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# **MIGRANTS' VULNERABILITY TO HUMAN TRAFFICKING AND EXPLOITATION IN THE REPUBLIC OF MOLDOVA**

Chisinau, 2020



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# **MIGRANTS' VULNERABILITY TO HUMAN TRAFFICKING AND EXPLOITATION IN THE REPUBLIC OF MOLDOVA**

Chisinau, 2020

Study conducted by the Center for Investigations and Consulting „SocioPolis” at the request of PA International Center „LA STRADA” (Moldova)

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## ABBREVIATIONS

- NEA** – National Employment Agency
- PSA** – Public Services Agency
- BMA** – Bureau for Migration and Asylum
- CAP** – Centre for Assistance and Protection of Victims and Potential Victims of Trafficking in Human Beings
- CCTP** – Centre for Combating Trafficking in Persons
- CTPF** – Center for Temporary Placement of Foreigners
- MIA** – Ministry of Internal Affairs
- MHLSP** – Ministry of Health, Labour and Social Protection
- IOM** – International Organization for Migration (since September 2016, also called the UN Migration Agency)
- UN** – United Nations
- POCOCSC** – Prosecutor’s Office for Combating Organized Crime and Special Cases
- BP** – Border Police
- GPO** – General Prosecutor’s Office
- RM** – Republic of Moldova
- IAISOC** – Integrated and automated information system for recording offenses, criminal cases and persons who have committed offences
- NRS** – National Referral System to Protect and Assist Victims and Potential Victims of Trafficking Human Beings
- US** – United States of America
- THB/TIP** – trafficking in human beings/ trafficking in persons
- EU** – European Union
- USSR** – Union of Soviet Socialist Republics

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## EXECUTIVE SUMMARY

Currently, the Republic of Moldova is internationally known as a country of emigration and origin of trafficking in human beings (THB). However, in the past few years, the attractiveness of the Republic of Moldova as a country of destination and transit for migrants has increased due to the close proximity to the European Union (EU), the liberalization of visa regime and the association with the EU.<sup>1</sup>

The recent report of the US Department of State on trafficking in persons (TIP) shows that the Government of the Republic of Moldova still has shortcomings and does not fully meet the minimum standards for the elimination of human trafficking.<sup>2</sup> While significant efforts are being made with the support of development partners, serious infringements and interference still persist in the judiciary, while the level of corruption is still worrying. It is true that authorities are committed to identify,

investigate and prevent cases of human trafficking involving Moldovan citizens, but the identification of victims of THB among third country nationals and, respectively, granting official status of victim of human trafficking, remains a challenge. The mentioned report underlines that Moldovan border police (BP) did not consistently screen undocumented migrants (both emigrants and immigrants) at border crossings in order to exclude cases of THB before placing them in detention facilities. In addition, the report also mentions that immigrants, especially undocumented ones, including, stateless individuals, remain highly vulnerable to human trafficking and exploitation on the territory of the Republic of Moldova, primarily in the agriculture and construction sectors.

The purpose of this study is to analyze the vulnerability of migrants in situations of THB and exploita-

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<sup>1</sup> *Statistical Compendium of Extended Migration Profile of the Republic of Moldova for 2014-2016*. MIA/BMA, Chisinau, 2018.

<sup>2</sup> *Trafficking in Persons Report. June 2019*. US Department of State, p.328.

tion on the territory of the Republic of Moldova. Starting from this purpose, the objectives of the study are focused on: (i) analysis of the institutional and legal framework that regulates current methods of work of staff from bodies and organizations authorized to identify, investigate, and ensure protection and assistance in cases of THB and exploitation of migrants, citizens of other states on the territory of the Republic of Moldova; (ii) identification of gaps and deficiencies in the anti-trafficking system of the Republic of Moldova, which impedes the identification, protection and assistance to migrants and victims of THB and exploitation, as well as the rationale for the need to adopt further measures in this area; (iii) analysis of information regarding suspected cases of THB and exploitation of migrants, who are citizens of other states on the territory of the Republic of Moldova, through the presentation of particularities of these cases, establishment of their relationship with the migration processes, including transportation/transit of irregular migrants and the establishment of factors of vulnerability of migrants to THB and exploitation; and (iv)

development of recommendations for enhancing the effectiveness of policies and practical work of state bodies, civil society organisations, and other organisations active in the field of combating THB and exploitation taking into account the need to protect the rights of victims of THB, in particular third country nationals.

## **Research methodology**

To achieve the goals and objectives of the research, a comprehensive methodological approach has been proposed, based on knowledge of the situation of migrants - victims of THB or vulnerable to human trafficking and exploitation, but also on the experience of representatives of various public and private institutions responsible for the identification, investigation and assistance to victims of THB and exploitation, which would allow for the triangulation of data.<sup>3</sup> **The research was based on primary and secondary data sources (analysis of legal and institutional framework in the field).** Research program of the study included: (i) analysis of infrastructure, regulatory framework in the field of migration management and combating THB among mi-

<sup>3</sup> Validation technique combining several data collection techniques in order to decrease the distortions inherent in each of these. Triangulation allows verification of equity and stability of results.

grants, third country nationals on the territory of the Republic of Moldova; (ii) analysis of statistical and administrative data on migration flows, immigration process, categories of migrants, highlighting data on the number of immigrants-victims of THB and exploitation in the Republic of Moldova; (iii) conducting in-depth interviews with immigrants from other countries who are on the territory of the Republic of Moldova, and who are vulnerable to THB, are victims or presumed victims of THB and exploitation; (iv) conducting individual in depth interviews with various experts from public and private structures responsible for migration, identification, investigation and assistance to victims and presumed victims of THB and exploitation. Thus, 33 in-depth individual interviews were conducted: 12 with migrants from third countries who are victims and presumed victims of THB and exploitation and 21 interviews with representatives of different institutions, organizations involved in the identification, investigation and assistance of victims of THB and exploitation.

Research results confirmed the main hypothesis that Republic of Moldova is not sufficiently prepared for the identification, inves-

tigation, assistance and protection of migrants-victims and presumed victims of THB and exploitation. Existing data shows that some of the immigrants, regardless of their legal status (including that of third country nationals, stateless persons, refugees, etc.), are exposed to the situation of human trafficking and exploitation in Moldova. In-depth interviews prove that Moldovan authorities have difficulties in identifying irregular migrants, who are at risk of THB and exploitation, because the necessary tools and resources are lacking. Despite the experience the Republic of Moldova has in investigation and prosecution of THB crimes, as well as protection of trafficked persons from among its own citizens it is necessary to develop specific tools for the identification, investigation, protection and assistance to immigrant victims and presumed victims of THB and exploitation, to be offered to special bodies working in the area of migration management. In addition, good inter-institutional and inter-sector cooperation is needed, between all actors involved in the field of prevention and combating THB, ensuring the rights of migrants, protection and assistance of trafficked persons.

