplished through any of the means provided in sub-paragraph 1);
- 3) exploitation of a person – abuse of a person in order to obtain profit, namely:
 - a) compelling to perform work or services, by use of force, threats or other forms of coercion, in violation of the legal provisions connected to labour conditions, remuneration, health and security;
 - b) slavery, use of certain practices similar to slavery, or resorting to other ways of deprivation of liberty;
 - c) compelling to engage in prostitution, to participate in pornographic performances, with a view to the production, distribution and any introduction into circulation of such performances, the acquisition, sale or possession of pornographic material, or practicing other forms of sexual exploitation;
 - d) compelling harvesting of organs or tissues for transplantation or collection of other component parts of the human body;
 - e) using a woman as a surrogate mother or for reproductive purposes;
 - f) abuse of child's rights with a view to illegal adoption;
 - g) use in armed conflicts or in illegal military formations;
 - h) use in criminal activities;
 - i) compelling to engage in begging;
 - j) sale to another person;
 - k) compelling to engage in other activities that violate fundamental human rights and freedoms.

The consent of a victim of trafficking in human beings to the intentional exploitation, stipulated in sub-paragraph 3), is irrelevant when any of the means of coercion specified in sub-paragraph 1) are employed;

- 4) child – any person under 18 years of age;
- 5) document – passport or identity card or any kind of travel documents of the person subject to exploitation;
- 6) seizure of documents – depriving by any means the person subject to exploitation of the documents mentioned in sub-paragraph 5);
- 7) debt bondage – the state of a person deprived of freedom, including the freedom of movement or holding hostage until he/she or a third party reimburses a legally or illegally established debt;
- 8) slavery – state or condition of a person over whom one or all entitlements flowing from a right of ownership are exercised;
- 9) slavery-like practices – state of a person who is kept or forced in a situation in which another person exercises mastery over him/her or forces him/her through deception or threats of violence, violence or other means of coercion to offer certain services, including to enter into or to remain as a concubine or in a marital relationship;
- 10) state of vulnerability – special state in which a person is found such that he/she is inclined to be abused or exploited, especially due to:
 - a) his/her precarious situation from the standpoint of social survival;
 - b) situation conditioned upon age, pregnancy, illness, infirmity, physical or mental deficiency;
 - c) his/her precarious situation due to illegal entry or stay in a country of transit or destination;
- 11) victim of trafficking in human beings – a natural person presumed or found to be subjected to acts of trafficking as provided for in sub-paragraphs 1) and 2).
- 12) trafficker in human beings – a person who participates in the organizing and carrying out of activities of trafficking in human beings;
- 13) identification of victims of trafficking in human beings – the process of verification of persons presumed to be victims of trafficking in human beings.

Article 3. Legal Framework

The legal framework for the activity of preventing and combating trafficking in human beings and for protection of victims of trafficking is constituted by the Constitution of the Republic of Moldova, the international treaties to which the Republic of Moldova is a party, the present law, and other normative acts that regulate relationships in this field.

Article 4. Basic Principles of Combating Trafficking in Human Beings

Combating trafficking in human beings shall be carried out on the basis of the following principles:

- a) observance of human rights and fundamental freedoms;
- b) acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings;
- c) inevitability of punishment for traffickers in human beings;
- d) legality;
- e) free access to justice;
- f) ensuring security and a fair attitude towards victims of trafficking in human beings;
- g) holistic use of preventive measures: legal, political, socio-economic and informational;

- h) social partnership, collaboration of public administration authorities with international organizations, non-governmental organizations, and other representatives of civil society;
- i) proportionality between the observance of fundamental rights of victims of trafficking in human beings and the conditions of criminal prosecution, in a manner that is not harmful to the rights of the defendant;
- j) equal treatment of all forms and types of national and transnational trafficking in human beings, whether or not related to organized crime, etc.;
- k) collaboration of competent public administration authorities and organizations of other states with international organizations in order to achieve the objectives of combating trafficking in human beings.

Article 5. Non-Discrimination

Implementation of the provisions of the present Law, especially measures for the protection of the rights of victims of trafficking in human beings, shall be ensured without discrimination on any criteria, such as: sex, race, language, religion, political or other opinion, social or national origin, citizenship, association with an ethnic minority, etc.

Chapter II

INSTITUTIONAL FRAMEWORK. PREVENTING AND COMBATING TRAFFICKING IN HUMAN BEINGS

Article 6. Authorities Competent to Prevent and Combat Trafficking in Human Beings

- (1) In order to increase the efficiency of activities to prevent and combat trafficking in human beings, especially in women and children, public administration authorities listed in the present chapter, non-governmental organizations and other representatives of civil society shall engage, separately or in combination, in such activity.
- (2) While performing activities to prevent and combat trafficking in human beings, public administration authorities listed in the present chapter shall collaborate among themselves through exchange of information, sharing experts, carrying out joint activities of victim examination and identification, personnel training, conducting socio-economic initiatives, as well as through other activities in the field.
- (3) Non-governmental organizations and international organizations with activities in the field and represented in the Republic of Moldova shall be provided free rein when contributing to shaping the institutional framework and to activity to prevent and combat trafficking in human beings.

Article 7. National Plan to Prevent and Combat Trafficking in Human Beings

- (1) For the purpose of preventing and combating trafficking in human beings, as well as for the protection of victims of such trafficking, the Government shall approve the National Plan to Prevent and Combat Trafficking in Human Beings (hereinafter referred to as the National Plan).
- (2) The National Plan shall be approved periodically for a two-year term. It shall regulate the implementation of holistic measures and the realization of socio-economic initiatives aimed at preventing and combating trafficking in human beings as well as at protecting victims of such trafficking, including collaboration with international organizations, non-governmental organizations, other institutions and representatives of civil society.
- (3) Central and local public administration authorities empowered in the field of preventing and combating trafficking in human beings shall adopt their own action plans for realization of the National Plan in their fields of activity.

Article 8. National Committee to Combat Trafficking in Human Beings

- (1) Coordination of activity to prevent and combat trafficking in human beings and cooperation of public administration authorities with international organizations, non-governmental organizations, other institutions and representatives of civil society [in such activities], shall be carried out by the National Committee to Combat Trafficking in Human Beings (hereinafter referred to as the National Committee).
- (2) The National Committee is a consultative body of the Government.
- (3) The nominal composition of the National Committee and its Regulation shall be approved by the Government. The procedure for appointment and revocation of the members of the National Committee shall be regulated by the Regulation of the National Committee.
- (4) The National Committee shall have the following powers:
 - a) to submit to the Government proposals on the fundamental elements of state policy in the field of preventing and combating trafficking in human beings and recommendations aimed at improving the activity of detection and elimination of the causes and conditions facilitating the appearance of trafficking in human beings and activities of trafficking in human beings;
 - b) to regulate implementation of the National Plan and observance of legislation on preventing and combating trafficking in human beings by state institutions and organizations, and to report to the Government on the means of implementation of the National Plan;
 - c) to collect and analyse information about the scope, conditions and trends of trafficking in human beings at the national level;
 - d) to submit proposals for legislative improvements in the field of preventing and combating trafficking in human beings and protection of victims of such trafficking;
 - e) to organize public awareness raising campaigns on issues of trafficking in human beings and social dangers of this phenomenon;
 - f) to coordinate the activity of territorial commissions for combating trafficking in human beings and specialized institutions with respect to realization of the National Plan and performance of actions to prevent and combat trafficking in human beings;
 - g) periodically to assess and monitor the process of realization of the National Plan and to inform the Government and civil society about the results obtained.
- (5) The National Committee is comprised by representatives of public administration authorities, including law enforcement bodies, and organizations carrying out activities to prevent and combat trafficking in human beings.
- (6) Representatives of non-governmental organizations and international organizations that have their representation offices in the Republic of Moldova and are involved in activities to combat trafficking in human beings and grant assistance to victims of such trafficking, may attend the meetings of the National Committee, with the right to a consultative vote, and they shall be included in the composition of the National Committee and the territorial commissions for combating trafficking in human beings.
- (7) Organizational matters of the National Committee are ensured by a secretary, appointed by its Chairman.
- (8) The National Committee shall submit to the Government periodically, but not less frequently than once per year, by February 1st, as well as upon request, a report on its activity. At any other time central public administration authorities may request information from the National Committee on the state of observance of legislation on preventing and combating trafficking in human beings.

Article 9. Territorial Commissions to Combat Trafficking in Human Beings

- (1) For the purpose of coordination of activities to prevent and combat trafficking in human beings in districts, municipalities, and the autonomous territorial unit of Gagauzia, territorial commissions to combat trafficking in human beings shall be created within the executive bodies of the respective representative authorities. In the Chisinau Municipality, such commissions shall also be created within sectors.
- (2) The territorial commissions to combat trafficking in human beings shall have the following functions:
 - a) to organize and coordinate activity to prevent and combat trafficking in human beings, protection and assistance to victims of such trafficking, and collaboration between local public administration authorities, law enforcement authorities, non-governmental organizations, institutions and other representatives of civil society working in this field;
 - b) to implement the measures set out in the National Plan at the local level;
 - c) periodically to assess and monitor on-site activities to prevent and combat trafficking in human beings carried out by state bodies and to inform and submit proposals regarding improvement of the effectiveness of these activities to the respective representative authorities and the National Committee;
 - d) to grant assistance in drafting research programs and assessments and collecting statistical data regarding trafficking in human beings;
 - e) to implement training programmes regarding preventing and combating trafficking in human beings for vulnerable persons and civil servants involved in such activities.
- (3) The Regulation of the territorial commissions to combat trafficking in human beings shall be approved, respectively, by district councils, municipal councils, and the General Assembly of the autonomous territorial unit of Gagauzia on the basis of the Framework Regulation approved by Government decision.
- (4) The territorial commission shall submit to the respective representative authority and the National Committee a periodic activity report not less frequently than once per year, by the 15th of January.

Article 10. Functions of Public Administration Authorities in the Field of Preventing and Combating Trafficking in Human Beings

- (1) In conformity with their functions:
 - 1) The Ministry of Interior, Ministry of Foreign Affairs and European Integration, Intelligence and Security Service, and National Migration Bureau shall develop a list of states that pose an increased risk of trafficking in human beings and shall bring such list to the attention of interested bodies;
 - 2) The Ministry of Foreign Affairs and European Integration, Intelligence and Security Service, Ministry of Interior, Frontier Guard Service, and National Migration Bureau shall take necessary actions to forbid [presence] on the territory of the Republic of Moldova by foreign citizens and stateless persons, where there is accurate information that they are traffickers in human beings;
 - 3) The Frontier Guard Service shall undertake measures to prevent and combat trafficking in human beings through prevention, detection, and deterrence of attempted border crossings of the state border by traffickers in human beings, as well as illegal border crossings of the state border by victims of trafficking in human beings;
 - 4) The Ministry of Health and Social Protection:

- a) shall, with the assistance of the National Employment Agency, implement information activities on topics related to the situation in the labour market, vocational training programmes, or incentives for employment, by offering labour mediation services, professional information and counselling, vocational orientation and training, as well as consultations and assistance in starting a business activity;
 - b) shall, through social assistance bodies, ensure to victims of trafficking in human beings information and counselling and extend to them the facilities provided by law for socially marginalised persons;
 - c) shall develop medical assistance programs, including psychiatric assistance, and designate the medical institutions that will offer such assistance to victims of trafficking in human beings;
- 5) The Ministry of Education, Youth and Sports shall, in cooperation with other interested ministries, local public administration authorities, and non-governmental organizations working in this field, develop educational and training programmes for teachers, parents, children, and at-risk groups aimed at eliminating all the causes and conditions that encourage trafficking in human beings, especially in women and children;
- 6) The National Migration Bureau shall issue, as provided by law, immigrant certificates valid for a certain period to foreign citizens and stateless persons who are victims of trafficking in human beings;
- 7) The Ministry of Foreign Affairs and European Integration shall contribute to preventing and combating trafficking in human beings, especially through organizing and participating in negotiations in order to conclude international treaties with other states and international organizations in the field of trafficking in human beings, as well as through granting assistance and protection to trafficked persons abroad, within the limits of international legal provisions;
- 8) The Ministry of Information Development shall ensure the identification of victims of trafficking in human beings and shall issue residence permits or, as the case may be, identity cards to victims of trafficking in human beings who are foreign citizens or stateless persons, where their stay [in Moldova] is necessary due to their personal circumstances or due to their participation in criminal proceedings against the trafficker, under the conditions stipulated in paragraph (6) of Article 24;
- 9) The Ministry of Economy and Commerce, together with other interested ministries and departments, shall develop and implement socio-economic programmes aimed at the removal of the economic causes and conditions encouraging illegal migration, including trafficking in human beings;
- 10) The Ministry of Justice shall submit every 6 months the list of non-governmental organizations engaged in activities to prevent and combat the trafficking phenomenon and to assist and protect victims of trafficking. The Ministry of Justice, jointly with other central public administration authorities specified in this Article, shall prepare draft normative acts to regulate relations in the sphere of preventing and combating trafficking in human beings, as well as granting protection and assistance to victims;
- 11) The centres for assistance and protection of victims of trafficking in human beings shall issue provisional identity documents for the period of accommodation, with the possibility of extension as provided in Article 17.
- (2) The central public administration authorities competent in preventing and combating trafficking in human beings, the local public administration authorities, and the territorial commissions for combating trafficking in human beings shall systematically organize informational awareness-raising campaigns for the population and shall develop and distribute publicity materials on the risks that potential victims of trafficking in human beings can be exposed to, in active collaboration with mass-media.
- (3) The public administration authorities mentioned in the present Article shall periodically inform the National Committee about the actions undertaken to prevent and combat trafficking in human beings, by presenting proposals to increase the efficacy of these activities.

Article 11. Functions of Law Enforcement Bodies in the Field of Preventing and Combating Trafficking in Human Beings

- (1) The Ministry of Interior and its central and territorial subdivisions shall:
 - a) carry out activities to prevent and combat trafficking in human beings through prevention, detection, and deterrence of crimes related to trafficking in human beings in accordance with effective legislation by conducting criminal prosecution in criminal cases of trafficking and other related actions;
 - b) ensure, upon request, the physical protection of victims of trafficking in human beings throughout criminal proceedings and grant other assistance and protection according to this Law and other normative acts in this field.
- (2) The Ministry of Interior, through its organizations specialized in preventing and combating trafficking in human beings, shall carry out operative investigative activities, criminal prosecution, international cooperation for the identification and protection of victims of trafficking in human beings, analysis and intelligence and shall facilitate the creation of regional centres for preventing and combating trafficking in human beings.
- (3) The Ministry of Interior, supported by other ministries and departments, shall develop, administer and maintain an updated database regarding the phenomenon of trafficking in human beings, whilst respecting the confidentiality of the personal data of victims of trafficking in accordance with Article 21 of the present Law.
- (4) The Ministry of Interior, jointly with the General Prosecutor's Office, shall carry out studies aimed at detecting and eliminating the causes and conditions encouraging trafficking in human beings and shall publish each semester in the mass media the statistical information and analytical reports on preventing and combating trafficking in human beings and protecting victims.
- (5) The General Prosecutor's Office, within the scope of its competence, shall carry out activities to prevent and combat trafficking in human beings in compliance with effective legislation, shall coordinate, conduct, and perform criminal prosecution in cases related to such trafficking, shall represent the state prosecution in courts, shall supervise the observance of human rights, including of victims of trafficking, and shall take other necessary measures in this field. Within the General Prosecutor's Office, a specialized subdivision for preventing and combating trafficking in human beings shall be established.
- (6) The Intelligence and Security Service and its territorial bodies shall carry out activities to prevent and combat trafficking in human beings through detection of connections of international organizations and organized criminal groups with traffickers in human beings, as well as through other activities carried out within its terms of reference.
- (7) A coordinating council of law enforcement bodies with functions in the field of combating of trafficking in human beings shall be created by the General Prosecutor.
- (8) The law enforcement bodies shall submit annually, not later than the 10th of January, to the coordinating council of the General Prosecutor, reports on the observance within the country of legislation on preventing and combating trafficking in human beings; also the General Prosecutor shall submit these respective reports to the National Committee by the 20th of January.

Article 12. Activity of Non-Governmental Organizations in the Field of Preventing and Combating Trafficking in Human Beings

- (1) In order to prevent and combat trafficking in human beings, to provide protection and assistance to victims, and to coordinate current activities, international organizations represented in the Republic of Moldova and non-governmental organizations active in this field may cooperate with public administration authorities and competent bodies, in compliance with their statutes and regulations, and may organize information campaigns on trafficking in human beings and the risks to which victims of such trafficking are exposed.
- (2) Non-governmental organizations may establish centres for the protection and assistance of victims of trafficking in human beings.

(3) Non-governmental organizations shall carry out activities of identification of victims of trafficking in human beings, grant legal and other kinds of protection and assistance to victims, and take other measures and actions to prevent and combat such trafficking in accordance with their statute.

Article 13. Special Provisions in the Field of International Transportation

The respective agencies and structures in the field of international transportation are obliged to verify whether all passengers possess the documents necessary to enter the country of destination.

Article 14. Vocational Training and Education of Personnel

(1) The state shall guarantee vocational training and education of employees in law enforcement authorities, migration bodies, and other authorities in the field of preventing and combating trafficking in human beings.

(2) Such vocational training and education of personnel shall be based on the methods of preventing and combating trafficking in human beings, the most advanced techniques for conducting criminal investigation in cases of trafficking in human beings, including trafficking in children, the observance of the rights and interests of victims of trafficking and on the most advanced forms of their protection.

(3) The vocational training and education of personnel shall comprise methods and forms of collaboration of public administration authorities with representations of international and regional organizations in the Republic of Moldova, non-governmental organizations, other institutions and representatives of civil society, as well as methods and forms of cooperation and collaboration of public administration authorities, organizations and institutions of the Republic of Moldova with interested authorities, organizations and institutions of other states and with international and regional organizations.

Chapter III

PROTECTION AND ASSISTANCE OF VICTIMS OF TRAFFICKING IN HUMAN BEINGS

Article 15. Identification of Victims of Trafficking in Human Beings

Identification of victims of trafficking in human beings shall be carried out by the competent public authorities with the support of non-governmental organizations or by non-governmental organizations that have reasonable grounds to believe that a person is a victim of such trafficking.

Article 16. Social Rehabilitation of Victims of Trafficking in Human Beings

Social rehabilitation of victims of trafficking in human beings shall be carried out in order to reintegrate them back into a normal way of life and shall include the provision of legal and material assistance, psychological, medical and professional rehabilitation, employment, and a dwelling space.

Article 17. Centres for Protection and Assistance of Victims of Trafficking in Human Beings

(1) The centres for protection and assistance of victims of trafficking in human beings (hereinafter referred to as centres) shall be specialized institutions providing civilized conditions of accommodation and personal hygiene, nutrition, emergency legal, social, psychological and medical care, security and protection, as well as assistance with contacting relatives.

- (2) The centres may be established by:
 - a) the Government, on the proposal of the National Committee;
 - b) local public administration authorities, on the proposal of the territorial commission mentioned in Article 9;
 - c) international and non-governmental organizations, with notification to the National Committee;
 - d) public administration authorities and non-governmental or private organizations, on the basis of an agreement on joint activities.
- (3) The centres shall provide accommodation to victims of trafficking in human beings upon their personal request for a period of up to thirty days.
- (4) The duration of accommodation specified in paragraph (3) may be prolonged:
 - a) upon the recommendation of the physician during the period of treatment, but not longer than 6 months;
 - b) upon the request of the criminal prosecution bodies or courts during the period of criminal proceedings, and when the life and health of the victim are threatened by real danger, the duration of accommodation may be prolonged even after the termination of criminal proceedings for a period deemed necessary for the protection of the victim, based upon the prosecutor's request;
 - c) upon the request of the victim of trafficking in human beings, with an indication of the reasoned justification, for a maximum period of 30 days.
- (5) Pregnant women, who are victims of trafficking in human beings, shall be entitled to accommodation in the centre for a period of up to one year.
- (6) The regulation of organization and operation of the centres shall be approved by the founders, based upon the Framework Regulation approved by Government decision.
- (7) The costs related to the centres' activity shall be covered from the founders' joint budgets.
- (8) The organization and operation of the centres may be supported materially and financially by economic agents and entrepreneurs, according to the Law of Philanthropy and Sponsorship;
- (9) In order to ensure the security of the premises where victims of trafficking in human beings are accommodated, the centres may seek free of charge assistance from the police.

Article 18. Professional Integration of Victims of Trafficking in Human Beings

- (1) Professional integration of victims of trafficking in human beings shall be carried out with the support of employment agencies under the terms of the legislation in force.
- (2) Employment agencies shall offer victims of trafficking in human beings priority free of charge services in the field of labour mediation, information and professional counselling, professional orientation and vocational training, as well as consultancy and assistance in starting up a business.
- (3) Victims of trafficking in human beings are entitled to undergo a vocational training course financed from the unemployment fund.
- (4) Beneficiaries of the services provided in paragraphs (2) and (3) shall be victims over the age of 16 years.

Article 19. Repatriation of Victims of Trafficking in Human Beings

- (1) The Republic of Moldova shall contribute without undue delay to the repatriation and reception of victims of trafficking in human beings, who are its citizens, or stateless persons, who were entitled to permanent residence in the territory of the Republic of Moldova upon entry into the territory of another state, taking into account the need to ensure their security.

- (2) Upon request of a country of destination, the competent authorities of the Republic of Moldova shall verify, without undue delay, whether a victim of trafficking in human beings is a citizen of the Republic of Moldova or whether he/she was entitled to permanent residence in its territory upon entry into the country of destination, and shall so inform the soliciting state and simultaneously undertake measures for the victim's repatriation.
- (3) For the purpose of facilitating repatriation of a victim of trafficking in human beings who is a citizen of the Republic of Moldova or who was entitled to permanent residence in the Republic of Moldova upon entry into the country of destination and who does not possess the necessary documents, the competent authorities of the Republic of Moldova, upon request of the country of destination, shall issue travel documents or any other authorization needed for the repatriation.
- (4) The provisions of this Article shall apply without prejudice to any right granted to the victim of trafficking in human beings by any law of the country of destination.
- (5) The regulation on the procedure of repatriation of victims of trafficking in human beings who are citizens of the Republic of Moldova or who were entitled to permanent residence in the Republic of Moldova upon entry into the country of destination, shall be approved by the Ministry of Foreign Affairs and European Integration, together with the Ministry of Interior and the Ministry of Information Development.

Article 20. Protection and Assistance of Victims of Trafficking in Human Beings

- (1) Victims of trafficking in human beings shall be offered assistance in physical, psychological, and social recovery through specialized medical, psychological, legal, and social measures.
- (2) A person who is presumed to be a victim of trafficking in human beings shall be deemed a vulnerable person and shall benefit from the minimum package of social and medical assistance provided by the institutions of the Ministry of Health and Social Protection. Persons who are recognized as victims of trafficking must be provided free assistance in the medical institutions defined by the Ministry of Health and Social Protection.
- (3) The state, through its competent bodies and organizations, shall take prompt adequate measures for the identification and referral of victims of trafficking in human beings to protection and assistance services, offering them a reflection period of 30 days. During this period of time, the implementation of any expulsion order issued against this person shall be prohibited.
- (4) Providing protection and assistance services shall not be conditioned upon the willingness of victims to make statements and to participate in the prosecution of traffickers.
- (5) The competent public administration authorities shall inform victims of trafficking in human beings of their rights and about the authorities, institutions, and organizations that are competent in the field of preventing and combating trafficking in human beings and protecting and assisting victims of trafficking.
- (6) Victims of trafficking in human beings shall be provided protection and assistance by the public administration authorities, the National Committee, and the territorial commissions for combating trafficking in human beings, within the scope of their competencies and in accordance with this Law and other normative acts.
- (7) Non-governmental organizations active in the field are entitled to grant protection and assistance to victims of trafficking in human beings, including the protection of their interests in a criminal or civil suit.
- (8) Each time when a competent authority or an international or non-governmental organization active in the field has reasonable grounds to believe that a person is a victim of trafficking in human beings, such person shall be offered all the protection and assistance measures provided for in the present Law.

Article 21. Confidentiality of Private Life of Victims of Trafficking in Human Beings

- (1) The private life and identity of a victim of trafficking in human beings shall be protected. The registration, maintenance, and use of personal information regarding a victim of trafficking shall be done by taking into account the special rules of confidentiality, with the aim of administration of justice and protection of victims only during criminal proceedings.
- (2) Disclosure of information on the private life and identity of victims of trafficking in human beings and the conditions of these persons' trafficking is prohibited.
- (3) It shall be prohibited to disclose information about state protection measures for victims of trafficking in human beings, about the persons who provide such protection, as well as about the persons who provide assistance in combating trafficking in human beings.
- (4) Observance of the confidentiality of the information provided in paragraphs (1) to (3) shall be the duty of all persons, including those involved in activities to prevent and combat trafficking in human beings and to protect and assist victims, law enforcement bodies, courts, centres provided for in Article 17, as well as social workers.
- (5) In case the life and health of a victim of trafficking in human beings are threatened by real danger, then she is offered, upon her request, based upon a court ruling, at the request of the prosecutor, of the criminal investigation body, the possibility to change his/her name, surname, date and place of birth, under the terms of the Law on Civil Status Acts and the Law on State Protection of an Injured Party, Witnesses and Other Persons Providing Assistance in Criminal Proceedings.
- (6) The disclosure of information about safety measures and confidential data regarding victims of trafficking in human beings, as well as disclosure of information about criminal prosecution and measures provided to ensure the safety of the participants at criminal proceedings, shall be punished in compliance with legislation on criminal and administrative offences.

Article 22. Duties of Diplomatic Missions and Consular Offices of the Republic of Moldova for Providing Assistance and Protection to Victims of Trafficking in Human Beings

- (1) The diplomatic missions and consular offices of the Republic of Moldova shall have the following duties:
 - a) to carry out activities to protect the rights and interests of citizens of the Republic of Moldova who have become victims of trafficking in human beings in the country of residence or, in countries where they have accredited missions, to contribute to their repatriation in compliance with the legislation of the Republic of Moldova and the legislation of the country of residence;
 - b) in case of loss or impossibility of recovery of identity documents from the traffickers in human beings, to issue free of charge and in a prompt manner, jointly with the subdivisions of the Ministry of Information Development, documents or any other acts needed for repatriation in the Republic of Moldova by citizens of the Republic of Moldova who have become victims of trafficking in human beings;
 - c) to distribute to those interested informative materials regarding the rights of victims of trafficking in human beings, according to the legislation of the Republic of Moldova and the legislation of the state of residence;
 - d) to provide to public administration authorities and judicial bodies of the state of residence or in countries where they have accredited missions information regarding the legislation of the Republic of Moldova in the field of preventing and combating trafficking in human beings, regarding the rights of victims and their protection and assistance, including addresses for the Centres for the Protection and Assistance of Victims of Trafficking in Human Beings.



(2) The chiefs of diplomatic missions and consular offices shall appoint a diplomat from their missions to be in charge of the application of repatriation procedures for Moldovan citizens who are victims of trafficking in human beings, for their protection and assistance during their stay in the country of transit or destination, as well as for cooperation in this field with the authorities and bodies from the Republic of Moldova.

Article 23. State Guarantees Granted to Victims of Trafficking in Human Beings

(1) Courts and criminal prosecution bodies shall grant to victims of trafficking in human beings measures to safeguard their physical safety and rights, as regulated by the Criminal Procedure Code and the Law on State Protection of an Injured Party, Witnesses and Other Persons Providing Assistance in Criminal Proceedings.

(2) Victims of trafficking in human beings are entitled to compensation for damages, as provided by the law.

Article 24. Protection and Assistance to Foreign Citizens and Stateless Persons who are Victims of Trafficking in Human Beings

(1) The Republic of Moldova shall grant assistance to foreign citizens and stateless persons who are victims of trafficking in human beings upon their voluntary repatriation to their country of origin on an emergency basis and shall ensure their transportation in completely safe conditions to the state border of the Republic of Moldova, unless otherwise provided in international treaties. The victim of trafficking in human beings may not be repatriated or expelled to his/her country of origin or to a third state if, upon estimating the risk and safety, reasons are found to presume that his/her personal safety or the safety of his/her family will be endangered.

(2) In order to guarantee protection and assistance to foreign citizens and stateless persons who are victims of trafficking in human beings, they may be referred to the centres provided for in Article 17.

(3) Foreign citizens and stateless persons who are victims of trafficking in human beings, as specified in paragraphs (1) and (2), shall be informed in a language they can understand of the judicial and administrative procedures enforced in the Republic of Moldova and in the countries of residence.

(4) Foreign citizens and stateless persons who are victims of trafficking in human beings mentioned in paragraph (1) are entitled to a reflection period of 30 days, to psychiatric and psychological counselling, and to medical and social assistance. These persons may also enjoy free of charge legal assistance for the exercise of their rights at all stages of the criminal proceedings and to pursue their civil claims and lawsuits against the persons who perpetrated the crimes connected to trafficking in human beings, as provided by the Criminal Code. In this period of time, the implementation of any expulsion order issued against these persons is forbidden.

(5) If foreign citizens and stateless persons who are victims of trafficking in human beings have no identification documents due to their loss, theft, or destruction, the Ministry of Foreign Affairs and European Integration shall grant, upon the request of the foreign state, assistance in receiving such documents or permits necessary for return to their country of residence.

(6) When foreign citizens and stateless persons who are victims of trafficking in human beings, due to their status as a victim, are placed in the centres provided for in Article 17 or when they participate in criminal proceedings against the trafficker, irrespective of their placement in these centres, they shall benefit from temporary residence permits, which may be prolonged, as the case may be.

Chapter IV

Preventing and Combating Trafficking in Children.

Assistance and Protection of Child Victims of Trafficking in Human Beings

Article 25. Preventing and Combating Trafficking in Children

- (1) Preventing and combating trafficking in children and assisting and protecting child victims of trafficking in human beings constitute a political, social, and economic concern of primary importance in the Republic of Moldova.
- (2) The activity of public administration authorities, bodies, and organizations with duties in the field of preventing and combating trafficking in human beings shall focus on the best interests of the child.
- (3) Public administration authorities, social agencies for healthcare and education, as well as non-governmental organizations, other institutions, and representatives of civil society shall, without delay, contact law enforcement bodies when it is known or suspected that a child has been exploited or trafficked or has been exposed to the risk of being exploited or trafficked.

Article 26. Special Principles for Combating Trafficking in Children

Besides the basic principles enshrined in Article 4, the following special principles shall be taken into account in the activity of preventing and combating trafficking in children and protecting and assisting child victims of such trafficking:

- a) strict observance of the rights of the child provided in the UN Convention on the Rights of the Child and the Law on the Rights of the Child of the Republic of Moldova;
- b) undertaking special protection and assistance measures to a child victim of trafficking in human beings;
- c) respecting the opinion of a child victim of trafficking in human beings over 10 years old regarding all actions affecting him/her, taking into account the age, degree of maturity, and his/her best interests;
- d) informing the child victim of trafficking in human beings about his/her situation and rights, protection and assistance measures, available services, repatriation procedure, and family reunification process;
- e) ensuring that both the identity, as well as any details that may allow for the identification of the child victim of trafficking in human beings, are not made public in any case.