## Key findings

Identification of migrants vulnerable to THB and exploitation is a rather complicated and polyvalent process. On an European level, researches on Mediterranean and Western Balkan routes to Europe, incorporated in the IOM's Displacement Tracking Matrix (DTM) can be considered a starting point and good practices to follow. In particular, *Flow monitoring surveys*, which include a module on THB and other exploitation practices, can serve as a model for developing a specific questionnaire in the Republic of Moldova. This would be the first step for assessing and diagnosing the phenomenon of THB and exploitation of foreign migrants in Moldova, as well as for preventing and investigating this phenomenon.

Even though Moldova has a solid institutional framework in the field of migration management and combating THB, given that it is less oriented towards identifying victims of THB and exploitation among foreign migrants, thus, the investigation and granting of their protection is below the acceptable level. So far, neither the BP nor the CTPF have investigated irregular immigrants in the Republic of Moldova in terms of human trafficking and exploitation.

BP data for 2018 show a 15% increase in violations related to irregular migration in comparison to 2017. Data of the *Automated sub-system for registration of cases of the state border law violations* show the growth of violations of the regime of residence (+12,1%) and the growth of violations of state border (+68,5%). Moreover, migrants from Bangladesh first appeared in the flow of people documented in 2018 for violation of state border. This data confirms once again that there is major risk of exposure of vulnerable migrants to THB and exploitation.

Moldova generally complies with international standards in providing forms of protection to migrants. The national legislation also guarantees the granting and extending the right to temporary stay for victims of THB who cooperate with competent authorities in investigation and prosecution of traffickers. Presumed victims of THB can obtain the right to temporary stay in Moldova during the reflection period in regime of tolerance.

However, the participants in the research signaled that no residence permits have been granted in Moldova to foreigners so far in relation to the status of victim

or presumed victim of THB, since no such requests were made. Although it is not very clear which institution the victim should apply to in order to obtain the status of victim or presumed victim of THB. According to the interviewees, the lack of applications for obtaining the status of victim of THB and exploitation from foreign migrants in the Republic of Moldova, is determined by multiple causes: (i) victims of THB and exploitation do not realize that they are victims; (ii) victims of THB and exploitation do not want to stay in the Republic of Moldova, they aim to transit the Republic of Moldova and reach the planned destination country where the benefits of THB victim status and exploitation are bigger; (iii) victims of THB and exploitation are manipulated and intimidated, they do not know the laws in order to make such a request; (iv) victims of THB and exploitation are seeking asylum and not the status of trafficked person, etc.

Perceptions of most specialists interviewed show that Moldova is not a country of destination for migrants, respectively, the cases of THB and exploitation of third country nationals on the territory of Moldova are “single cases”. Despite this, we point out that we cannot disregard the problem,

even if cases are rare, they must be handled professionally and responsibly with respect for human rights, migrants rights and victims rights.

The most common forms of exploitation of migrants on the territory of the Republic of Moldova are cases of exploitation through labour and begging. There are clear mechanisms in the Republic of Moldova of identification and combating illegal stay and/or undeclared labour of third country nationals, including specific methods of cooperation between the different units of MIA, such as BMA, police and BP. However, there are no mechanisms for the identification of migrants - victims of THB and labour exploitation.

Data collected in the study shows that in Moldova: (i) there are some cases and presumed cases of THB and exploitation of foreign migrants, identified by the competent authorities of the Republic of Moldova; (ii) there are also presumed cases of THB and exploitation of third country nationals in irregular migration flows that have not been identified by the competent authorities of the Republic of Moldova; (iii) the countries of origin of migrants-victims of THB and exploitation or vulnerable migrants,

presumed victims, are the former countries of the USSR (Ukraine, Russian Federation, Uzbekistan, etc.), as well as some countries of Asia (Turkey, Bangladesh, Pakistan) and Africa.

Features of vulnerability of migrants subject to THB and exploitation include: irregular entry in the Republic of Moldova (false documents or avoiding state border crossing), lack of identity documents, violation of work and residence permitting regime, presence of a disability or other health problems, lack of education or low level of education, etc. Unaccompanied children, women, and men of different ages, from former USSR countries, or some Asian and African countries are vulnerable to THB and exploitation on the territory of the Republic of Moldova.

In order to improve the identification process of foreign migrants-victims of THB and exploitation on the territory of the Republic of Moldova it is necessary: (i) to develop a clear procedure and tools to facilitate the identification process. Interviewees mentioned that a guide that includes signs of risk for THB and exploitation of migrants would be useful for employees of BP and other bodies, as well as some stan-

dard operating procedures of interaction; (ii) training of specialists from different public bodies, first of all, border guards, but also representatives of BMA, mayors, social community workers, etc.

Investigation of criminal cases with regard to THB and exploitation of foreigners on the territory of the Republic of Moldova is done mostly by CCTP - a fact proved by the data of this study. Officers of POCOCSC and BP have competences in this area, as well.

Difficulties in investigating and documenting foreign migrants-victims and presumed victims of THB and exploitation include: (i) the need for a translator at the time the migrant is detained by the BP or another authority, in order to comply with the terms of investigation/temporary detention provided for by legislation; (ii) difficulties in proving the THB crime, since in the case of migrants, situations are disguised as transit visas, business opening, in order to obfuscate the purpose of exploitation; (iii) documentation procedures are bureaucratic and stall the investigation procedure, etc.

Difficulties in providing assistance and protection to migrants-victims and presumed victims of THB and exploitation refer to: (i) lack of a

specialized shelter and other services for foreign migrants-victims and presumed victims of THB and exploitation; (ii) high costs in the case that these persons are placed in the existing institutions (CTPF or CAP). Financial resources are required to document the person, provide medical assistance, provide food, etc. Currently, in both CTPF and at CAP funding is limited, and is based on old norms; (iii) issues related to the spoken language, procedures for examining and determining the age of migrants, placing minors in specialized centers for minors and not together with adults, etc.

From a practical point of view, some interviewees have signalled that there is no clear framework for public bodies' cooperation and victim's referral, in case of foreign migrants-victims of THB and exploitation. The official cooperation between institutions providing assistance to different beneficiaries is flawed, frequently personal contacts are used to provide necessary support.

## **Recommendations**

The research results show the need to improve procedures for working with foreign migrants-victims and presumed victims of THB and exploitation for the purpose

of identification, investigation and assistance. Based on accumulated data we provide the following recommendations to state and non-state actors involved in the process of identifying, investigating, providing assistance and protection to migrants who are victims of THB and exploitation:

- Signing of a cooperation agreement between CCTP, BP and BMA with a view to establishing areas and forms of cooperation, holding regular meetings and consultations on matters of common interest, developing common procedures for identification and intervention in cases of THB among irregular migrants and/or asylum seekers, including stateless persons;
- Establishing a clear official procedure of granting status of victim of THB to foreign migrants (responsible state bodies, forms of interaction, role of civil society, etc.);
- Developing and implementing new working tools for BP, BMA, CTPF employees to identify victims of THB and exploitation among irregular migrants, asylum seekers, stateless persons, including standard screening form for this purpose;



- Developing a guide on the identification of victims of trafficking in migrants, asylum seekers, stateless persons, describing the basic characteristics of vulnerability;
- Developing a guide for the identification of presumed victims of THB and exploitation, which describes basic characteristics of vulnerability among irregular migrants, asylum seekers, stateless persons;
- Using local expertise, as well as involving foreign experts in the process of developing tools related to the identification of victims of THB among foreign migrants, standard operating procedures, as well as in the area of cooperation between public bodies involved in the process of identification, investigation, providing protection and assistance to trafficked persons;
- Training and capacity building for personnel of CCTP, BP, BMA, CTPF, community police officers, mayors, local social workers, etc. in the field of identification, investigation and provision of necessary protection for foreign migrants-victims of THB and exploitation;
- Improving the process of analysis of immigration risks, including the risk of THB in migration flows, by using not only primary information, but also the one from the investigation process;
- Dissemination and exchange of best practices in area of preventing and combating THB and exploitation among foreign migrants with countries of origin, transit and destination of migrants-victims of THB and exploitation, as well as organizing relevant international forums;
- Introducing separate statistics in activity reports of CCTP, BP and BMA regarding cases of THB and exploitation of foreign migrants on the territory of the Republic of Moldova, as well as the disaggregation of data by different signs (registered criminal cases, investigated criminal cases, investigated criminal cases, criminal cases sent to trial, forms of THB and exploitation, countries of origin, victims profile, etc.);
- Adjustment of existing specialised social services for trafficked persons and services managed by the BMA for needs

- of foreign migrants-victims and presumed victims of THB and exploitation, as well as creating new services (accommodation, translation, etc.);
- Raising the level of awareness of the population towards the phenomenon of THB, involving mass-media; strengthening the capacities of the representatives of the mass-media who present relevant information and capacities of communicators of competent authorities, so that media releases should be prepared and submitted in the right format;
- Alignment of national migration policies (migration for the purpose of employment, in particular) to the international system of integrity in recruitment - IRIS, an initiative developed by the IOM, which promotes “a whole-of-government approach” for the ethical recruitment and protection<sup>4</sup> of migrant workers. Facilitating the dialogue between national state and non-state actors and between governments of countries affected by migration, between national and local authorities;<sup>5</sup>
- Preventing THB among foreign migrants by providing better information to third-country nationals on the possibilities and conditions of legal immigration. To achieve this goal, it is important to organize:
  - ✓ continuous information campaigns on the modalities of admission and stay on the territory of the Republic of Moldova;
  - ✓ informing citizens in the countries of origin, through the authorities with competences in the area of emigration about the possibilities of migration, their rights and obligations in the Republic of Moldova;
  - ✓ involvement of diplomatic missions of the Republic of Moldova in the countries of origin, as well as diplomatic missions of these countries in Moldova in the process of informing third country nationals;
  - ✓ permanent information on risks arising from illegal migration, THB, undeclared labour, as well as sanctions and restrictive measures that may be applied.

<sup>4</sup> International Recruitment Integrity System

<sup>5</sup> <https://iris.iom.int/government-engagement>



## INTRODUCTION



Currently, the Republic of Moldova is internationally known, as a country of emigration and origin of trafficking in human beings (THB). Because of the proximity of the European Union (EU), the liberalization of the visa regime and the association with the EU, Moldova's attractiveness as a destination and transit country for migrants has increased in recent years.<sup>6</sup> The emigration flows of Moldovan citizens remain at high levels, causing a profound demographic crisis, also manifested by the lack of labour force in the country. As a result, there is a strong need for major changes in all areas in order to stop the massive exodus of population. Since such reforms require a lot of resources, sustained efforts and sustainable partnership between all the actors involved, one of the immediate solutions would be to adjust national migration policies to attract labour from other countries, i.e. to stimulate immigration into the country for labour purposes.

At the moment, there is no unified vision of stimulating immigration in Moldova. While some state institutions speak out against accepting immigrants for work, economic agents are calling for a freer and more stimulating policy to attract labour force. Despite all existing controversies, in 2018 the entry into the Republic of Moldova was liberalized, thus, the list of countries whose citizens need an invitation to obtain a visa to the Republic of Moldova was reduced from 85 to 38, and from the more than 100 countries, whose citizens needed visas to enter the Republic of Moldova, only 58 remained. Of course, such a change requires a holistic approach, in order to carry out a series of measures that would contribute to the integrated management of border crossings, safe migration and combating THB in accordance with international and regional standards, and in the spirit of ensuring human rights and achievement of Sustainable Development Goals.

<sup>6</sup> *Statistical Compendium of Extended Migration Profile of the Republic of Moldova for 2014-2016*, MIA/BMA, Chisinau, 2018.

The recent report of the US State Department on trafficking in persons (TIP) shows that the Government of the Republic of Moldova still has shortcomings and does not fully comply with the minimum standards for the elimination of THB.<sup>7</sup> While significant efforts are being made by development partners, serious infringements and interference still persist in the judiciary, while the level of corruption is still worrying. It is true that authorities are concerned with the identification, investigation and prevention of cases involving Moldovan citizens, while the identification of victims of THB among immigrants, including, the granting of the official status of victim of human trafficking remains a challenge. The mentioned report underlines that Moldovan border police (BP) did not consistently screen undocumented migrants (both emigrants and immigrants) at border crossings in order to exclude cases of THB before placing them in detention facilities. In addition, the report notes that immigrants, especially those without documents, including, stateless persons remain highly vulnerable to THB and exploitation on the territory of the Republic of Mol-

dova, primarily in agriculture and construction sectors. This is further proof that in the Republic of Moldova the issue of THB from this point of view was not addressed, respectively there were no studies to analyze the vulnerability of migrants, citizens of other states to THB and exploitation on the territory of the country.

Mentioned aspects show the real necessity of this study, in order to understand the de facto situation and identify good practices on the one hand, and weaknesses on the other, contributing in the end to the improvement of policies in this field, existing methods for the identification of migrants - victims of THB and exploitation, and ways of providing access to protection and assistance.

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<sup>7</sup> *Trafficking in Persons Report. June 2019.* US Department of State, p. 328.



# I. RESEARCH FRAMEWORK

## 1.1. Purpose, objectives and hypotheses of the research

The purpose of this study is to analyze the vulnerability of migrants to human trafficking and exploitation on the territory of the Republic of Moldova. Starting from this purpose, the objectives of the study are focused on:

- the analysis of the institutional and legal framework that governs the current methods of work of professionals and organizations authorized to identify, investigate, ensure protection of and assistance in cases of THB and exploitation of migrants who are citizens of other countries on the territory of the Republic of Moldova;
- identification of gaps and deficiencies in the anti-trafficking system in the Republic of Moldova, which impedes the identification, protection and assistance for migrants victims of THB and exploitation, as well as the rationale for the need to adopt further measures in this area;
- the analysis of information on the presumed cases of THB and exploitation of migrants, who are nationals of other states on the territory of the Republic of Moldova, through the presentation of particularities of these cases, the establishment of their relationship with the processes of migration, including transportation/transit of irregular migrants and the establishment of factors of vulnerability of migrants to THB and exploitation;
- the development of recommendations for enhancing the effectiveness of policies and practical work of institutions of the state, civil society organizations, and other organizations active in the field of combating THB and exploitation, taking into account the need to protect the rights of victims of THB, in particular third country nationals.

## Research assumptions

### *General assumptions:*

- Moldova is not sufficiently prepared to identify, investigate, provide assistance and protection to victims and presumed victims of THB and exploitation, among migrants, citizens of other states.