Article 27. Presumption of Age

When the age of the victim of trafficking in human beings is not known but there are reasons to believe that the victim has not yet reached 18 years old, it shall be presumed that the victim is a child, and, until final verification of age, the victim shall be treated as a child, by granting him/her all special protection measures provided for in the present Law and other normative acts.

Article 28. Repatriation of a Child Victim of Trafficking in Human Beings

- (1) A child victim of trafficking in human beings shall be repatriated to his/her country of origin provided, prior to his/her return, a parent, relative, or legal guardian has given consent to receiving the child into his/her care, or a governmental agency or child protection agency from the country of origin has given consent and is able to undertake responsibility for the child and to grant him/her adequate assistance and protection.

- (2) Taking a statement regarding a situation of trafficking from children by the criminal prosecution body or the court shall not prevent or delay the family reunification or return of the child victim to his/her country of origin, provided this is in the best interests of the child.
- (3) When it is not possible to return a child to his/her country of origin or to integrate him/her into the country of destination, or when these solutions are not in the best interests of the child, the authorities of both countries shall secure the relocation of the child victim to a third country, with the approval of the latter.
- (4) The opinion of the child victim of trafficking in human beings over the age of 10 years shall be taken into consideration when deciding on his/her repatriation or relocation to a third country.
- (5) The child victim of trafficking in human beings cannot be returned to his/her country of origin or transferred to a third country, if, following the evaluation of the risks and security, there are reasons to believe that the security of the child or his/her family is in danger.
- (6) Children victims of trafficking in human beings who are foreign citizens or stateless persons are entitled to a temporary visa that ensures their right to legal residence in the territory of the Republic of Moldova until finding a sustainable solution regarding their return to the country of origin.

Article 29. Granting Assistance and Protection to Child Victims of Trafficking in Human Beings

- (1) The state shall secure the protection and assistance of children victims of trafficking in human beings from the moment when grounds arise to believe that the child is a victim of trafficking until the child's identification, integration, and his/her complete recovery, irrespectively of their cooperation with the authorities, as provided by Article 20, paragraph (4).
- (2) After identification as a victim of trafficking in human beings, the child shall be urgently referred to the competent services for child protection, assistance, and rehabilitation.
- (3) The National Committee, public administration authorities including law enforcement bodies, territorial commissions for the combating of trafficking in human beings, centres, non-governmental organizations, and other competent organizations shall be obliged to inform the tutorship and guardianship bodies immediately if they have any information about a child victim of trafficking in human beings in order to secure the protection of the child's rights.
- (4) Where the child victim of trafficking in human beings is deprived of parental care, the tutorship and guardianship bodies shall appoint, as provided by law, a legal guardian, who will ensure that all decisions are taken in the interests of the child, who will make statements on behalf of the child, and who shall participate with the child in all criminal procedure and judicial actions, until a solution is reached in accordance with the best interests of the child.
- (5) A child identified as victim of trafficking in human beings shall be granted a reflection period of 30 days in order for him/her to decide personally, through his legal representative or guardian, if he/she will testify against the trafficker.
- (6) In case of accommodating children victims of trafficking in human beings in centres, they must be accommodated separately from adults.
- (7) Children victims of trafficking in human beings shall be entitled to accommodation within the centre for a period of up to 6 months or for the duration of the legal proceedings.
- (8) All the agencies and institutions whose activity is related to children victims of trafficking in human beings shall establish special practices and programmes for their identification, referral, protection and assistance, while at the same time observing the confidentiality of the information regarding the personal data and the victim status of the child.
- (9) Children victims of trafficking in human beings shall be ensured the right to attend state educational institutions under the terms of the Law on Education.
- (10) When children victims of trafficking in human beings are left without parental care or do not know their parents' whereabouts, they shall be ensured the possibility of an emergency search for their family or of instituting tutorship or guardianship, as provided by law.

(11) Children who have suffered from trafficking in human beings are entitled to long-term care and protection until complete recovery. Children deprived of a family environment are entitled to alternative family-type or community-type care.

Chapter V

LIABILITY FOR TRAFFICKING IN HUMAN BEINGS

Article 30. Liability for Trafficking in Human Beings

- (1) Persons participating in the organization and commission of trafficking in human beings activities shall be brought to criminal liability as provided for by the Criminal Code.
- (2) Crimes of trafficking in human beings have both a national and transnational character. In the latter case, the forms and techniques of investigation and criminal prosecution provided for such crimes by international and national legislation shall be applied.
- (3) If any of the methods specified in sub-paragraph 1) of Article 2 have been used, the consent of the victim of trafficking in human beings to the intentional exploitation shall be irrelevant to bring the traffickers to criminal liability,
- (4) Foreign citizens or stateless persons involved in trafficking of human beings shall be refused entrance to the territory of the Republic of Moldova or their entry visas shall be revoked.

Article 31. Liability of Legal Entity for Trafficking in Human Beings

- (1) If activities of trafficking in human beings are performed through a legal entity that has a license to conduct business activities, and it is established that these business activities served as a disguise for the commission of the above-mentioned illegal actions, then the license shall be withdrawn and the legal entity shall be liquidated based upon a court judgement.
- (2) The legal entity bears civil liability to the victims of trafficking for the damage inflicted upon them as a result of the actions mentioned in paragraph (1).
- (3) Bringing a legal entity to justice shall not exclude personal liability of the natural persons who committed the crime of trafficking in human beings.

Article 32. Exemption for Victim of Trafficking in Human Beings for Liability for Crimes Committed in Relation to Such Status

A victim of trafficking in human beings shall be exempt from criminal, administrative, and civil liability for actions committed by him/her in relation to his/her status as a victim, if these actions fall under the jurisdiction of the Criminal Code, Code of Administrative Contraventions, or Civil Code.

Chapter VI

INTERNATIONAL COOPERATION

Article 33. International Cooperation

International cooperation in the field of preventing and combating trafficking in human beings and granting protection and assistance to victims of such trafficking, including their repatriation, shall be performed on the basis of international treaties to which the Republic of Moldova is a party.



Article 34. Liaison Officers

- (1) The present Law establishes liaison officers within the Ministry of Interior, as well as liaison prosecutors within the Prosecutor's General Office, who shall ensure mutual consultations with liaison officers or, respectively, liaison prosecutors operating in other countries, in order to coordinate joint activities during the detection, discovery, and criminal prosecution of cases of trafficking in human beings, as well as during protection and assistance of victims of trafficking in the course of criminal prosecution.
- (2) With respect to data exchange about investigation and criminal prosecution of crimes stipulated in this Law, liaison officers and liaison prosecutors shall be the contact persons of the respective bodies for their counterpart organizations and institutions abroad.

Chapter VII

FINAL AND TRANSITORY PROVISIONS

Article 35

- (1) The Government, within the period of three months, shall:
 - submit proposals to the Parliament regarding harmonizing current legislation with the provisions of this Law;
 - adopt normative acts for implementation of this Law;
 - bring its normative acts in accordance with the present Law;
 - ensure the revision and abrogation by ministries and other authorities of their normative acts that contradict the present Law.
- (2) Upon the proposal of authorities responsible for implementing this Law, the budget law shall annually provide necessary funds.

SPEAKER OF THE PARLIAMENT

Marian LUPU

Chisinau, October 20, 2005.

No. 241-XVI.

National Plan to Prevent and Combat Trafficking in Human Beings

approved by Government Decision No. 903 of 25 August 2005,
published in the Official Monitor No. 119-122/987 of 09 September 2005

GVERNUL
REPUBLICII MOLDOVA



ПРАВИТЕЛЬСТВО
РЕСПУБЛИКИ МОЛДОВА

Decision on the approval of amendments and completions to the Government Decision No. 1219 from 9 November 2001

No. 903 from 25 August 2005

Official Monitor of Republic of Moldova No. 119-122/987
from 9 September 2005

The Government decides:

To approve the amendments and completions to the Government Decision No. 1219 from 9 November 2001 "On the approval of the nominal composition of the National Committee to Combat Trafficking in Human Beings and of the National Plan to Prevent and Combat Trafficking in Human Beings" (see attached).

Prime Minister

Vasile TARLEV

Countersigning:

Deputy Prime Minister

Valerian Cristea

Deputy Prime Minister, Minister of Foreign Affairs
and European Integration

Andrei Stratan

Minister of Internal Affairs

Gheorghe Papuc

Minister of Education, Youth and Sports

Victor Țvircun

Minister of Health and Social Protection

Valerian Revenco

Minister of Culture and Tourism

Artur Cozma

Minister of Informational Development

Vladimir Molojen

Minister of Finance

Zinaida Grecianii

Minister of Justice

Victoria Iftodi

Chisinau, 25 August 2005.

No. 903

Approved by the Government Decision No. 903 from 25 August 2005 Amendments and completion to the Government Decision No. 1219 from 9 November 2001

Annex No. 2 to the Governmental Decision No. 1219 from November 2001 "On the approval of the nominal composition of the National Committee to Combat Trafficking in Human Beings and of the National Plan to Combat Trafficking in Human Beings" (Official Monitor of the Republic of Moldova, 2001, No. 136-138, art. 1274) is published in a new edition:

"Annex No. 2
to the Governmental Decision No. 1219
from 9 November 2001

NATIONAL PLAN

TO PREVENT AND COMBAT TRAFFICKING IN HUMAN BEINGS

SECTION I. GENERAL MEASURES

Strategic goals	Specific goals and objectives	Activities / Sub-activities	Assigned responsibilities	Timeline	Financing	Criteria (indices) of monitoring and evaluation
1. SUPPORTING FRAMEWORK						
1.1. Coordination Structures						
Improve coordination of all measures targeted to combat trafficking in human beings and efficient cooperation between all actors involved in combating trafficking in human beings in the country.	a) Ensure on-going analysis of activity of all actors involved in combating trafficking in human beings and of the implemented projects / measures.	1) Draw up an overview list of all central and local governments, registered and performing NGOs, as well as international and inter-governmental organizations involved in anti-trafficking activities.	National Committee to Combat Trafficking in Human Beings; Ministry of Justice; Ministry of Foreign Affairs and European Integration	Annually by December 25/ Semiannually by June 25 and December 25	Extra budgetary International donors Budgetary sources	Existence of such list.
		2) Draw up informative notes about projects, measures and/or activities scheduled to be carried out in anti-trafficking field.	NGO-OIG, International Organizations to the National Committee	Semiannually by June 25 and December 25	Extra budgetary	Informative notes
		3) Drawing up by a group of national and international experts of an independent news bulletin about analysis and evaluation of results of anti-trafficking activities planned and carried out by all actors involved in anti-trafficking combat, both at the national, and local levels.	International organizations which ensure the information for the National Committee to Combat Trafficking in Human Beings to all anti-trafficking actors.	Annually by December 25	Extra budgetary	News bulletin
		4) Draw up informative notes / reports about the planned and carried out activities in the sphere of the combat of trafficking in human beings.	Central and local authorities involved in the combat of trafficking in human beings to the National Committee	Semiannually by June 25 and December 25	Annual budgets of the corresponding organizations	Informative notes
		5) Draw up a report on activity of central and local authorities in combating trafficking in human beings.	National Committee to the Government	Annually by January 20	Extra budgetary	Report
b) Establish the corresponding officially-stated mechanisms, which are designed to formalize cooperation between governmental and non-governmental bodies; involved in assisting victims of trafficking in human beings, and investigation and punishment for the crime.		Sign inter-departmental agreements on improvement of conditions of cooperation with regard to prophylaxis, prevention, and combat of trafficking in human beings.	Government and other national anti-trafficking actors.	Permanently	Budgetary	Number of cooperation agreements

	c) Coordinate anti-trafficking activities, involving important actors.	Technical coordination sittings (formulation of current and future activities, exchange of information)	OSCE	Monthly	OSCE	Minutes of meetings
1.2. Legal and Regulatory Framework						
Work out legislation and necessary prescriptions to protect trafficked people and combat trafficking in human beings.	a) Work out national legislation in compliance with the international instruments of the combat of trafficking in human beings and international standards of human rights.	1) Promote the draft Law on Preventing and Combating Trafficking in Human Beings.	Ministry of Justice	Trimester III 2005	Budgetary sources	Adoption of the draft
		2) Work out modifications to the Criminal Code, the Code of Criminal Procedures, the Code of Administrative Violations, the Law on State Protection of Injured Party, Witnesses, and Other Persons No. 1458-XII as of January 28, 1998, other legislative acts in order to comply with provisions of the Law on Preventing and Combating Trafficking in Human Beings.	Ministry of Justice Ministry of Internal Affairs General Prosecutor's Office National Migration Bureau	Trimester IV 2005	Budgetary sources	Submission of the draft law to the Government
		3) Work out modifications to the current legislation in order to comply with provisions of the United Nations Convention Against Transnational Organized Crime and the additional Protocols.	Ministry of Justice Ministry of Internal Affairs General Prosecutor's Office Ministry of Foreign Affairs and European Integration ILO-Migrant	Trimester III 2005	Budgetary sources Budget ILO-Migrant	Presentation of the corresponding draft laws to the Government
	b) Establish legal grounds for providing all identified trafficked people with a residence status (permanent) after the reflection period.	Develop legislation on identity cards and the national passport system.	Ministry of Informational Development National Migration Bureau	Trimester IV 2005	Budgetary sources	Working out of the draft law or, if necessary, an informative note.
	c) Creation of the national legislation, which incriminates all types of trafficking in human beings and allows punishment of traffickers (legal entities and individuals), as well as all crimes associated with trafficking in human beings.	1) Adopt the Law on Preventing and Combating Trafficking in Human Beings	Ministry of Internal Affairs General Prosecutor's Office	Trimester I 2006	Budgetary sources/ extra budgetary	Presentation of the draft law to the Government
	d) Establish legal grounds, which ensure provision of social, psychological, and legal assistance to all types of (presumably) trafficked people.	2) Develop the Criminal Code and the Code of Administrative Violations establish all types of trafficking in human beings. 1) Adopt the Law on Preventing and Combating Trafficking in Human Beings	Ministry of Public Health and Social Protection	Trimester I 2006	Budgetary sources	Presentation of the draft law to the Government and its adoption in the established manner.