### *Specific assumptions:*

- some of the migrants, regardless of their legal status (including third country nationals, stateless persons, refugees, etc.) are exposed to human trafficking and exploitation on the territory of the Republic of Moldova;
- the most widespread form of exploitation of migrant-victims of THB on the territory of the Republic of Moldova, is labour exploitation;
- Moldovan authorities have difficulties in identifying victims of trafficking and exploitation among migrants, as the necessary tools and resources are lacking;
- in order to identify, investigate, ensure the protection and assistance of migrant-victims

and presumed victims of THB and exploitation, better inter-institutional and cross-sectoral cooperation between all actors involved in prevention and combating THB, ensuring the rights of migrants, protection and assistance of trafficked persons.

## **1.2. Migrants-victims and presumed victims of THB and exploitation: conceptual and methodological aspects**

### **Conceptual aspects**

#### *Migrant*

The generally accepted UN definition (1998) of “international migrant” is someone who changes his/her country of usual residence. Every international migrant has a double status: he/she is an emigrant for the country from which he leaves and an immigrant for the country of destination. The Moldovan legislation defines migrants: “*third country nationals, persons who do not hold Moldovan citizenship or stateless persons*”.<sup>8</sup> In this study, the term “migrant” is used for this purpose.

It is necessary to mention that a certain percentage of migrants

<sup>8</sup> Law of the Republic of Moldova No.200 of 16 July 2010 on the regime of foreigners in the Republic of Moldova, art.3.

who violate the regime of residence or of the state border of Moldova, automatically fall into the category of *irregular migrants*, increasing their vulnerability to THB.

*Trafficking in persons or trafficking in human beings and victims of this phenomenon*

The first definition of trafficking in persons in international law was accepted by the United Nations in 2000, and describes this phenomenon as “*the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat of the use of or by use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation*”.<sup>9</sup> This phenomenon also involves the exploitation through prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

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<sup>9</sup> *United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime*, 2000, art.3.

<sup>10</sup> *Council of Europe Convention on action against trafficking in human beings*. Warsaw, 16.05.2005.

At European level, THB is defined by the *Council of Europe Convention on action against trafficking in human beings*,<sup>10</sup> by analogy with the definition of the United Nations. The European Union has issued several directives on THB:

- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate irregular immigration who cooperate with the competent authorities;
- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on the preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

Based on these regulatory acts, we can analyze the phenomenon of THB by specifying some important aspects:

- i. THB affects women, men, children and involves a number

of exploitation practices. Although human trafficking was associated in the beginning, only with the sexual exploitation of women and girls, the internationally recognized definition, as outlined above, makes it clear that women and men, girls and boys can be victims of THB and exploitation and it also includes forced labour, practices similar to slavery, etc.;

- ii. THB and migrant smuggling are two different offenses. Migration through smuggling involves irregular movement, facilitated along an international border for profit. Although it may involve deception and/or abusive treatment, the purpose of smuggling migrants is to take advantage of the movement, not the potential exploitation, as in the case of human trafficking;
- iii. keeping the person in a situation of exploitation can occur not only in the country of destination, but also when he/she is in the country of transit;
- iv. THB cannot be “consented”. International human rights law has always recognized consent irrelevant in situations

where personal freedom is taken away.<sup>11</sup>

The definition from the United Nations Protocol had an important role in the development of Moldovan legislation on combating THB. Art. 165 of the Criminal Code of the Republic of Moldova defined THB as a crime, which includes such *illicit acts* as recruitment, transportation, transfer, harboring or receipt of person with or without his/her consent. These illicit acts are committed for the *purpose of exploitation* that could include - sexual exploitation; commercial or non-commercial exploitation; forced labour or services; exploitation through begging; appropriation of aid, benefits or social allowances; illegal use of human beings for medical or scientific tests or experiments; exploitation through slavery or in conditions similar to slavery; use in armed conflicts or in criminal activities; removal of organs, tissue and/or cells; use of women as surrogate mothers for the purpose of reproduction. Besides, the mentioned illicit acts are committed by *means* of use of violence, which does not endanger the life or health of a person; threat of application of violence; abduction; theft, tampering, degra-

<sup>11</sup> *Human Rights and Human Trafficking. Fact Sheet No. 36.* OHCHR, New York and Geneva, 2014, p.3.



dation or destruction of documents; keeping in servitude for the purpose of returning of a debt; threat of disclosure of confidential information to the victim's family, or any other natural or legal person; deception; abuse of a position of vulnerability or abuse of power, giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

It is important to note that child trafficking is defined separately in art. 206 of the Criminal Code. We also point out that over the course of the years, articles 165 and 206 have been completed with new language such as the *appropriation of aid, benefits or social allowances; illegal use for medical or scientific tests or experiments*, etc.

Complementing the definition and analysis of THB, experts recommend the use of two groups of distinctive indicators or signs for the identification of victims of THB: direct signs and indirect signs.

**Direct signs of THB** relate to the three constituent groups of its elements in the internationally recognized definition:

1. *Actions taken (what is done)*: recruitment, transportation, transfer,

housing or reception of persons with or without their consent;

2. *Means/methods of influence (how it is done)*: threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, giving payments or benefits to a person who controls the victim, etc.;

3. *Purpose of exploitation (why it is done)*: sexual exploitation, commercial or non-commercial exploitation, forced labour or service, exploitation through begging, in slavery or conditions similar to slavery, use in armed conflicts or in criminal activities, removal of organs, tissues and/or cells, etc.

Thus, in order to identify the victim of THB, it is necessary to establish the presence of the combination of any unlawful action, with any means of influence, for any purpose of exploitation.

If the specialist does not have enough information that would relate to the direct signs of THB for prior identification of victims of THB, **indirect signs** may be applied which include data on:<sup>12</sup>

1) social profile of the victim of THB based on the statistical average;

<sup>12</sup> *Guidelines on the identification of victims and potential victims of trafficking in human beings*, approved by the order No. 33 of 20.02.2012 of the Ministry of Labour, Social Protection and Family, para 20.

- 2) psychological profile of the victim of THB based on the statistical average;
- 3) method of organizing victim's travel abroad;
- 4) circumstances and environment in which the victim lives;
- 5) legal status of the victim in the country of transit or destination;
- 6) other circumstances relating to victim's personality and life.

It is necessary to mention that both in the Criminal Code of the Republic of Moldova and in the Labour Code of the Republic of Moldova there is no notion of "labour exploitation". The mentioned normative acts use the notion of "forced labour", which implies any work, service imposed on a person, under threat or without his/her consent (art. 7, the Labour Code), or obtaining work from a person against his/her will, by coercion or deception (art. 168, Criminal Code).

## **Methodological aspects**

Identifying victims of THB and exploitation, in mixed migration

flows, is a rather complex and difficult process. Various international organizations are working to study this issue, a particularly important role is played by the United Nations Agency for Migration, known as the International Organization for Migration (IOM).<sup>13</sup>

Over the past years (2015-2017), IOM has carried out a series of surveys on population on the move through the Mediterranean and Western Balkan migration routes to Europe.<sup>14</sup> These surveys were part of the IOM's Displacement Tracking Matrix (DTM) flow monitoring activities in the Mediterranean. It used a structured questionnaire, which has been piloted in 2015-2016 and later revised following the feedback received from field missions, different IOM departments and relevant partners. The revised questionnaire includes more indicators on the protection aspects, especially in relation to children on the move, trafficked persons and other exploited persons.