	3) Revise the Law on State Protection of Injured Party, Witnesses, and Other Persons That Render Assistance in the Criminal Proceedings, the corresponding articles from the Code of Criminal Procedures, in order to extend the rights of people who benefits by protection.	Ministry of Justice Ministry of Internal Affairs General Prosecutor's Office	Trimester IV 2005	Budgetary sources	Presentation of a note about the relevance of the corresponding modifications or, as appropriate, an informative note on this issue.
e) Establish legal provisions, which ensure trafficked people access to compensation from traffickers and/or the state.	Examine the possibilities of working out proposals for the draft Law on Preventing and Combating Trafficking in Human Beings in order to regulate a special fund for protection of trafficked people.	Ministry of Justice Ministry of Finance General Prosecutor's Office Ministry of Internal Affairs	Trimester I 2006	Budgetary sources	Presentation of an informative note or, as appropriate, of the corresponding proposals.
f) Establish national legislation, which ensures physical security of trafficked people and allows implementation special schemes for protection of trafficked people.	Improve the Law on State Protection of Injured Party, Witnesses, and Other Persons That Render Assistance in the Criminal Proceedings, and other relevant acts, in order to introduce special regulations with regard to programs of protection of the corresponding people.	Ministry of Internal Affairs General Prosecutor's Office	Trimester II 2006	Budgetary sources/ Extra-budgetary	Presentation of the draft law on introduction of modifications to the Government
g) Establish legal instruments for joint investigations with the police and judiciary of other countries, including cooperation with EUROPOL, INTERPOL, and SECI.	1) Draft the law on international legal assistance	Ministry of Justice Ministry of Internal Affairs General Prosecutor's Office	Trimester III 2005	Budgetary sources/ extra budgetary	Submission of the draft to the Government
	2) Prepare for ratification of the European Convention on the Compensation of Victims of Violent Crimes;	Ministry of Internal Affairs	Trimester I 2006	Budgetary sources	Submission of the draft to the Government
	3) Prepare for ratification of the European Convention on the transfer of proceedings in criminal matters;	Ministry of Justice	Trimester II 2006	Budgetary sources	Submission of the draft to the Government
	4) Prepare for ratification of the second additional Protocol to the European Convention on Mutual Legal Assistance in Criminal Matters.	Ministry of Internal Affairs	Trimester II 2006	Budgetary sources	Submission of the draft to the Government
h) Establish legal grounds for extradition of criminals and for mutual legal assistance in prosecuting trafficking in human beings.	Draft the law on extradition	Ministry of Justice Ministry of Internal Affairs General Prosecutor's Office	Trimester III 2005	Budgetary sources	Submission of the draft to the Government
i) Create a mechanism of uniform implementation and application of legislation on prevention and combating of trafficking in human beings.	Request the Supreme Court of Justice to issue a Decision of the Plenary Assembly of the SCJ on court's application of legislation when examining cases of trafficking in human beings.	National Committee to Combat Trafficking in Human Beings	Trimester III 2005	Budgetary sources	Adoption of the Decision of the SCJ Plenary Assembly and its publication.
j) Ensure a regulatory basis, which will contribute to carrying out measures targeted at preventing trafficking in human beings	1) Work out the relevant legislation to regulate the visa regime for the Republic of Moldova and the restrictions for issue thereof.	Ministry of Foreign Affairs and European Integration; National Migration Bureau	Trimester I 2006	Budgetary sources/ Extra-budgetary	Work out a draft or submit an informative note
	2) Draft the law on means and conditions of issuing visas for foreign citizens.	Ministry of Foreign Affairs and European Integration; National Migration Bureau	Trimester III 2005	Budgetary sources	

c) Increase the knowledge and skills of state and non-governmental actors about a victim-sensitive approach, with special emphasis on children.	1) Organize a workshop sessions to exchange experience between social workers in the field of provision of assistance to trafficked people. 2) Organize 2 training sessions on efficient communication for law enforcement staff	NGO «La Strada»	Trimester IV 2005 Trimester IV 2006	«La Strada» budget	Collection of best practices
	3) Work out Guidelines for Social Assistance to Trafficked People	NGO «La Strada»	Trimester III 2005	«La Strada» budget	50 trained policemen
d) Increase the knowledge of state and non-governmental actors about their own tasks and the tasks of others in the anti-trafficking field.	4) Organize 2 training sessions for the church on prevention and assistance to trafficked people Organize training workshops for the national experts included in the list.	NGO «La Strada» National Committee to Combat Trafficking in Human Beings	Trimester III-IV 2005 Semiannually	«La Strada» budget Budgetary sources	5000 editions of the Guidelines for Social Assistance 60 trained personnel Number of trained experts
1.4. Information Management and Research					
Ensure that all information and data relevant to combat of trafficking in human beings are available, accessible to all actors involved and systematically exchanged at both national and international level.	a) Institutionalize the information exchange between all relevant state and non-governmental actors at the national and international levels (including the destination countries and the countries of origin of the trafficked people)	National Committee to Combat Trafficking in Human Beings	Trimester IV 2006	Budgetary sources/ extra-budgetary	Memorandum of Understanding
	2) Create a web-page of the National Committee with the list of actors in the field of anti-trafficking.				Web-page of the National Committee with the list of actors in the field of anti-trafficking; Mailing list
	3) Exchange information between the National Committee and actors in the field of anti-trafficking using e-mailing list.				
b) Increase national research in all areas of the national anti-trafficking response.	1) Work out a National Plan of Research in the field of anti-trafficking.	National Committee to Combat Trafficking in Human Beings	Trimester IV 2005	Budgetary sources	National Plan of Research in the field of anti-trafficking
	2) Carry out research on the issue of trafficking in human beings in the Republic of Moldova in the field of identification of trafficked people and reintegration of them in the existing infrastructure.	NGO «La Strada»	Trimester IV 2005	«La Strada» budget	Publication of a thematic edition on the issue of identification, collection of video materials with free access.
c) Establish a national central institution for the collection, analysis and distribution of all relevant information and data at the national level.	1) Draft the Regulation on the procedure of collection, analysis, and distribution of data in the field of trafficking in human beings at the national level.	National Committee to Combat Trafficking in Human Beings	III 2006	Budgetary sources/ Extra-budgetary	Designate a central institution responsible for periodical collection, analysis, and distribution of data in the field of trafficking in human beings
	2) Draft a Government Decision on approval of this Regulation.				

	d) Ensure protection of personal data about trafficked people by an adequate data protection system.	Introduce legal norms, which would ensure protection of personal information about the trafficked people, in the Regulation on the procedure of collection, analysis, and distribution of data in the field of trafficking in human beings.	National Committee to Combat Trafficking in Human Beings	III 2006	Budgetary	Regulatory framework sufficient for protection of personal information about trafficked people
1.5. Resource and Budget Mobilization						
Secure all resources necessary to implement the National Anti-Trafficking Strategy and National Plan.	a) Have an overview of the total costs (material and financial) of the implementation of the National Anti-Trafficking Plan/ Strategy.	Draw up and approve a National Plan of material resources for implementation of the National Anti-Trafficking Plan/Strategy, and plans of execution of the Strategy.	National Committee to Combat Trafficking in Human Beings NGO Inter-governmental organizations	By December 15 - annually	Budgetary Extrabudgetary	Existence of annually updated Plan of material resources for implementation of the National Anti-Trafficking Strategy and National Plan.
	b) Increase the finding of NP implementation by international donors and Government.	Include financial resources on behalf of international donors into the state budget and into the budgets of all anti-trafficking actors.	Government Parliament	annually	Budgetary Extrabudgetary	Amount of financing of anti-trafficking activities on behalf of international donors.
1.6 Review, Monitoring, and Evaluation						
Continuously improve the National Anti-Trafficking Response at the strategic and operational levels, and adjust it to new requirements or changes.	a) Ensure a systematic and continuous collection and analysis of all relevant information and data at operational and strategic levels.	Create a steering committee to work out common indices of monitoring and evaluation, a common form and periods of reporting.	National Committee to Combat Trafficking in Human Beings	III 2005	Budgetary sources	Work out common criteria of monitoring and evaluation
	b) Ensure systematic evaluation of all activities undertaken within the context of the National Plan.	Approve the framework Regulation of activity of territorial committees for the combating trafficking in human beings.	Local public authorities	III 2005	Budgetary sources	
	c) Ensure the review of the National Anti-Trafficking Response at regular intervals.	1) Create an inter-ministry steering committee to evaluate the efficiency of existent strategies in the field of awareness raising, education, social welfare, reintegration, etc., worked out by competent authorities. 2) Systematically organize, during different periods of time, sittings of the above-mentioned group and publish evaluation reports in the Media.	National Committee to Combat Trafficking in Human Beings National Committee to Combat Trafficking in Human Beings Inter-departmental group	IV 2005 Permanently	Budgetary sources/ Extrabudgetary Budgetary sources/ Extra-budgetary	
2. PREVENTION						
2.1. Awareness Raising and Education						
Raise public awareness about the migration realities and the risks associated with trafficking in human beings.	a) Raise the public awareness about the trafficking in human beings.	1) Raise the public awareness through the Media, by publishing articles about prevention of trafficking in human beings.	NGO «La Strada» National Migration Bureau ILO-Migrant	Permanently	«La Strada» budget ILO-Migrant budget	Minimum 50 publications in the Media per year 2 news conferences per year

	2) Support and update information resources with regard to the issue of trafficking in human beings.	NGO «La Strada»	Permanently	«La Strada» budget	Existence of web-page, enlargement of the library and the video library with free of charge access
	3) Organize the seminars "Illegal migration and trafficking in human beings – interdependent phenomena" for teachers, officials from local public authorities.	National Migration Bureau IOM	Permanently	State budget, IOM budget	Number of workshops and participants.
	b) Raise the awareness of "at-risk" groups about the dangers associated with trafficking in human beings.	NGO «La Strada»	Permanently	«La Strada» budget	Minimum 3000 trained young people
	1) Organize 100 seminars in the field of anti-trafficking for the group at-risk.				
	2) Advise would-be migrants on the Hot Line about the risks of trafficking.	NGO «La Strada»	Permanently	«La Strada» budget	Minimum 3000 consultants per year
	3) Distribute information materials for the group at-risk.	NGO «La Strada»	Permanently	«La Strada» budget	30000 pieces per year
2.2. Reduction of Vulnerability					
Reduce vulnerability to trafficking and re-trafficking	a) Reduce poverty and unemployment.	Employment Agency, ILO-Migrant	Trimester III – IV 2005	45 people, state budget, 27 thousand lei	Average unemployment rate.
	2) Promote employment amongst youth and adults from the marginalized groups by offering facilities for career guidance and vocational training and job placement.	ILO-IPEC, ILO-Migrant NGO "Consulting and Credit in Agriculture"	Trimester III-IV 2005	ILO-IPEC budget, ILO-Migrant budget	15 trained counselors 650 young people and 160 adults –beneficiaries of professional consulting
	3) Create subdivisions of electronic intermediary within the employment agencies in Taraclia, Ungheni, Orhei regions.		2005	BASS, 10 thousand lei (30 people)	Number of the youth and adults employed after career guidance and vocational training.
	4) Create a Center for Youth within the Employment Agency of Cahul region.		2005	Extra budgetary sources (10 people)	
	b) Decrease discrimination against women (promotion gender equality), minorities, children, migrants, and other vulnerable groups.	Ministry of Public Health and Social Protection Gender units from central public authorities	2005-2006	State budget	Existence of the plan
	2) Organize a training camp „Girls run our world”.	NGO Gender-Centru	2005		Training of 120 adolescents

3. ASSISTANCE AND PROTECTION OF VICTIMS AND WITNESSES

3.1. Identification of Victims

Ensure early identification of all trafficked people from Moldova.	a) Improve the ability of law enforcement and other state and non-governmental actors to identify victims of all forms of trafficking	Ministry of Internal Affairs; Ministry of Public Health and Social Protection; Ministry of Education, Youth, and Sports	2005-2006	ILO-IPEC budget	Number of cases of violation of children's rights identified by members of multidisciplinary teams.
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		2) Conclude a Memorandum of Understanding on obligations of each actor in terms of identification, assistance, and protection of trafficked people 3) Organize 4 training sessions for professionals in the field of identification of trafficked people.	Local public administration; ILO-IPEC; National Center for Prevention of Child Abuse CNPAC	Trimester IV 2005	«La Strada» budget	100 trained social workers
		1) Awareness raising campaigns in the communities designed to increase the level of knowledge about trafficking in human beings and services, which are rendered by competent bodies. 2) Hot Line – SOS.	ILO-IPEC; Ministry of Internal Affairs; Ministry of Public Health and Social Protection; Local public administration	Trimester II 2006, Trimester IV 2006	ILO-IPEC budget	Number of (self) identified people
	b) Facilitate self-identification of trafficked people		NGO «La Strada»	Permanently	«La Strada» budget	Minimum 70 cases of trafficking in human beings assisted through the Hot Line
		3) Draw up informative materials for trafficked people.	NGO «La Strada»	Permanently	«La Strada» budget	2000 informative materials for victims
3.2. Reflection Period and Residence Status						
Ensure legal stay of all trafficked people (or presumed to be trafficked) in the country, irrespective of their willingness to co-operate with the authorities in criminal prosecution.	a) Ensure implementation of laws & regulations on granting a reflection period of at least three months to all trafficked people (presumed to be trafficked). b) Ensure implementation of laws & regulations for the granting of a (temporary) residence permit to stay following the reflection period to all identified trafficked persons.	Ensure implementation of the Law on Preventing and Combating Trafficking in Human Beings – work out instruction on granting a period of reflection. 1) Grant permits to stay for at least 6 months; 2) Issue identification documents to trafficked people without such documents; 3) Draft and adopt an instruction for evaluation of risks before returning to country of origin or taking the decision to apply for a permit to permanently stay on grounds of humanitarian assistance or asylum-seeking 1) Accommodate trafficked people in safe asylums, which are adequate for different types of victims (accommodation, food, medical treatment in the shelter IOM/23 days) 2) Work out information package about the assistance available for the trafficked people	Ministry of Internal Affairs, UNICEF Ministry of Internal Affairs; Ministry of Informational Development; UNICEF	2005 2005-2006		Number of trafficked people (presumed to be trafficked), who were granted the period of reflection for at least three months. Drafted and approved instruction. Number of trafficked people, who were given a (temporary) permit to stay after the period of reflection. Number of given documents. Existence of instruction
	c) Ensure all trafficked people (presumed to be trafficked) have access to food and safe asylum.		IOM Local public administration	2005-2006	9312 lei/person	Number of trafficked people, who were given food and safe asylum.
			NGO «La Strada»	Trimester III 2005	«La Strada» budget	1000 copies of info materials.

3.3. Social Assistance and Protection of Victims					
Ensure social assistance and protection to all trafficked people, regardless of their willingness to co-operate with the authorities in criminal prosecution.	a) Ensure implementation of legal provisions for rendering social, medical, psychological, and legal assistance to all trafficked people (presumed to be trafficked).	1) Work out a minimal package of free of charge services for the trafficked people, taking into account the specifics of different groups of victims (medical, legal, psychological services); 2) Accommodate and give food to trafficked people, who are involved in the legal proceedings.	Ministry of Public Health and Social Protection; Ministry of Internal Affairs; Ministry of Education, Youth, and Sports.	Trimester III 2005	Number of people to have enjoyed services
	b) Ensure physical safety to all trafficked people.	1) Temporary place in a safe asylum. 2) Apply necessary measures to ensure physical safety and other rights in compliance with current legal provisions (Code of Criminal Procedures, Law on State Protection of Injured Party, Witnesses, and Other Persons in the Criminal Proceeding).	IOM Ministry of Internal Affairs; Ministry of Justice; IOM; Local public administration	2005-2006 2005-2006	352 lei/day (per person) Number of reported incidents of trafficked people. Individual security plans for each trafficked person.
	c) Ensure that all trafficked persons are informed about their rights.	1) Render legal consulting. 2) Work out and ensure victims with informative materials.	Ministry of Internal Affairs; Ministry of Justice; IOM; La Strada; CP TF.	2005-2006	Number of people who enjoyed legal consulting. Existence of informative materials.
3.4. Protection of Witnesses and Judicial Inquiry of Trafficking Cases					
Ensure special protection of victims who want to appear as witnesses in the trial.	Implement a special victim protection system for trafficked people who decided to appear as witnesses before, during, and after the criminal proceeding.	1) Modify the Law No. 1458 at of 28.01.1998 On state protection of injured party, witnesses, and other people who provide assistance during the criminal proceeding. 2) Revise the Code of Criminal Procedure, particularly the norms related to witness protection. 3) Create a concrete mechanism to adopt measures of state protection of trafficked people (witnesses).	Ministry of Justice; Ministry of Internal Affairs	2005-2006	Existence of a special system of protection of victims in all cases of trafficking in human beings.
3.5. Reintegration, Social Inclusion, Repatriation					
Reduce the risk for trafficked people to be re-victimized and/or re-trafficked.	Facilitate (re)integration and social inclusion of trafficked people.	1) Train the victims to adopt active measures on the labor market: job fairs, training for the „Labor Club”; involvement in paid public works;	National Agency for Employment; Local public administration; IOM; ILO-IPEC; ILO-Migrant	Trimester III-IV 2005	Ratio of trafficked people, who have worked during one year after (re)-integration.