In addition to the detailed migrant profile information, such as age,

<sup>13</sup> *Human trafficking through the Central Mediterranean route: data, stories and information collected by the International Organization for Migration*. IOM, 2017.

<sup>14</sup> *Flow monitoring surveys: the human trafficking and other exploitative practices indication survey*. IOM, 2017. See: [https://migration.iom.int/docs/Analysis\\_Flow\\_Monitoring\\_and\\_Human\\_Trafficking\\_Surveys\\_in\\_the\\_Mediterranean\\_and\\_Beyond\\_adults\\_children.pdf](https://migration.iom.int/docs/Analysis_Flow_Monitoring_and_Human_Trafficking_Surveys_in_the_Mediterranean_and_Beyond_adults_children.pdf).

gender, origin, level of education and work experience, reason to migrate, cost, family status, situation of children, the survey for 2017 also included a *module aimed at measuring prevalence of human trafficking and other exploitative practices*. Thus, the questionnaire for this module includes a series of questions aimed at detecting and recording the signs of THB and other exploitation practices, which respondents or other migrants traveling with them (adults and children between 14 and 17 years) might have experienced on the route. An updated version of the questionnaire allows for a better understanding of the decision-making process to migrate from their country of origin to the country of destination, highlighting a set of exploitation indicators during the journey, including references to sexual violence and gender-based violence. It also allows to capture more accurately the locations in which THB circumstances appeared. This module therefore collects information about the circumstances, signs, evidence and exploitative practices that the respondent or a member of his/her family has experienced, either directly or indirectly, as a witness during the journey. More specifically, in the period of 2017, six questions were included for data collection in the Mediterranean to

obtain information on whether or not the respondent was exposed during travel to THB or exploitation:

1. Worked or performed activities without getting the expected payment (direct experience);
2. Been forced to perform work or activities against their will (direct experience);
3. Been approached by someone with offers of an arranged marriage (for the respondent or anyone in his or her family) (direct experience);
4. Been kept at a certain location against their will (direct experience);
5. Been aware of instances where migrants en route had been approached by people offering cash in exchange for blood, organs, or other body parts (observed);
6. Been aware of instances where migrants en route had been forced to give blood, organs, or other body parts (observed).

Two additional questions on physical and sexual violence have been piloted only in Italy, to capture whether a migrant has, during the journey:

7. Experienced physical violence of any sort (direct experience);
8. Been aware of instances where

migrants travelling with him/her have been threatened with sexual violence (observed).

Experiences described, based on these questions were not collected for the purpose of investigating cases of THB and punishing offenders. The purpose of these actions was to prevent the THB by identifying persons vulnerable to THB at an early stage and to provide the necessary protection for exploited or trafficked persons identified as victims of THB. If during the surveys, the interviewers met people with needs of protection and who expressed their consent to be helped, they were directed to the relevant protection stakeholder.

In the process of preparing this research, we also used questions from the IOM module on human trafficking and other exploitative practices to detect the many forms of THB and exploitation to which migrants are exposed in the migration process to and in the Republic of Moldova. Taking into account both direct and indirect signs of THB phenomenon, as well as the analytical findings of the IOM surveys carried out in the ba-

sin of the Mediterranean Sea, the term **migrant-victims of THB and exploitation** using in the context of this research, means migrants who were/are exposed to criminal activities for the purpose of THB and exploitation.

### **1.3. Research methodology**

To achieve the goals and objectives of the research, a comprehensive methodological approach has been proposed focused on: (i) knowing the situation of migrant - victims of THB or migrants vulnerable to THB and exploitation, as well as on (ii) the experience of representatives of various public and private institutions responsible for the identification, investigation, assistance to trafficked persons, which would allow for the triangulation of the data.<sup>15</sup> The research was based on primary and secondary data sources. We emphasize that the study is qualitative, exploratory, or in other words, a perspectives opener. The research program of the study included:

1. Analysis of infrastructure and regulatory framework in the field of migration management, combating THB and exploitation among migrants,

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<sup>15</sup> Validation technique combining several data collection techniques to mitigate the distortions inherent in each of them. Triangulation allows verification of equity and stability of results.

citizens of other states on the territory of the Republic of Moldova;

2. Analysis of statistical and administrative data on migration flows, immigration process, categories of migrants, highlighting data on the number of migrant-victims of THB and exploitation in Moldova;
3. Conducting in-depth individual interviews with migrants from other countries, who are on the territory of the Republic of Moldova, and are vulnerable to THB, are victims or presumed victims of THB and exploitation. The interviewees were ensured of their confidentiality, their participation in the research being voluntary and with minimal consequences in terms of psychological, legal or other impact. Vulnerable migrants, victims and presumed victims of THB and exploitation were selected from the beneficiaries of Center for Temporary Placement of Foreigners (CTPF), Centre for Assistance and Protection of Victims and Potential Victims of Trafficking in Human Beings (CAP), Center for housing and adaptation of homeless people “Reîntorcere” from Balti municipality and

other civil society organizations, which provide assistance to refugees and migrants. In total, 12 in-depth individual interviews were conducted with migrants from other countries on the territory of the Republic of Moldova, victims and presumed victims of THB and exploitation (Annex 1).

4. Conducting individual interviews with various experts from public and private structures, who have responsibilities in the field of migration, identification, investigation and assistance to victims and presumed victims of THB and exploitation. There have conducted 21 individual in-depth interviews with representatives of the following authorities: Border Police (BP), Bureau for Migration and Asylum (BMA), the Centre for Combating Trafficking in Persons (CCTP), the General Prosecutor’s Office (GPO) and Prosecutor’s Office for Combating Organized Crime and Special Cases (POCOCSC), the State Labour Inspectorate, the International Organization for Migration (IOM Mission to Moldova), CAP, CTPF, civil society organizations, which provide

assistance to refugees, Center for housing and adaptation of homeless people “Reîn-toarcere” of the municipality of Balti, etc. (see Appendix 2).

Interviews with vulnerable migrants took place based on the semi-structured interview guide, specific to the individual migration experience, in case of experts, based on a semi-structured interview guide, specific to institutional activity.

#### **1.4. Limitations**

We reiterate that the given research did not aim at quantitative analysis of the phenomenon of THB and exploitation of migrants on the territory of the Republic of Moldova. The objectives of the study were

focused on learning the ways of identifying and investigating these cases, as well as analyzing the interaction between institutions involved in this process, as well as making recommendations.

There have been linguistic difficulties in communicating with migrant-victims and presumed victims of THB and exploitation. They were not always able to express their ideas in the foreign language or there were difficulties in translating into/from the interviewee’s mother tongue. We should also point out that some of the migrants interviewed provided desirable answers and were not always honest about the problems they faced or face, for reasons of trust or fear.



## II. INFRASTRUCTURE AND NATIONAL POLICIES

### 2.1. Infrastructure and regulatory framework on identification and protection of victims of THB in mixed migrant flows

National policies related to migration management, preventing and combating irregular migration and human trafficking are determined by a diverse range of normative acts:

- Law on the regime of foreigners in the Republic of Moldova;<sup>16</sup>
- Law on asylum in the Republic of Moldova;<sup>17</sup>
- Law on preventing and combating trafficking in human beings;<sup>18</sup>
- National Strategy on migration and asylum (2011-2020)<sup>19</sup> and Action Plan 2016-2020 for its implementation;<sup>20</sup>
- National strategy for preventing and combating THB (2018-2023) and Action Plan 2018-2020 for its implementation;<sup>21</sup>
- *National integrated state border management strategy (2018-2023) and Action Plan*

<sup>16</sup> Law No. 200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova.

<sup>17</sup> Law No. 270-XVI of 18.12.2008 on asylum in the Republic of Moldova.

<sup>18</sup> Law No. 241-XVI of 20.10.2005 on preventing and combating trafficking in human beings.

<sup>19</sup> Government Decision No. 655 of 08.09.2011 on the approval of the National strategy on migration and asylum (2011-2020).

<sup>20</sup> Government Decision No. 736 of 10.06.2016 on the approval of the Action Plan for 2016-2020 on the implementation of the National strategy on migration and asylum (2011-2020).

<sup>21</sup> Government Decision No. 461 of 22.05.2018 on the approval of the National strategy for preventing and combating THB for 2018-2023 and Action Plan 2018-2020 for its implementation.

2018-2020 for its implementation;<sup>22</sup>

- *National mechanism for unitary and coherent management of the situation in the event of an increased influx of third country nationals;*<sup>23</sup>
- National Strategy for preventing and combating organized crime (2011-2019)<sup>24</sup> and Action Plan 2018-2019 for its implementation;<sup>25</sup>
- Regulation on procedures for the return, expulsion and re-admission of foreigners from the territory of the Republic of Moldova;<sup>26</sup>
- Regulation of the Centre for temporary placement of foreigners;<sup>27</sup>

These normative acts are supported by internal departmental acts, operating standards, activity guides and job descriptions.

The Law No. 200/2010 on the regime of foreigners in the Republic of Moldova (art. 42<sup>1</sup>) ensured the transposition of the provisions of the EU Directive 2004/81/EC on the residence permit for third-country nationals who are victims of THB. According to this legal act, the right to temporary residence should be granted to the victim of THB, even if he/she entered illegally on the territory of the Republic of Moldova. The period of temporary stay of the victim of THB can be 6 months, with the possibility of extension for a period of another 6 months if the

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<sup>22</sup> Government Decision No. 1101 of 14.11.2018 on the approval of the National integrated state border management strategy for 2018-2023 and the Action Plan 2018-2020 for its implementation.

<sup>23</sup> Government Decision No. 1146 of 20.12.2017 on the approval of the National mechanism for the unitary and coherent management of the situation in the event of an increased inflow of third country nationals.

<sup>24</sup> Government Decision No. 480 of 30.06.2011 on the approval of the National strategy for preventing and combating organized crime for 2011-2019.

<sup>25</sup> Government Decision No. 98 of 30.01.2018 on the approval of the Action Plan 2018-2019 on the implementation of the National strategy for preventing and combating organized crime for 2011-2019.

<sup>26</sup> Government Decision No. 492 of 07.07.2011 on the approval of the Regulation on procedures for return, expulsion and readmission of foreigners from the territory of the Republic of Moldova.

<sup>27</sup> Government Decision No. 493 of 07.07.2011 on the approval of the Regulation of the Center for temporary placement of foreigners.



victim cooperates with the competent authorities of the Republic of Moldova to discover and prosecute offenders.

When it comes to irregular migration, Criminal Code of the Republic of Moldova criminalizes and sanctions crimes concerning the organization of irregular migration (art.362<sup>1</sup>) and illegal crossing of the state border (art.362). At the same time, the Contravention Code sanctions the illegal stay and work of foreign citizens and stateless persons on the territory of the Republic of Moldova (art. 332-334), as well as violation of the rules of transportation of third country nationals (332<sup>1</sup>). Law on the regime of foreigners in the Republic of Moldova (Chapter VII) and the Criminal Code (art. 105) regulates the removal of foreigners, the stay of which on the territory of the country is recognized by the competent authority as unlawful.

The national legislation lays down that foreign citizens, stateless persons, refugees and asylum seekers subject to administrative and criminal liability for violation of the provisions of the national law. The competent authorities should take measures for their removal from the territory of the Republic of Moldova and shall carry

out monitoring of the mentioned persons. The *Regulation on the procedures for return, expulsion and readmission of foreigners from the territory of the Republic of Moldova*, approved by the Government Decision No. 492 of 07.07.2011, established the procedures of the foreigners' removal in conformity with international law.

Before the removal of the foreigner, the court may order that he/she should be taken into public custody and placed in the **Centre for Temporary Placement of Foreigners (CTPF)** for a period of not more than 6 months. The Regulation of the CTPF, approved by the Government Decision No. 493 of 07.07.2011, transposes in part the provisions of the Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

It should be also noted that the Republic of Moldova has a strong institutional framework in the field of migration management and combating THB, but it is less oriented towards foreign nationals, victims of THB and exploitation (Table 1).

**Table 1. Institutions responsible for migration management and combating THB and specific categories of beneficiaries**

<b>Institution</b>	<b>Specific categories with which they interact</b>
BP	All those who cross the border, including, foreign citizens.
BMA	Third country nationals, stateless persons, persons residing in the Republic of Moldova, citizens of the Republic of Moldova.
CTPF	Third country nationals declared undesirable or against whom the measure of return or expulsion was ordered and who were taken into public custody.
CCTP	Victims of THB, including, children and victims of other related crimes (organisation of irregular migration, pimping, illegal removal of children from the country, child pornography, etc.).
Prosecution, including POCOCS	Victims of THB, including, children and victims of other related crimes (organisation of irregular migration, pimping, illegal removal of children from the country, child pornography, etc.).
National Employment Agency	- <sup>28</sup>
State Labour Inspectorate	- <sup>29</sup>
CAP	Victims and presumed victims of THB, including children (mainly - citizens of the Republic of Moldova)

**Border Police (BP)** is the first national authority, which interacts with migrants, including people who express the intention to apply for asylum or other forms of international protection, at the state border of the Republic of Moldova. BP is the public administration body under the Ministry of Internal Affairs (MIA), which exercises its duties and

<sup>28</sup> Competence of the National Employment Agency (NEA) in relation to working with foreigners who want to get employment in Moldova was reviewed and limited by the Government. Currently, the personnel of NEA only work with files that are presented by the BMA.