	2) Organize courses of vocational training out of the Unemployment Fund for the given category; minimal compensation, accommodation, minimal scholarships, educational allowances, humanitarian aid to victims and their children, tools – minimal.	IOM, ILO-Migrant OSCE	BS, BASS (90 persons – 101,250 ths. lei) 800 lei (per person) 950 lei / month/ person 1600 lei / course/ person ILO-MIGRANT (38,000 USD)	Percentage of trafficked people, comprised within a functional social network after one year of (re)-integration.
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4. INVESTIGATION AND PROSECUTION OF TRAFFICKERS

4.1. Pro-active and reactive investigation

Increase application of proactive techniques (on the basis of confidential service) vis-à-vis reactive.	a) Increase the knowledge and skills of law enforcement officers about intelligence-led investigation techniques and importance thereof for investigation of trafficking cases.	Ministry of Internal Affairs; General Prosecutor's Office; Information and Security Service; Non-governmental and inter-governmental organizations;	Semiannually	Budgetary Extra budgetary	Quantitative number of workshops; Number of participants; Ratio of participation from among specialized employees.
	2) Plan and include in the training module special hours dedicated to the intelligence-led techniques and importance thereof for investigation of trafficking cases.	Academy of the Ministry of Internal Affairs	2005-2006	Budgetary	Inclusion in the curriculum of the ratio of participation from among specialized employees, who underwent the corresponding training.
b) Ensure implementation of the corresponding laws/regulations on application of pro-active investigation techniques.	Adjust internal regulations and instructions to the current legislation and to the international legislation, giving priority to pro-active investigation techniques.	Ministry of Internal Affairs General Prosecutor's Office Information and Security Service;	Permanently	Budgetary sources	Number of cases of using pro-active investigation techniques.
c) Strengthen cooperation between police, prosecutors, customs, tax authorities, and other relevant institutions.	1) Sign inter-departmental agreements and agreements on cooperation with non-governmental structures regarding exchange of information about trafficking in human beings. 2) Organize prosecution of trafficking cases priority being given by multi-disciplinary criminal prosecution groups.	General Prosecutor's Office; Ministry of Internal Affairs; Information and Security Service; Frontier Service	Up to 2006	Budgetary	Number of signed agreements.
	3) Carry out financial investigations in parallel with criminal prosecution on trafficking cases (to discover cases of money laundering and to impound criminally gained property, etc.).	General Prosecutor's Office; Ministry of Internal Affairs; Center for combating economic crimes and corruption, Frontier Service	Annually	Budgetary	Number of criminal cases.
d) Ensure proactive investigation measures through financial and labor market investigations (taking into account the regulation on data protection).	Direct operational activities for accumulation and control of information for investigation of trafficking cases, using the data from financial and labor markets.	Ministry of Internal Affairs; Information and Security Service	Permanently	Budgetary	Number of criminal cases

4.2. International Law Enforcement Units and Legal Cooperation						
Increase co-operation with other states and international organizations in the field of law enforcement and judicial authorities.	Ensure implementation of the corresponding legal instruments for joint investigations with police and judicial co-operation with other countries, including co-operation with EUROPOL, INTERPOL and SECI.	Create operational investigative groups and carry out investigation together with law-enforcement authorities from other countries.	Ministry of Internal Affairs General Prosecutor's Office Information and Security Service	Permanently	Budgetary Extra budgetary	Existence of joint groups Number of joint investigations.
	b) Increase the ability of law enforcement and judicial authorities to cooperate with the corresponding authorities from other countries.	Organize courses for employees from anti-trafficking law-enforcement authorities to study internationally-spread languages.	Ministry of Internal Affairs; General Prosecutor's Office; Information and Security Service; Ministry of Education, Youth, and Sports; NGO	2006	Budgetary Extra budgetary	Number and ratio of specialized employees, who speak internationally-spread languages.
	c) Improve data exchange with other countries.	Draft and sign international agreements on mutual legal assistance with the countries where there is no such regulation.	General Prosecutor's Office; Ministry of Internal Affairs; BNC Interpol; SECI Center; Non-governmental and inter-governmental organizations	Annually	Budgetary Extra budgetary	Number of signed agreements. Number of extradited traffickers Number of witnesses participating to processes from countries of destination and countries of origin.
4.3. Criminal Prosecution and Conviction of Traffickers						
Increase the number of cases of criminal prosecution and conviction of people involved in trafficking in human beings.	a) Increase the level of knowledge by law enforcement and judicial authorities of all aspects of trafficking in human beings.	1) Plan and carry out workshops, trainings, and specialized thematic conferences at the general level – policemen, prosecutors, judges – on specific aspects of investigation of trafficking in human beings.	Ministry of Internal Affairs; General Prosecutor's Office; Ministry of Justice; Academy of the Ministry of Internal Affairs, NGO	Permanently	Budgetary Extra budgetary	Quantitative number of workshops; Number of participants; Ratio of participation from among specialized employees
		2) Plan and include in curricula of legal institutions additional hours to study techniques of investigation of trafficking cases.	Ministry of Education, Youth, and Sports; Academy of the Ministry of Internal Affairs	2005-2006	Budgetary/ Extra budgetary	Inclusion in the curriculum; Number of people who underwent the corresponding training.
	b) Ensure implementation of the corresponding laws/regulations in order to criminalise all kinds of trafficking in human beings.	Create conditions and ensure human resources and necessary materials.	Ministry of Internal Affairs General Prosecutor's Office	Permanently	Budgetary/ Extra budgetary	Number of legal prosecutions on the basis of trafficking-related crimes.
	c) Establish effective, proportional, sanctions for counteracting this phenomenon.	Convene the Plenary Assembly of the Supreme Court of Justice to study the necessity to draw up Comments on classification of crimes related to trafficking in human beings.	Supreme Court of Justice Ministry of Justice	2005-2006	Budgetary/ Extra budgetary	Existence of the Comments (Ratio of convictions on trafficking cases, Average number of sentences related to trafficking).

4.4. Legal Rehabilitation and Compensations for Victims						
Ensure compensation for trafficked people.	a) Ensure implementation of the corresponding laws/ regulations, which provide trafficked people with access to compensation from traffickers and/or the state. b) Raise the victims' level of knowledge about the possibilities of compensation.	Replenish the Fund of compensation for trafficked people by financial means obtained from impounding and confiscation of traffickers' criminally gained property. 1) Ensure trafficked people have legal assistance from lawyers at all stages of a criminal proceeding. 2) Provide informational materials about the rights and the possibility to enforce them thereof during a criminal proceeding.	Ministry of Internal Affairs General Prosecutor's Office Ministry of Internal Affairs General Prosecutor's Office National Committee to Combat Trafficking in Human Beings	Permanently Permanently Permanently	Extra-budgetary Budgetary/ Extra budgetary Extra-budgetary	Number of trafficked people, who received compensations. Number of victims assisted by lawyers. Existence and number of informational materials that were published and received by victims.
4.5. Police and Judicial Treatment of Victims / Witnesses						
Ensure adequate and non-discriminatory treatment of victims by law enforcement and judicial authorities.	a) Ensure an anti-discriminatory and human rights-driven approach on behalf of all actors dealing with trafficked people. b) Ensure that trafficked persons are aware of their rights.	Organize multidisciplinary groups to interview trafficked people. Organize continuous informing of victims about their rights and risks related to a criminal proceeding.	General Prosecutor's Office Ministry of Internal Affairs Non-governmental organizations National Committee Non-governmental and inter-governmental organizations	Permanently Permanently	Extra budgetary Extra budgetary	Ratio of people that work with the trafficked people and can describe characteristics of a human rights-driven approach. Existence of informational materials. Ratio of trafficked people to those who have received such materials. Number of trafficked people, who enjoyed legal consultation.

Section II. SPECIAL MEASURES TO COMBAT TRAFFICKING IN CHILDREN

1. ASSISTANCE FRAMEWORK

1.1. Coordination Structures

Improve coordination of all measures targeted at combating trafficking in human beings and to efficient cooperation between all actors involved in the combating of trafficking in human beings, particularly children.	a) Establish a National Coordination Structure consisting of a National Governmental Co-Coordinator, as well as a National Working Group and Thematic Working Groups, including representatives of NGOs.	Strengthen the role of thematic working subgroup in trafficking in children issues.	Ministry of Public Health and Social Protection	2005-2006	Functional working subgroup
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<p>Work out legislation and necessary prescriptions to protect trafficked people and combat trafficking in children.</p>	<p>b) Ensure that the division of tasks, roles, and responsibilities are clearly understood and agreed upon by all actors involved.</p>	<p>Clearly define the responsibilities of municipal and regional committees in combating trafficking in human beings, including children.</p>	<p>National Committee to Combat Trafficking in Human Beings, Municipal and regional committees to combat trafficking in human beings.</p>	<p>Trimester III – IV 2005</p>	<p>Terms of References for municipal and regional committees to combat trafficking in human beings, comprising the responsibilities related to combating trafficking in children, worked out in collaboration with partners from governmental and non-governmental sectors.</p>
<p>1.2. Legal and Regulatory Framework</p>					
<p>Work out legislation and necessary prescriptions to protect trafficked people and combat trafficking in children.</p>	<p>a) Develop national legislation in compliance with the international instruments to combat trafficking in children and in line with the international standards of human rights.</p>	<p>1) Work out conclusions and recommendations to improve the corresponding legislation. 2) Ratify international instruments (Additional Protocol to the Convention on Child's Rights) 3) Revise and modify the legislation in compliance with the requirements of ratified international instruments (as to increase protection of trafficked children).</p>	<p>Ministry of Public Health and Social Protection Ministry of Justice Ministry of Internal Affairs Ministry of Justice, Ministry of Foreign Affairs and European Integration Ministry of Public Health and Social Protection Ministry of Justice</p>	<p>2005 2005-2006 2005-2006</p>	<p>Worked out conclusions and recommendations Ratified international instruments Amendments with regard to improve protection of trafficked children drafted and inserted in the legislation.</p>
	<p>b) Establish legal grounds, which ensure provision of social, psychological, and legal assistance to all types of (presumably) trafficked people.</p>	<p>Promote the draft Law on Preventing and Combating Trafficking in Human Beings</p>	<p>Ministry of Justice</p>	<p>2005-2006</p>	<p>Adopted Law on Preventing and Combating Trafficking in Human Beings</p>
	<p>c) Establish legal grounds for providing all identified trafficked people with a residence status (permanent) after the period of reflection.</p>	<p>Promote the draft Law on Preventing and Combating Trafficking in Human Beings</p>	<p>Ministry of Justice</p>	<p>2005-2006</p>	<p>Adopted Law on Preventing and Combating Trafficking in Human Beings</p>
	<p>d) Develop national legislation, which criminalise all types of trafficking in human beings and allows punishment of traffickers (legal entities and individuals), as well as all crimes associated with trafficking in human beings.</p>	<p>1) Promote modifications to the Criminal Code (Art. 206), Family Code (art. 122) and so on)</p>	<p>Ministry of Internal Affairs</p>	<p>2005-2006</p>	<p>Modified Criminal Code of the Republic of Moldova and Family Code of the Republic of Moldova</p>
		<p>2) Work out mechanisms to implement regulatory acts in the field of prevention and combating trafficking in children.</p>	<p>Ministry of Internal Affairs Ministry of Justice</p>	<p>2005</p>	<p>Worked out instructions and regulations</p>
	<p>e) Promote international cooperation in the field of combating trafficking in children.</p>	<p>1) Sign bilateral and multilateral agreements in the field of combating trafficking in children (with regard to repatriation, assistance to victims, etc.) 2) Work out mechanisms to apply bilateral and multilateral agreements in the field of combating trafficking in children.</p>	<p>Ministry of Internal Affairs Ministry of Foreign Affairs and European Integration</p>	<p>2005-2006</p>	<p>Agreements concluded with main countries of destination (Russia, Poland, Turkey) Worked out instructions and regulations</p>
			<p>Ministry of Internal Affairs Ministry of Foreign Affairs and European Integration</p>	<p>2005-2006</p>	

		3) Promote international cooperation in the field of combating trafficking in children.	Ministry of Foreign Affairs and European Integration	2005-2006	Established partnerships
	f) Promote coordination of efforts at the national level to combat trafficking in children.	1) Develop partnership among the organizations involved in prevention and combating trafficking in children. 2) Conclude agreements on cooperation between the organizations involved in identification, assistance, protection, rehabilitation, and reintegration of victims. 3) Organize national conference on trafficking in children issue 4) Create a database of legislation in the field of protection of child's rights.	Ministry of Education, Youth, and Sports Ministry of Internal Affairs, Ministry of Foreign Affairs and European Integration Ministry of Public Health and Social Protection National Migration Bureau	2005-2006 2005-2006 2006 2006	Established partnerships Established partnerships Concluded agreements on cooperation Organized conference Created database
1.3. Capacity Building					
	a) Increase the capacity of state and nongovernmental actors to counter all aspects of trafficking in children through a human rights based and victim-sensitive approach.	1) Evaluate the needs in professional training of employees in the field (law-enforcement employees, judges, prosecutors, employees of custody authorities, teachers, social workers, medical workers, psychologists, journalists, trade-unions and patronages, etc.) 2) Work out programs of continuous professional training in the field of combating trafficking in children for various categories of specialists 2.a) Produce a manual and carry out 2 training courses for social assistants in the field of psychological and social consulting to trafficked children; 2.b) Draw up instructions and curricula with regard to education and career guidance 2.c) Produce a manual and carry out 2 training sessions for peer educators (prevention of the most serious forms of child labor, including trafficking in children) 2.d) curricula for training peer educators with regard to social inclusion of child-victims who have suffered the most serious forms of child's labor, including trafficking; 2.e.) Instructions for monitoring of the most serious forms of child labor, including trafficking.	Ministry of Internal Affairs; Ministry of Foreign Affairs and European Integration; Ministry of Public Health and Social Protection; Ministry of Education, Youth, and Sports Ministry of Internal Affairs; Ministry of Foreign Affairs and European Integration; Ministry of Public Health and Social Protection; Ministry of Education, Youth, and Sports NGO «La Strada» NGO "Consulting and Credit in Agriculture" CNPAC NGO CNPAC NGO	2005-2006 2005-2006 Trimester III 2005 (draft) Trimester III 2006 (final version) Trimester III 2005 (draft) - Trimester III 2006 (final version) Trimester III 2005 (draft) - Trimester III 2006 (final version) Trimester III 2005 2005-2006	Identified needs in training Worked out training programs 35 social assistants trained on the basis of the published manual on psychological and social consulting to trafficked children Worked out and published instructions on education and career guidance 36 trained peer educators Number of cases of violation of children's rights identified by members of multidisciplinary teams