<sup>29</sup> Competence of the State Labour Inspectorate has been reviewed and reduced in terms of unannounced control of employers and the possibility of identifying third country nationals employed illegally.

implements the state policy in the field of integrated management of the state border, combating irregular migration and cross-border crimes, including THB.<sup>30</sup>

The European integration and the process of liberalization of the visa regime with the EU have demanded the implementation of the European concept of integrated border management, and have resulted in a process of institutional reform. Thus, on July 1, 2012, the Law on Border Police no. 283/2011 came into force, according to which the Border Guard service was reorganized into the Border Police and put into the subordination of MIA. The reorganization and subordination to the MIA from 2012 has produced the demilitarization and professionalization of the authority, as well as taking on new responsibilities in the area of combating irregular migration and cross-border crimes. In this way, the full integration of BP in the system of law enforcement authorities was achieved and cooperation of law-enforcement bodies in the field of integrated border management of the state was strengthened.

Following the reform, BP was structured in three levels: central,

regional and local. The General Inspectorate of Border Police represents the central management unit of BP headed by the head and the two deputy heads. The inspectorate performs its functions in 5 fields of activity:<sup>31</sup>

- surveillance and control of state border crossing;
- maintaining the state border regime, the border area regime and the regime at the state border crossing points;
- ensuring aviation security;
- combating irregular migration and cross-border crime;
- organization of work of the Border Police;

In order to carry out functions in the field of combating irregular migration and cross-border crime, the Directorate for Special Investigations was created.

The General Inspectorate of Border Police has 4 regional divisions in its subordination (north, south, west, east) and the sector “Chisinau International Airport”, with the status of a division. At local level, there are 41 sectors of BP, subordinated to regional divisions of

<sup>30</sup> Law no. 283 of 28.12.2011 on Border Police, art.1.

<sup>31</sup> Government Decision No. 1145 of 21.11.2018 on the organization and operation of the General Inspectorate of Border Police.

BP. The sectors are located at the “green border” and have 56 border crossing points in their subordination under the control of Moldovan authorities. Special investigation and prosecution subdivisions were also established at the level of regional divisions of BP.

The powers of General Inspectorate of Border Police in the area of combating irregular migration and cross-border crime include:

- a) ensuring control over migration at state border crossing points;
- b) conducting special investigation activity;
- c) finding and examining contraventions violating the rules of foreigners' stay in the Republic of Moldova;
- d) ensuring prompt response to complaints and communications about offences and contraventions;
- e) criminal prosecution in respect of offences; measures to prevent cross-border offences;
- f) conducting technical-scientific findings and forensic expertise;
- g) cooperation with civil society in order to prevent irregular

migration and cross-border crimes.

Law on Border Police (art.51) provides that the head of the General Inspectorate of Border Police holds the power to approve legislation concerning the carrying out of any special investigations in order to prevent, detect and combat irregular migration, smuggling, THB and other crimes.

**BP sector “Chisinau International Airport”** is the territorial subdivision of the General Inspectorate of Border Police with the status of a legal entity governed by public law. It should be noted that the airport staff follows the instructions of the head of Special Investigations Division of the General Inspectorate, regarding the performance of special investigations activity.

The National integrated state border management strategy for 2018-2023 is the main policy document that reflects the priorities and vision of the state in the field of preventing and combating irregular migration and cross-border crimes. The strategy recognizes the fact that Moldova is a country of origin, transit and destination of cross-border criminal phenomena, as well as the fact that irregular migration and THB represent the

main risks to border security. The main trends in the evolution of cross-border crimes include the amplification and diversification of irregular migration phenomena, THB, illegal trafficking with goods subject to excise, etc. The increase in the complexity of cross-border crimes and the expansion of international organized crime are caused by the existence of enabling conditions, such as economic crises and social, ethnic, religious conflicts, etc. At the national level, the Border Police, Customs Service and General Police Inspectorate are competent in the field of special investigations, criminal proceedings, risk analysis and the expertise of documents in order to prevent and combat crime. Despite this, there is a low level of investigation capacity of subdivisions due to staff training shortages and lack of equipment. In addition, the strategy highlights that there are currently shortcomings in cooperation between specialized structures, as well as in operational coordination, information exchange at inter-institutional level.

The establishment and functionality of the joint Group for risk analysis in the area of combating cross-border crime, THB and irregular migration, which involves

Ministry of Internal Affairs, Intelligence and Security Agency, General Prosecutor's Office and Customs Service. The strategy provides for special measures such as:

- a) strengthening the risk analysis system by developing the work of interinstitutional working groups;
- b) development of analytical products based on CIRAM (Common Integrated Risk Analysis Model).

The conduct of actions in third countries by BP is an important aspect of the preventing and combating irregular migration and cross-border crime and an inherent element of the European model of access structured on four levels of control. Such actions can be carried out in co-operation with national authorities of relevant countries, diplomatic representatives or consular posts of the Republic of Moldova in those countries or other competent organizations. Although the legal and institutional framework allows this, the BP does not have the necessary resources to carry out actions in third countries. This relates, in particular, to:

- (i) work of the liaison officers and experts in the countries of origin and transit with a high migrant

potential; (ii) training for diplomatic and consular staff in the field of documents examination; (iii) co-operation and information exchange with the diplomatic and consular missions of the Republic of Moldova abroad, the countries of origin of THB and other countries with risk of migration in Moldova.<sup>32</sup>

**Center for Combating Trafficking in Persons (CCTP)** of the National Investigation Inspectorate, of the General Police Inspectorate of MIA. CCTP has the status of police unit, specialized in combating human trafficking. CCTP was assigned powers in the field of Investigation and prosecution of crimes of THB, trafficking in children (separate article of the Criminal Code) and other related crimes (organization of irregular migration, pimping, illegal removal of children from the country, child pornography, etc.). As a result of institutional reforms of the MIA, the CCTP was subjected to several reorganizations.

The CCTP has units that include administrative personnel, criminal investigation and investigation officers, analysts, officers who can provide training and methodolog-

ical and practical support to other police units in the field of preventing and combating THB, as well as the related crimes. In accordance with the latest reorganization, The tasks of the CCTP include: (i) revealing, investigating, prosecuting cases of THB, child trafficking and related offences; (ii) analyzing trends and risks related to the TIP phenomenon; (iii) referral of trafficked persons to assistance services; (iv) providing methodological and practical support to police units in the field of detection, investigation and prosecution of cases of THB; (v) preventing THB through proactive police interventions aimed at identification of presumed victims; (vi) disseminating information on THB through mass media and NGOs.

As a result of the last institutional reform, a more pronounced specialization of the CCTP was achieved with a view to strengthening its role as a specialized unit of the General Police Inspectorate in the field of combating THB. The CCTP has adopted a new policy for approaching cases, which is about focusing resources on investigating cases of THB, taking

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<sup>32</sup> Guidelines for IBM in EC External Cooperation. European Commission. Brussels, 2009.

into account their complexity.<sup>33</sup> The new policy includes monitoring and taking over cases of THB and related offences from other non-specialized authorities, specializing CCTP officers on distinct forms of exploitation, identifying and detaining all offenders up to the country of destination. Besides, international police cooperation has been stepped up, including through optimising the exchange of information and diversifying the tools. In this context, there has been greater sharing of competences between CCTP and other law enforcement authorities, based on specializations and not on exclusive competences. In particular, the CCTP retained the basic competences in the area of combating THB and related offences. The powers related to the investigation and prosecution of cases of irregular migration have been taken up by the BP, a new sub-division of the MIA, together with all related duties, including the analysis of the phenomenon, the development and promotion of legislative initiatives to combat it. BP has also received the function of examining cases of THB detected at the border. No delimitation has been made based on the provision of exclusive competences to CCTP in

the area of combating THB, and to BP in the area of combating the organization of irregular migration. Such a delimitation was not considered efficient, since it does not allow a cross-cutting and complex treatment of these phenomena.