		3) Carry out continuous training in the field of combating trafficking in human beings, trafficking in children for various categories of specialists.	Ministry of Internal Affairs, Ministry of Foreign Affairs and European Integration; Ministry of Public Health and Social Protection; Ministry of Education, Youth, and Sports	Trimester III 2005	Number of children re-integrated in schools.
		4) Collect and disseminate at the national level best practices in prevention and combating trafficking in children by means of round table meetings and workshops organized by IPEC implementation agencies.	Thematic working sub-group on trafficking in children (National Center to Prevent Child Abuse / CNPAC NGO; NGO «La Strada»; NGO "Consulting and Credit in Agriculture")	Trimester III 2006	ILO-IPEC
		5) Present best practices identified by IPEC partners.			Number of best practices identified in 5 pilot zones Number of best practices repeated in other zones
		b) Establish the infrastructure necessary to provide continuous anti-trafficking-training to different groups of state and non-governmental actors involved in the fight against trafficking in human beings.	Ministry of Education, Youth, and Sports	2006	Worked out guide
		c) Increase the knowledge of state and non-governmental actors about their own tasks and the tasks of others in the anti-trafficking field.	CNPAC NGO; NGO «La Strada»	Trimester III-IV 2005	Instructed municipal and regional committees to combat trafficking in human beings
			Local public administration authorities	Trimester IV 2005	Number of strategies and action plans worked out at the local level.
1.4. Information Management and Research					
	Ensure that all information and data relevant to combat trafficking in human beings are available, accessible to all actors involved and systematically exchanged at both national and international level.	Increase national research on all areas of the national anti-trafficking response.	ILO-IPEC	Trimester IV 2005	Carried out research on the demand of trafficking in children.
2. PREVENTION					
2.1. Awareness Raising and Education					
	Raise the public awareness about the migration realities and the risks associated with trafficking in children.	1) Disseminate results of researches and studies (qualitative and quantitative) on internal and external trafficking in children (consequences, types of trafficking, reasons, risks, etc.)	Ministry of Education, Youth, and Sports	2005-2006	Results of studies and researches disseminated in the mass-media

	2) Organize anti-trafficking information campaigns, highlighting trafficking in children	Ministry of Internal Affairs Local public authorities CNPAC NGO	Trimester IV 2005 - Trimester III 2006	ILO-IPEC	Number of carried out campaigns
	3) Work out materials targeted at prevention and raising awareness of the trafficking in children phenomenon (posters, leaflets, billboards, etc.)	Ministry of Education, Youth, and Sports	2005-2006	ILO-IPEC	Worked out materials targeted at prevention and raising awareness
	4) Broadcast on the national and local radio a series of programs dedicated to the prevention and criminalisation of trafficking in children	Ministry of Internal Affairs	2005-2006		Number of radio transmissions
b) Raise the awareness of "at-risk" groups about the dangers associated with trafficking in human beings.	1) Promote participation of children to activities targeted at the prevention of trafficking in children in the framework of educational institutions, centers for the youth, etc. 2) Distribute informational materials at the border crossing points and at different educational, medical, and other institutions. 3) Organize activities targeted to raise awareness within the framework of educational, residential institutions, and institutions for social protection of children, intended for teachers, local public authorities, parents, and children.	Ministry of Education, Youth, and Sports CNPAC NGO	2005-2006	ILO-IPEC	Number of children to have participated in activities targeted at prevention of trafficking Informational materials distributed at the border crossing points Number of carried out activities Number of participants in activities targeted to raising awareness
	4) Work out didactic materials for the discipline "Living Habits", including contents regarding the combating of trafficking in human beings.	Ministry of Education, Youth, and Sports	2005		Worked out didactic materials for the discipline "Living Habits"
	5) Introduce chapter on combat of the trafficking in human beings in the curriculum "Class guidance".	Ministry of Education, Youth, and Sports	2005-2006		Modified curriculum
c) Raise the awareness of exploiters about trafficking in human beings.	Organize awareness raising activities for employees and trade-unions.	Trade-unions and patronages	Trimester IV 2005	ILO-IPEC	Number of participants to the activities
d) Raise the awareness of governmental and non-governmental actors that work with the "at-risk" groups about trafficking in children.	Edit Informational Bulletins on prevention of trafficking in children and disseminate such through the existing networks (through governmental institutions and NGOs)	Ministry of Education, Youth, and Sports CNPAC NGO	2005-2006	ILO-IPEC	Number of published informational bulletins Number of receivers
2.2. Reduction of Vulnerability					
Reduce vulnerability of children to trafficking and re-trafficking	a) Reduce poverty and unemployment.	Ministry of Public Health and Social Protection NGO "Consulting and Credit in Agriculture"	Trimester III-IV 2005	ILO-IPEC	Carried out study; conclusions
	2) Educational and professional guidance to young people and adults from marginalized communities.	NGO "Consulting and Credit in Agriculture" NGO "Consulting and Credit in Agriculture"	Trimester IV 2005 - Trimester I 2006	ILO-IPEC	

	3) Offer vocational training to young people and adults from marginalized communities.	NGO «La Strada» NGO «Consulting and Credit in Agriculture»	Trimester IV 2005 – Trimester I 2006	ILO-IPEC	Number of young people and adults who got jobs as result of vocational training.
	4) Create a database of vocational institutions to facilitate access to vocational training.		Trimester III – IV 2005	ILO-IPEC	Existence of database
	5) Promote employment of young people and adults from marginalized groups by offering benefits to employees.		Permanently	ILO-IPEC	
	6) Integrate the issues related to trafficking in children into the corresponding policy documents.		2005-2006		Number of state policy documents, which integrate the issues related to trafficking in children
b) Render adequate assistance to children, who are vulnerable to trafficking, and their families	1) Identify and monitor children vulnerable to trafficking (children repatriated from other countries; children, whose parents illegally migrated; street children; neglected children from vulnerable families or families in the crisis situation; child-victims of domestic violence; children, who abandoned school or who go to school irregularly, etc.)	Ministry of Education, Youth, and Sports	2005-2006		Number of identified and monitored children
	2) Refer and ensure access to the services that offer assistance to vulnerable children and their families.	Local public administration authorities CNPAC NGO	Trimester III 2005 – 2006	ILO-IPEC	Number of referred and assisted child-victims
c) Prevent child abandoning and institutionalization thereof.	3) Work out national/local social assistance programs to facilitate access to education and to prevent abandoning of school and trafficking in children (children repatriated from other countries; children, whose parents illegally migrated; children from rural areas; street children, etc.)	Ministry of Public Health and Social Protection	2005-2006		Worked out programs
	4) Evaluate and monitor children, who are put into residential institutions and other alternative protection.	Ministry of Education, Youth, and Sports	2005-2006		Children, who are put in the monitored institutions
d) Prevent trafficking among adolescents and young people.	5) Render material assistance to vulnerable families.	Ministry of Public Health and Social Protection	2005-2006		Number of families that receive assistance
	1) Create and equip Mother-and-child centers (Balti and Chisinau).	Ministry of Public Health and Social Protection	2005-2006		Created mother-and-child centers
d) Prevent trafficking among adolescents and young people.	2) Develop alternative forms of community services for protection of children.	Ministry of Education, Youth, and Sports	2005-2006		Developed alternative forms
	1) Create and support Youth Centers (10 centers).	Ministry of Education, Youth, and Sports	2005-2006		10 created and supported centers
	2) Render material assistance to young people from vulnerable groups	Ministry of Public Health and Social Protection; Local public administration authorities	2005-2006		Number of young people from vulnerable families, who received assistance
	3) Create residential centers for graduates from boarding schools (5 centers).	Local public administration authorities	2005-2006		5 created residential centers

3. ASSISTANCE AND PROTECTION OF CHILDREN-VICTIMS AND WITNESSES

3.1. Identification of Victims

Ensure early identification of trafficked children			Ministry of Internal Affairs CNPAC NGO	Trimester III 2005	ILO-IPEC	Multidisciplinary teams
a) Improve the ability of law enforcement and other state and non-governmental actors to identify victims of all forms of trafficking.	1) Create multidisciplinary teams to facilitate victims' identification, referral to the relevant services, and monitoring of cases of trafficking in children. 2) Develop national and international networks for identification and repatriation of trafficked children.	Frontier Service	2005-2006		Created identification and repatriation networks	
	3) Set the procedures for identification of child-victims at border crossing points	Frontier Service	2005-2006		Adoption and application of a Regulation that regulates the procedure of identification at border crossing points	
	4) Instruct multidisciplinary teams and other employees from law-enforcement authorities, employees from social and medical spheres, judges, and prosecutors on identification and referral of trafficked children.	Ministry of Public Health and Social Protection; Ministry of Education, Youth, and Sports; Ministry of Justice, Ministry of Internal Affairs. CNPAC NGO	Trimester III-IV 2005	ILO-IPEC	Number of employees instructed on trafficking	
	5) Work out a mechanism for referral, assistance, and protection of child-victims.	Ministry of Education, Youth, and Sports	2005-2006		Worked out and performing mechanism	
b) Facilitate self-identification of trafficked people.	1) Distribute informational materials at border crossing points and in different educational, medical, and other institutions. 2) Organize anti-trafficking information campaigns	Ministry of Education, Youth, and Sports Frontier Service	2005-2006		Number of distributed materials	
	c) Establish models, which allow for easier identification of different groups of trafficked people.	Ministry of Internal Affairs	2005-2006		Carried out information campaigns	
		Ministry of Education, Youth, and Sports	2005-2006		Worked out standards	
	2) Work out local systems of monitoring child labor, including trafficking, for different sectors in which services of child-victims could be used, to identify cases of forced labor.	Local public authorities CNPAC NGO	Trimester IV 2005	ILO-IPEC	Functional local systems of monitoring child labor, including trafficking cases; Number of trafficked children to have been discovered and monitored through a system of monitoring of child labor, including trafficking	

3.2. Reflection/stabilization Period and Residence Status					
Ensure legal stay of all trafficked people (or presumed to be trafficked) in the country, irrespective of their willingness to co-operate with the authorities in criminal prosecution.	a) Ensure implementation of laws/ regulations on granting a reflection period of at least three months to all trafficked people (presumed to be trafficked).	Ensure implementation of the Law on Preventing and Combating Trafficking in Human Beings – work out instruction on granting a reflection period.	Ministry of Internal Affairs	2005	Worked out and approved instruction
	b) Ensure implementation of laws/ regulations on ensuring all trafficked people with a (temporary) permit to stay following the reflection period to all identified trafficked persons.	1) Grant permits to stay for at least 6 months.	Ministry of Internal Affairs	2005-2006	Number of issued permits
		2) Issue identification documents for children without such	Ministry of Internal Affairs	2005-2006	Number of issued documents
		3) Evaluate risks before returning to country of origin or taking the decision to apply for a permit to permanently stay on grounds of humanitarian assistance or asylum-seeking.	Ministry of Internal Affairs	2005-2006	Work out and adopt an instruction in this sense
	c) Ensure all trafficked people (presumed to be trafficked) have access to food and safe asylum.	Work out a minimal package of free of charge services for child-victims (medical, legal, psychological services)	Ministry of Public Health and Social Protection, Ministry of Internal Affairs, Ministry of Education, Youth, and Sports.	2005-2006	Number of beneficiaries
3.3. Social Assistance and Protection of Victims					
Ensure social assistance and protection to trafficked children, regardless of their willingness to co-operate with the authorities in criminal prosecution.	a) Ensure implementation of legal provisions for rendering social, medical, psychological, and legal assistance to all trafficked people (presumed to be trafficked).	Develop assistance services for all child-victims (rehabilitation, reintegration, medical, psychological, social, and legal services, etc).	Ministry of Education, Youth, and Sports		Number of developed services
	b) Ensure physical safety of trafficked children.	Create and support centers for assistance to trafficked children.	Ministry of Education, Youth, and Sports; Ministry of Public Health and Social Protection		Number of created and supported centers
	c) Ensure observance of child's rights and his superior interest.	1) Create local structures to protect children's rights and guarantee the superior interest of child-victim. 2) Extend tutorship over trafficked children.	Ministry of Education, Youth, and Sports	2005-2006 2005-2006	Created local boards for protection of children Number of children over whom tutorship was extended.
3.4. Protection of Witnesses and Judicial Inquiry of Trafficking Cases					
Ensure special protection of child-victims who want to appear as witnesses.	Implement a special system for protection of trafficked children, who decided to appear as witnesses before, during, and after criminal proceedings.	1) Create a system for evaluation of risks of victim-witnesses.	Ministry of Internal Affairs	2005	Worked out and approved instruction on evaluation of risks.



		2) Modify the Law No. 1458 as of 28 January 1998 On state protection of injured party, witnesses, and other people who provide assistance during the criminal proceeding, including special measures for children.	Ministry of Internal Affairs	2005	Drafted and incorporated in the law amendments.
3.5. Reintegration, Social Inclusion, Repatriation					
Reduce the risk for child-victims to be re-victimized and/or re-trafficked.	Facilitate (re)integration and social inclusion of trafficked people.	1) Offer psychological and social services to child-victims. 2) Offer non-formal training, career guidance, vocational training, job placement (for children above 16).		Permanently	Number of assisted child-victims. Number of beneficiary child-victims

[1] IPEC-supported Action Programs will be implemented in Chisinau, Balti, Orhei, Ungheni, Singerei.

DECISION

on creation of a unified system for monitoring the implementation of the
National Plan to Prevent and Combat Trafficking in Human Beings

as of 10 February 2006

(EXCERPT)

GUVERNUL
REPUBLICII MOLDOVA



GOVERNMENT
OF THE REPUBLIC OF MOLDOVA

National Committee to Combat Trafficking in Human Beings

DECISION

on creation of a unified system for monitoring the implementation
of the National Plan to Prevent and Combat Trafficking in Human Beings
as of 10 February 2006

(EXCERPT)

1. With a view to render more efficient the efforts for counteracting the trafficking in human beings, for monitoring the implementation of the National Plan to Prevent and Combat Trafficking in Human Beings (hereinafter – the National Plan), collection and analysis of data on all activities in the field of anti-trafficking, as well as to create premises for internal and external evaluation of activities for counteracting trafficking in human beings, to set up a unified system for collection of information regarding carrying out of activities in the field of counteracting trafficking in human beings, accomplished on the territory of the Republic of Moldova, and namely:

- To establish that the members of the National Committee and nongovernmental organizations, responsible for the implementation of the National Plan, are bound to submit reports on activities performed by them directly;
- To recommend to the organizations, whose activities do not fit into the National Plan, to join a unified system for information collection and to report on activities performed in the field of anti-trafficking in the order established by this decision;
- To establish the following timings for report submittal: once per semester, not later than July 25 and January 30 of the current year;
- To approve a unified form for the Anti-Trafficking Activities' Monitoring Report in the sphere of anti-trafficking (Annex 1);
- To task the leaders of the expert groups of the National Committee to collect the Reports and to generalize the data contingent on the fields of activity implementation, in accordance with the National Plan:

<i>Number and denomination of expert groups of the National Committee</i>	<i>First and last name and position of the leader of the expert group</i>	<i>Denomination of field of activity implementation under the National Plan</i>
A) Legislative framework in the field and its implementation	Nicolae Esanu, Deputy Minister of Justice	Assistance framework, Investigation and prosecution of traffickers within the justice system
B) Prevention and awareness as regards the phenomenon of trafficking in human beings	Viorelia Moldovan-Batrinac, Deputy Minister of Education, Youth and Sports	Prevention
C) Assistance and social rehabilitation of the victims of trafficking	Victor Mindru, Deputy Minister of Healthcare and Social Protection	Assistance and protection of victims and witnesses

The secretary of the National Committee shall be responsible for the collection of data at the national level and for the analysis and drawing up of national yearly reports.

Deputy Prime Minister
Chairman of the National Committee

Valerian CRISTEA

<h2 style="margin: 0;">Report</h2> <p style="margin: 0;">on monitoring activity in the field of anti-trafficking for the period _____</p> <p style="margin: 0;">_____</p> <p style="margin: 0; text-align: center;">Name and address of the unit submitting the report</p> <p style="margin: 0;">_____</p>	
<p>Title of section of the National Plan to Prevent and Combat Trafficking in Human Beings, within which the activity has been implemented ¹</p>	<p><i>Please specify the relevant option:</i></p> <p><input type="checkbox"/> General measures</p> <p><input type="checkbox"/> Special measures for combat of trafficking in children</p>
<p>Title of chapter of the National Plan to Prevent and Combat Trafficking in Human Beings, within which the activity has been implemented ²</p>	<p><i>Please specify the relevant option:</i></p> <p><input type="checkbox"/> Assistance framework</p> <p><input type="checkbox"/> Prevention</p> <p><input type="checkbox"/> Victims' assistance and protection</p> <p><input type="checkbox"/> Investigation and prosecution of traffickers within the justice system</p>
<p>Name of activity / sub-activity</p>	
<p>Name of related program (specify, if necessary)</p>	
<p>Name of institution /organization, responsible for implementation of activity</p>	
<p>Name of institutions /organizations that took part in the implementation as partners</p>	
<p>Period of activity</p>	<p><i>Please specify the relevant option:</i></p> <p><input type="checkbox"/> Ad hoc <input type="checkbox"/> Periodical <input type="checkbox"/> Continuous</p>
<p>Duration of activity</p>	<p>„___” _____ 200__ - „___” _____ 200__</p>
<p>Type of financial resources employed</p>	<p><i>Please specify the relevant option:</i></p> <p><input type="checkbox"/> Sponsorships _____</p> <p><input type="checkbox"/> State budget</p> <p><input type="checkbox"/> Municipal budget</p> <p><input type="checkbox"/> Other</p>

^{1,2} For activities / sub-activities that have not been included in the National Plan for Prevention and Combat of Trafficking in Human Beings, the section and chapter shall be determined by the reporting person.



<p>Human resources and techniques used (do not specify the beneficiaries)</p>	<input type="checkbox"/> Number of persons involved _____ <input type="checkbox"/> Technical resources used for the implementation of activity _____ _____ _____
<p>Description of implemented activity Please describe the implemented activity and report relevant details, as far as practicable</p>	
<p>Results of activity: Please recount information on the results of activity and describe all results that you consider relevant. For instance:</p> <ul style="list-style-type: none"> - number of participants or beneficiaries of activity; - number of publications produced /distributed; - number of victims assisted and type of assistance; - number of prosecuted cases; - number of court judgments; - amount of protection services rendered; - type of protection services rendered; - other relevant numerical data. 	
<p>Date Reporting person and signature</p>	

Instructions for completion

1. This form is meant for the drawing up of reports regarding the carrying out of activities in the sphere of counteracting trafficking in human beings.
2. The form must be filled in for each accomplished activity.
3. This form is meant, first of all, for the monitoring of implementation of activities set out in the National Plan to Prevent and Combat Trafficking in Human Beings.
4. The form may also be used, for the collection of information on the carrying out of activities that do not fit into the National Plan to Prevent and Combat Trafficking in Human Beings. Information offered may be used for the development of the annual national reports on organizations involved in counteracting trafficking in human beings in the Republic of Moldova.
5. In order to avoid duplication of information, the report on implemented activities shall be submitted by the organization (institution) that directly carried out the reported activities.
6. The period of report submittal is once per semester, not later than July 25 and January 30.
7. The reporting shall be done by the persons responsible in the following structures, depending on the sphere of activities:

Assistance framework	_____ (A group)
Prevention	_____ (B group)
Assistance and protection of victims	_____ (C group)
Investigation and prosecution of traffickers within the judiciary	_____ (D group)

**Decision of the Government
of the Republic of Moldova Constituting
the National Committee to Combat
Trafficking in Human Beings,
No. 775 of 1 August 2005**

on approval of amendments and modifications introduced
in the Government Decision No. 1219 of 9 November 2001,
published in the Official Monitor No. 107-109/865 of 12 August 2005



GVERNUL
REPUBLICII MOLDOVA



GOVERNMENT
OF THE REPUBLIC OF MOLDOVA

DECISION
on the approval of amendments and completions
to the Government Decision No. 1219 from 9 November 2001

The Government decides:

To approve the amendments and completions to the Government Decision No. 1219 from 9 November 2001 "On the approval of the nominal composition of the National Committee to Combat Trafficking in Human Beings and of the National Plan to Prevent and Combat Trafficking in Human Beings" (see attached).

Prime Minister

Vasile TARLEV

Countersigning:

Minister of Internal Affairs

Gheorghe Papuc

Minister of Justice

Victoria Iftodi

Chisinau, 1 August 2005.

No. 775

Amendments and completions to the Government Decision No. 1219 from 9 November 2001

The Government Decision No. 1219 from 9 November 2001 "On the approval of the nominal composition of the National Committee to Combat Trafficking in Human Beings and of the National Plan to Prevent and Combat Trafficking in Human Beings" (Official Monitor of the Republic of Moldova, 2001, No. 136-138, art. 1274), with the later amendments and completions, is modified as follows:

1) item 1 is completed with a new paragraph, with the following wording:

"The Regulation of the National Committee to Combat Trafficking in Human Beings (annex no. 3);

2) is completed with item 3 with the following content:

"3. It is provided that, in case of dismissing the members of the National Committee from the positions held, their functions in the National Committee will be exercised by the newly-appointed persons, without issuing a new Government decision".

3) Annex No. 1 is exposed in a new redaction:

"Annex No. 1
to the Government Decision No. 1219
from 9 November 2001

NOMINAL COMPOSITION of the National Committee to Combat Trafficking in Human Beings

Cristea Valerian	Deputy Prime Minister, Chairman of the National Committee
Botnari Vladimir	Deputy Minister of Internal Affairs, Deputy Chairman of the National committee
Focşa Ion	Senior inspector in the Centre to combat trafficking in human beings, Ministry of Internal Affairs, Secretary of the National Committee
Eşanu Nicolae	Deputy Minister of Justice
Mîndru Victor	Deputy Minister of Health and Social Protection
Kistruga Eugenia	Deputy Minister of Foreign Affairs and European Integration
Moldovan-Batrînac Viorelia	Deputy Minister of Education, Youth and Sports
Buceaţchi Pavel	Deputy Minister of Informational Development
Lapicuş Tatiana	Deputy Minister of Culture and Tourism
Gorilă Anatolie	Deputy Director General, Border Guards Service, Deputy Director General, National Migration Bureau
Fetescu Adrian	Deputy Director General, Licensing Chamber
Domenti Oxana	Councilor on social issues, Apparatus of the President of the Republic of Moldova
Rusu Eugeniu	Prosecutor, Head of Section on Protection of the constitutional rights and interests and combating trafficking in human beings, General Prosecutor's Office



Gozun Anatol	Deputy Director of the Information and Security Service
Bejan Ion	Deputy Director of the Centre to Combat Trafficking in Human Beings, Ministry of Internal Affairs
Stratulat Nina	Head of Social-Humanitarian and Interethnic Department, Chisinau Mayoralty”.

“Annex No. 3
to the Government Decision No. 1219
from 9 November 2001

Regulation of the National Committee to Combat Trafficking in Human Beings

1. The National Committee to Combat Trafficking in Human Beings (further – National Committee) is a permanent consultative body of the Government, created with the aim of coordinating the activity of prevention and combating of trafficking in human beings.
2. In the composition of the National Committee are included representatives of the public authorities, including the law bodies and other organizations that carry out activities of prevention and combating of trafficking in human beings.
3. The National Committee shall be formed of representatives of the:
 - Ministry of Internal Affairs;
 - Ministry of Justice;
 - Ministry of Health and Social Protection;
 - Ministry of Foreign Affairs and European Integration;
 - Ministry of Education, Youth and Sports;
 - Ministry of Informational Development;
 - Ministry of Culture and Tourism;
 - Border Guards Service;
 - National Migration Bureau;
 - Licensing Chamber;
 - Apparatus of the President of the Republic of Moldova;
 - General Prosecutor’s Office
 - Information and Security Service;
 - Mayoralty of Chisinau municipality.
4. The representatives of NGOs and international organizations, that are present in Moldova and that carry out activities to combat trafficking in human beings and offer assistance to the victims of trafficking may participate in the National Committee sessions with a consultative vote.
5. The National Committee has the following functions:
 - presents to the Government proposals on the state policy in the field of preventing and combating trafficking in human beings and recommendations oriented towards the improvement of the activity of identification and liquidation of the causes and conditions that contribute to the appearance of trafficking in human beings and realization of the activities of trafficking in human beings;

- monitors the implementation of the actions, provided in the National Plan to Prevent and Combat Trafficking in Human Beings (further – National Plan) and of the legislation provisions related to the prevention and combating by the state organizations and institutions of the phenomenon of trafficking in human beings;
 - collects and analyzes information regarding the size, status and trends of trafficking in human beings at the national level;
 - develops proposals to improve legislation in the field of preventing and combating trafficking in human beings and protection of the victims;
 - organizes awareness-raising campaigns for the population on problems related to trafficking in human beings and the social danger of this phenomenon;
 - coordinates the activity of the territorial committees and of the specialized institutions regarding the implementation of the measures from the National Plan, as well as of other actions to prevent and combat trafficking in human beings;
 - periodically evaluates and monitors the process of implementation of the National Plan and brings its results to the attention of the Government and the civil society.
6. The National Committee is chaired by a Deputy Prime Minister. The Chairman represents the National Committee in its relations with the public administration authorities from the country, as well as in the international field.
7. The Chairman of the National Committee fulfills the following basic functions:
- ensures the fulfillment of the functions of the National Committee;
 - approves the agenda and the schedule of the sessions;
 - summons and chairs the sessions of the National Committee;
 - signs the invitations for the representatives of the non-governmental and international organizations for their participation at the sessions of the National Committee.
8. In the absence of the chairman, the activity of the committee is led by the Deputy Chairman of the National Committee.
9. The organizational activity of the National Committee is facilitated by a secretary.
10. The secretary of the National Committee:
- prepares proposals regarding the agenda and the schedule of sessions of the National Committee;
 - prepares the sessions of the National Committee, holds the secretarial works;
 - undertakes measures for the implementation of the decisions of the National Committee;
 - initiates collaboration with bodies of other states, non-governmental and international organizations;
 - fulfills other tasks according to his/her functions.
11. The correspondence regarding the issues within the competence of the Committee is held by the secretary, through the Chairman of the Committee.
12. The National Committee may create permanent or temporary groups of experts, in order to examine the problems and to find solutions related to the specific areas of its activity. The groups of experts include the members of the National Committee, national experts from ministries and other central administration authorities, as well as, where appropriate, representatives of non-governmental and international organizations that carry out activities in this field.
13. The sessions of the National Committee are held according to a planned schedule, but not less than once per month. In case of need, the sessions will be held more often.
14. The presentation of the issues for examination by the National Committee is done by the members of the Committee, as well as by the heads of ministries, central public administration authorities and other interested bodies. The schedule of the session is distributed to the members of the National Committee at least 3 days in advance of the session.



15. The sessions of the National Committee are registered in the form of minutes, that are signed by the chairman of the National Committee and by the secretary.

16. The decisions are adopted by a majority of votes of the National Committee members present at the session, provided that at least 2/3 of the members participate at the session.

If a member of the National Committee cannot participate at the session due to well-founded reasons, he/she presents in writing to the chairman of the Committee his/her opinion on the issues discussed.

17. The decisions of the National Committee are obligatory for the public authorities and institutions, provided that they are signed by the Prime Minister.

18. The National Committee periodically presents to the Government, upon request, but not less than twice a year, (by 1 February and 1 August) a report on its activity. The central public administration authorities can request information from the National Committee regarding the observance of the legislation, regarding the prevention and combating of trafficking in human beings and in other cases.

Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova

On application of legislative provisions in cases of trafficking in human beings and trafficking in children

No. 37 of 22 November 2004,
published in the SCJ Bulletin No. 8, 2005

DECISION OF THE PLENUM OF THE SUPREME COURT OF JUSTICE OF THE REPUBLIC OF MOLDOVA

On application of legislative provisions in cases of trafficking in human
beings and trafficking in children

* * *

No. 37 of 22 November 2004

Bulletin of the Supreme Court of Justice of the Republic of Moldova,
2005, No. 8, page 4

* * *

Trafficking in human beings, in its various forms, including trafficking in children, comprises dangerous crimes that essentially lead to the violation of personal rights and freedoms.

In order to ensure correct and uniform application of legislation concerning trafficking in human beings, while being aware of the increased social danger of such crimes and reasoning from the need to protect the legal personal rights and interests, based on Article 2 let. e), Article 16 let. d) of the Law on the Supreme Court of Justice and Article 39 of the Code of Criminal Procedure, by means of this decision, the Plenum offers the following explanations:

1. In the meaning of Articles 165, 206 of the Criminal Code, in the light of international legislation in this area, specified in the annex, which is an integral part of this decision, the Plenum explains the meaning of the following terms and expressions:

a) **“Trafficking in human beings”** means the recruitment, transportation, transfer, harboring or receipt of a person for the purpose of sexual commercial or noncommercial exploitation, through forced labor or services, in slavery or in conditions similar to slavery, use in armed conflicts or in criminal activity, removal of organs or tissues for transplantation, performed through: threat with the use or actual use of physical or mental violence not dangerous to the life and health of the person, including kidnapping, seizure of documents and bondage, aimed at the repayment of a debt, the amount of which is not reasonably established; deceit; abuse of the vulnerable condition or abuse of power, offering or acceptance of payments or other benefits in order to obtain the consent of a person detaining control over another person, with the use of violence dangerous for the life and physical or mental health of the person; torture, inhuman or degrading treatment, in order to ensure the obedience of the person, or rape, taking advantage of physical dependence, use of arms, threat of disclosure of confidential information to the family of the victims or to other persons, as well as through other means;

b) **„Child trafficking”** means recruitment, transportation, transfer, harboring or receipt of children, as well as the offering or acceptance of payments or other benefits in order to obtain the consent of a person detaining control over the child, with a view to: sexual commercial or noncommercial exploitation, through prostitution or in the pornographic industry; exploitation through forced labor or services; exploitation in slavery or in conditions similar to slavery, also in cases of illegal adoption; use in armed conflicts; use in criminal activity; removal of organs or tissues for transplantation; abandonment abroad. The same actions, accompanied by: use of physical or mental violence against the child; sexual abuse of the child, his/her sexual commercial or noncommercial exploitation; subjecting the child to torture, inhuman or degrading treatment, in order to ensure his/her obedience, or accompanied by rape, profiting of the child's condition of physical dependency, use of arms, threat of confidential information disclosure to the family of the child or to other persons; exploitation in slavery or conditions similar to slavery; use of the child in armed conflicts; removal of organs or tissues for transplantation.

- c) Upon qualifying the actions of the perpetrator based on Articles 165 and 206 of the Criminal Code, the consent of the victim as to his/her recruitment, transportation, harboring or receipt, shall not be held account of, even if the victim had been informed about the aims to which he/she was to be used, as well as about the means employed in trafficking;
 - d) The recruitment, transportation, transfer, sheltering or receipt of a child, for the aims specified in Article 206 CC, shall be deemed “trafficking in human beings”, where neither of the specified means had been employed;
 - e) The term “child” shall mean any person under the age of 18 years;
 - f) “Victims of trafficking” are persons who have suffered, either individually or collectively, damage, including physical or mental injuries, material or moral losses, essential violations of their fundamental rights and freedoms, through acts or omissions specified in letters a) and b) of this item.
2. The provisions of Articles 165 and 206 CC set out the following criminal actions:
- a) recruitment;
 - b) transportation;
 - c) transfer;
 - d) harboring;
 - e) receipt of a person.
- 2.1. Such actions are committed with an aim of:
- a) sexual commercial or noncommercial exploitation;
 - b) forced labor or services, in slavery or conditions similar to slavery;
 - c) use in armed conflicts or in criminal activity;
 - d) removal of organs or tissues for transplantation.
- 2.2. Actions specified with regard to child trafficking are also performed with an aim of:
- a) prostitution or use in the pornographic industry;
 - b) illegal adoption;
 - c) abandonment abroad.
- 2.3. The said criminal actions are committed by employing the following means:
- a) threat with application of physical or mental violence, not dangerous to the life and health of the person, including kidnapping, seizure of documents, bondage aimed at the repayment of a debt, the amount of which is not reasonably established;
 - b) deceit;
 - c) taking advantage of vulnerability condition or abuse of power;
 - d) offering or receipt of payments or benefits in order to obtain the consent of a person detaining control over another person;
 - e) application of violence dangerous to the life, physical or mental health of a person;
 - f) torture, inhuman or degrading treatment, in order to ensure the person’s obedience, or rape, taking advantage of physical dependency, use of arms, threat of confidential information disclosure to the victim’s family or to other persons, as well as other means;
- In order for the actus reus of trafficking in human beings to be deemed as existing, it is sufficient for at least one of the above-mentioned criminal actions (inactions) to have taken place, with at least one of the aims enumerated and at least one of the specified means to have been employed.
3. Upon construing trafficking actions the following explanations must be taken into account:
- 3.1. **Recruitment** aimed at trafficking human beings implies involving persons through selection into a certain activity, determined by the aims provided in Articles 165 and 206 CC.

The circumstances, in which recruitment occurred, are irrelevant, whether this happens in recreational places, unconventional networks, by offering jobs or opportunities for study, by pro forma marriage etc.

The means for recruitment may be constraint, kidnapping, total or partial deceit, etc.

3.2. Transportation is the shift of a person from one place to another within one state or by border-crossing, by using various transportation means on foot.

3.3. Transfer of a person is the transmittal of the victim from one person to another through sale and purchase, exchange, rent, concession against a debt, donation and other similar transactions, with or without reward.

3.4. Harboring of a victim is his/her placement in a hidden place, in order not to be detected by the representatives of state bodies or third parties, who could denounce the act of trafficking.

3.5. Receipt of the victim is the trafficked victim's taking over by another person from the person, who conveyed him/her through sale and purchase, exchange, rent, concession against a debt, donation and other similar transactions, with or without reward.

4. The aims specified in Articles 165 and 206 CC shall be construed as follows:

4.1. Sexual exploitation means forcing the person to engage in prostitution or other actions of a sexual character.

Commercial sexual exploitation means profit-bringing activity, which results in the increase of the assets of the perpetrator or of other persons, expressed in the use of the victim, through constraint to engage in prostitution or in the pornographic industry.

Noncommercial sexual exploitation means such activity, which has no direct impact on the assets of the perpetrator or of other persons, expressed in marriage (including polygamous marriage), cohabitation and other such forms of living together, etc.

4.2. Exploitation through forced labor or services, as provided by the Convention on forced or compulsory labor of the International Labor Organization, means: a) constraining the victim to perform work, which he/she would have not performed of his/her own initiative; b) to bring the victim into a condition of performing work, which he/she was not bound to perform; c) keeping a person in bondage for repayment of a debt; d) obtaining performance of work or services through deceit, constraint, violence or threat of violence;

4.3. Slavery is the state or condition of a person, over which one or all powers, deriving from the right of ownership, are exercised;

Conditions similar to slavery mean bringing or keeping a person in such condition, where another person has mastery over him/her or where he/she is compelled, through the use of force or constraint, deceit or threat of violence, to render certain services, including engaging or remaining in relations of cohabitation or marriage;

4.4. Use of victim in armed conflicts means his/her forced engagement in military actions;

4.5. Use in criminal activity means forced engagement in committing deeds that constitute crimes;

4.6. Removal of organs or tissues for transplantation takes place in the case of concussing the victim for the removal of organs, tissues or other elements of the human body for transplantation, in breach of the Law on transplant of human organs or tissues (Official Monitor of the Republic of Moldova No. 94-95/474 of 26 August 1999);

4.7. Child's abandonment abroad, provided in Article 206 CC, means child's dereliction on the territory of a foreign state and failure to return him/her to the territory of the Republic of Moldova. Abandonment may take place as a consequence of illegal removal of the child from the Republic of Moldova.

5. The means of performance of trafficking in human beings shall be construed as follows:

5.1. Physical violence not dangerous for the life and health of the person is the deliberate causation of corporeal injuries, which do not result in short-term health disturbance or an insignificant, but stable disturbance of labor productivity, or the deliberate battery or committal of other acts of violence, which have caused physical pain, where these have not posed a threat to the life or health of the victim.

Norms are provided by the Regulation on medico-legal estimation of gravity of bodily injuries (Official Monitor of the Republic of Moldova No. 170-172 of 08 August 2003).

5.2. Mental violence consists of a mental threat towards a person, under which the victims cannot direct their will freely, and perform actions at trafficker's will.

5.3. Violence dangerous for the life and mental or physical health of a person means deliberate grave or medium injury, provided by Articles 151 and 152 CC.

Where the violence exercised in connection with trafficking in human beings consists in the deliberate grave injury of body integrity or health, the acts shall qualify as cumulative crime, under Article 165 or, as the case may be, Articles 206 and 151 of the Criminal Code.

Such dangerous actions as those mentioned above are injuries, which are dangerous for the life of the victim, by themselves, at the very moment of their infliction, or which may bring or actually bring to the victim's death, according to their usual evolution, if left unattended.

5.4. The kidnapping of a person implies actions contrary to the wish or the will of the victim, accompanied by change of his/her residence or temporary whereabouts, accompanied by victim's confinement.

The capturing, forced change of residence, accompanied by the victim's confinement, constitute mandatory elements as means of committing human trafficking through kidnapping.

The kidnapping of a person implies the existence of the following successive stages:

- a) capturing the victim;
- b) taking the victim and transferring him/her from his/her permanent or temporary whereabouts (place of living, working, resting, treatment etc);
- c) person's confinement against his/her will or by disregarding his/her wishes.

5.5. Seizure of documents means depriving the victim of his/her identity, travel and other documents (passport, identity card, residence permit, travel documents etc.).

5.6 Bondage (state of dependency) means the situation when the victim is confined, including deprivation of the freedom of movement, taken as hostage, until he/she or a third party repays a debt, either legally or illegally established.

5.7. Deceit consists in misleading of and causing damage to a person by representing sham or distorted facts as true, with the aim to accomplish trafficking in human beings for oneself or for another person.

Deceit as means of committing a crime may consist either of actions, by communicating false information on certain circumstances or facts, or of inactions that reside in holding back real circumstances or facts (for instance, false promises to offer a legal job, dissembling the real conditions, in which the victim is forced to work etc.).

5.8. Taking advantage of vulnerability condition (Article 165 para.(1) let.c) consists of trafficker's taking advantage of the special state in which a person finds himself/herself, as a result of:

- a) an insecure situation from the viewpoint of social survival;
- b) a condition due to pregnancy, illness, infirmity, physical or mental disability;
- c) an insecure and illegal situation in connection with entering or residing in a transit or destination country.

The state of vulnerability may be conditioned by various factors: the victim's isolation, his/her difficult material or mental state, family problems or the lack of social resources etc.

The abuse of the state of victim's vulnerability is an element of trafficking. The victim's state of

vulnerability shall mean any kind of vulnerability: mental, affective, family, social or economic. It encloses the range of desperate situations that may make a human being accept his/her own exploitation.

5.9. Abuse of power is the exaggerated use by a special subject – responsible person, representing the public authority – of his/her powers, he/she has been vested with by law. In such case there is no need for supplementary qualification under Article 327 of the Criminal Code.

5.10. Offering or receiving payments or benefits, in order to obtain the consent of a person holding control over another person consists of an understanding between the persons mentioned, interested in obtaining the consent regarding the transfer of the victim and his/her use for the ends mentioned in Articles 165 and 206 CC.

A person holding control over another person is such a person that legally or illegally keeps under control the victim's activity and profits by such power in the process of trafficking.

5.11. The term "**torture**", as a means of trafficking, consists of any acts, by which strong suffering or intense physical or mental pain is caused to a person.

Torture is deliberate causation of strong suffering or great physical or mental pain, for the aims specified above.

The distinction between torture and other form of maltreatment must be made in accordance with the intensity of the pain caused. The gravity or the intensity of pain caused may be determined by several factors: duration; physical or mental consequences; sex, age and victim's state of health; means and manner of execution.

Physical and mental violence caused to a person, considered in its entirety, may qualify as acts of torture in the meaning of Article 165 CC, where it caused grave pain or suffering and has been extremely rough and cruel (deprivation of sleep, food and water, thermic or chemical burns, intimidation, deprivation of medical help, of toilet facilities etc.).

Torture is an aggravated and deliberate form of inhuman and degrading treatment.

Inhuman treatment in the meaning of Article 165 CC is a totality of operations applied to a person, aimed at obtaining his/her obedience. Inhuman treatment is any treatment, other than torture, which is likely to cause deliberately terrible physical or mental suffering, which cannot be justified.

Degrading treatment is any treatment, other than torture, which gravely humiliates a person in front of other persons or force him/her to act against his/her will and conscience, or which is likely to cause feelings of fear, inferiority or anxiety to the victim, to abase and break down his/her physical and moral resistance, in order to ensure victim's obedience.

5.12. By **use of rape** in human trafficking one understands attempting by the trafficker at the social relations concerning sexual liberty and inviolability of a person, regardless of gender, with the aim to exploit human beings. Such actions do not require additional qualification under Article 171 of the Criminal Code.

Sexual abuse of a child means violent actions of sexual character, constraint to actions of sexual character, perverse actions and other such acts, which do not require additional legal qualification under Articles 172, 173, 175 CC.

5.13. Physical dependency means the physical or mental state which results from the interaction of the victim's body with narcotic or psychotropic substances, characterized by alterations of behavior and other reactions, always accompanied by the need to use such substances continuously or periodically, in order to experience the mental effects and, sometimes, to avoid suffering.

6. According to paragraphs (2) and (3) of Articles 165 and 206 CC, criminal liability may ensue, where the provisions of paragraphs (1) of these Articles are accompanied by the respective qualifications.

6.1. The crime shall be deemed **repeated** where two or more crimes of trafficking were committed by a person, who has not been convicted, and the term of limitation for criminal accountability had not expired.

Any other persons participating in the committing of a crime appear as organizers, instigators, accomplices and co-authors.

6.2. Human trafficking is deemed to have been deliberately committed with regard to a **pregnant woman**, where the perpetrator knew about the victim's pregnancy.

Where the trafficker did not know at the time of committal that the victim was pregnant, such acts, committed in the absence of other aggravating circumstances, must qualify as ordinary trafficking in human beings.

6.3. Use of arms in the meaning of letter f) para.(2) of Article 165 consists in the use of any arm, including firearms, cold steel or other forms of arms, since the legislator did not specify the type of arm employed. The use in human trafficking of other objects, employed as arms, may not serve as grounds for aggravating criminal liability under para.(2) of Articles 165 and 206 CC.

By use of arms one must understand their use with a view to the destruction of the victim or the persons trying to free the victim (targeted shots, stab with cold steel, demonstrating an arm with the aim of intimidation, setting an arm against the victim's throat, shooting a gun in the immediate vicinity of the victim etc).

6.4. Threatening with confidential information disclosure consists of the use of certain confidential data for intimidation of the victim, as a mechanism of control over him/her (threatening a person to disclose intimate information to his/her family etc.).

6.5. Organized criminal group or criminal organization, as provided in para.(3) of Article 165 CC, is deemed the criminal association that encompasses the specifics provided in Articles 46 and 47 CC. Under the UN Convention on transnational organized crime, of November 15, 2000, an organized criminal group is the structured group of 3 and more persons, which functions for a certain amount of time and acts in order to commit one or several grave crimes, defined by the Convention, with the aim to obtain, directly or indirectly, pecuniary benefits or any other material benefits.

7. Any form of participation in human trafficking shall be incriminated in accordance with the provisions of Chapter IV of the Criminal Code, General Part.

8. The preparation and attempt of committing trafficking in human beings shall qualify in the light of Articles 26 and 27 of the Criminal Code.

9. Where other acts attempting at other social relations have been committed at the same time with human trafficking, and they do not qualify under Articles 165 and 206 CC, such actions shall be qualified separately, as cumulated offences, including trafficking.

10. Human trafficking, as well as child trafficking, are deemed as formal crimes and are considered consummated as of the committal of any action specified by Articles 165 and 206 CC, regardless of the occurrence of damaging consequences.

11. The subjective aspect of human trafficking is direct intention.

12. The subject of crimes provided by Articles 165 and 206 CC shall be any natural person of sound mind, over the age of 16 years.

The special subject of the crime provided by Article 206 CC is the person of sound mind, who has the child entrusted for care or supervision at the moment of committing crimes provided in para.(1) letter g) – abandonment of child abroad.

13. The legal object of the crime provided by Article 165 CC consists of the social relations, the normal development of which depends on the liberty of a person.

14. The legal object of the crime provided by Article 206 CC consists of the social relations concerning the normal physical and mental development of the child and his/her personal liberty.

15. Under Article 220 CP pimping implies unlawful actions of the pimp, who mediates prostitution in order to gain personal material benefits from such occupation. Such activity is accomplished through:

- a) abetment or prompting to engage in prostitution;

- b) facilitating engagement in prostitution;
- c) taking advantage from engagement in prostitution;
- d) recruitment of persons for engagement in prostitution.

In the case of pimping, the prostitute is not a victim. In such a case, there are certain voluntary relations between the pimp and the prostitute.

Pimping is a crime against public health and social cohabitation. This is how pimping should be distinguished from trafficking in human beings.

16. Distinguishing human and child trafficking from illegal border-crossing lies in the object of such offences and, namely, illegal border-crossing violates the normal activity of public authority and state security, while trafficking is a crime against a person.

The objective side of illegal border-crossing, in the meaning of Article 362 CC, consists of the illegal border-crossing of the state (guarded) frontier, on land, water or by air, without necessary documents, required permission or in unauthorized places.

In the case of trafficking, the transfer of persons across the border may take place either legally or illegally.

17. Under Article 23 of the Criminal Procedure Code, courts shall undertake concrete actions, based on law, to ensure the rights and protection of the victim, taking into account the specifics of examination of criminal cases concerning trafficking in human beings, the need to impede the re-victimizing of the person by tactfully offering him/her the help required, and by being aware of the need of psychological, medical and social rehabilitation from the traumatic stress.

The law enforcement bodies and courts must undertake adequate measures in order to ensure the security and efficient protection of the victim and witnesses from repressions and possible intimidation and avoid the influence of traffickers on such persons. Legal assistance to the victim shall be ensured by an appointed attorney, where needed.

18. Appeal and cassation courts must undertake necessary measures as regards the improvement of administration of justice in cases of human trafficking and the remedying of possible non-administration of justice.

Chairman of the Supreme Court of Justice

Valeria Șterbeț

Chisinau, 22 November 2004

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