**General Prosecutor's Office (GPO).**

Counter THB Section of GPO operates within the Division of criminal prosecution and criminalistics of the GPO. The prosecutors working in this Section have the following powers related to THB: a) contribute to the unitary implementation by the Prosecutor's Office of the state policy in the area of combating THB, trafficking in children, trafficking in human organs, as well as combating irregular migration; b) generalize and contribute to the unification of practice in the field of criminal prosecution of cases of THB, trafficking in children, trafficking in human organs, the organization of irregular migration, and other offenses similar to or related to them; c) monitor and contribute to the implementation of provisions of the Council of Europe Convention of on action against THB signed in Warsaw on 16 may 2005; d) review the complaints against action or inaction of public prosecutors or criminal inves-

<sup>33</sup> Trafficking in Persons Report. US Department of State. Washington, 2014.

tigators in the investigation of cases of THB in accordance with the law, organization of irregular migration and other offenses similar to or related to them; e) grant practical and methodological aid to the prosecutors and criminal investigators in the field of investigation of cases of THB, organization of irregular migration and other offenses similar to or related to them; f) represent the GPO in meetings organized in the area of combating THB and irregular migration at the national and international level; g) submit proposals on improvement of legislation and take part in the drafting of normative legal acts in the field of combating THB and organizing irregular migration; i) carry out studies in order to reveal and eliminate the reasons and conditions favouring THB, make public information, statistics, and reports relating to the fight against THB; j) cooperate with non-governmental and international organizations in the field of the prevention and combating THB and irregular migration, etc.

Representatives of the GPO who participated in the research, pointed out that the Counter THB Section of GPO is responsible for the monitoring and unification of practice in cases of THB, cases of child traffick-

ing, irregular migration, and other crimes related or similar to such crimes, collected by other sub-divisions: anti-trafficking bureau, **Prosecutor's Office for Combating Organized Crime and Special Cases (POCOCSC)**, regional prosecutors. In this way, the quality of prosecution and the quality of prosecutors' actions are sought to be in accordance with international norms, in particular, the conventions ratified by the Republic of Moldova. The main objective of this unit of GPO is not the investigation of these crimes. As an exception, Prosecutor General may propose that various investigations be made. It is necessary to mention that the head of the Counter THB Section of GPO is the Secretary of the Coordinating Council of Law Enforcement Bodies with responsibilities in the field of combating THB under the Prosecutor General. The nominated Council is provided by the Law on preventing and combating THB No. 241, of 20 October 2005, and convenes no less than 2 times a year. At its meetings in 2018, one has discussed the need for specialized judges, activity of Anti-Trafficking Bureau within Chisinau Prosecutor's Office, introduction of the definition of prostitution (art. 89 of the Contravention Code), interaction and exchange of



information in the area of analysis, monitoring and actions to combat THB, etc. The Council was appreciated as an “efficient” platform, where issues that arise in law-enforcement bodies are being discussed.

**Anti-trafficking and Cyber Crimes Investigation Bureau** within Chisinau Prosecutor’s Office includes prosecutors who are trained and are exclusively responsible for cases in the field of THB and related crimes. It was mentioned that 5 prosecutors from this institution “... have 130 cases on THB to which 30 more cases on cyber crime are added”. (IIA\_E\_5).

**Bureau of Migration and Asylum (BMA)**<sup>34</sup> - subdivision of MIA, responsible for the implementation of state policy in the field of mi-

gration, asylum, statelessness and integration of foreigners. The following divisions are part of the BMA structure: Division for combating illegal residence of third country nationals, Division of third country nationals registration, Division of immigration, Division of asylum and integration, Division of legislation, coordination and data management, as well as territorial subdivisions (2 regional documentation services for third country nationals, 3 regional units to combat illegal residence of third country nationals, 6 services for tracking third country nationals, 3 centres for integration of third country nationals).<sup>35</sup> It is necessary to mention that BMA was actively involved in the harmonization of national legislation in the area

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<sup>34</sup> The activity of the BMA is carried out in accordance with the Constitution of the Republic of Moldova, Law No. 200 of 16 July 2010 on the regime of foreigners in the Republic of Moldova, Law No.270-XVI of 18 December 2008 on asylum in the Republic of Moldova, Law No.274 of 27 December 2011 on integration of foreigners in the Republic of Moldova, Law No.320 of 24 December 2012 on the activity of the police and the status of policeman, Law No. 133 of 8 July 2011 on the protection of personal data, the decrees of the President of RM, decisions of the Government, departmental and inter-departmental documents of MIA, international conventions and treaties to which RM is party.

<sup>35</sup> The territorial subdivisions of BMA subordinated to MIA include 2 regional documentation services for third country nationals (in the North and South of Moldova), 3 regional sections to combat illegal stay of foreigners (North, Center and South of Moldova), 6 registration services for third country nationals in the eastern part of Moldova at the border with the self-proclaimed Transnistrian Republic, 3 integration Centers for third country nationals (in North, Center and South).

of migration and asylum with international standards and to the elaboration of a normative framework on integration of refugees.

The mission of BMA consists in the fulfillment of the prerogatives regarding the implementation of national policy in the field of migration and asylum, management of migration by admission and documenting third country nationals with identity documents, recognition of the refugee status and status of stateless person, granting of humanitarian protection, co-ordination of the integration process of foreigners in the Republic of Moldova, control of legality of stay of third country nationals on the territory of the Republic of Moldova, public custody and the application of appropriate measures for the removal of restrictive measures.<sup>36</sup>

In order to carry out its mission, the Bureau exercises the following basic functions: (i) participates in the elaboration of the state policy by formulating proposals in the field of migration, asylum, statelessness and integration of third country nationals; (ii) implements and supervises the compliance

with the legislation in the field of migration, asylum, integration and statelessness and other legislative and normative acts in related fields; (iii) ensures the direct management and control of the activity of its sub-divisions; (iv) ensures the management of migration processes; (v) provides assistance and facilitates the process of integration of foreigners in the Republic of Moldova, in accordance with the provisions of the legislation in force; (vi) ensures the fight against illegal stay of third country nationals throughout the country and monitors the flow of third country nationals; (vii) ensures the respect of the rights and freedoms of third country nationals on the territory of the Republic of Moldova.

In order to fulfil its mission and functions, BMA exercises complex tasks in different fields. Thus, in the field of *immigration*, BMA: (i) ensures the organization of activity of one-stop shop for documentation of third country nationals at central and regional levels; (ii) accepts and considers applications for granting/ extending the right of temporary and permanent residence and the right to repatriation, applications

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<sup>36</sup> Government Decision No. 914 of 07.11.2014 on the approval of the Regulation on organization and functioning, structure and staffing of the Bureau of Migration and Asylum subordinated to the Ministry of Internal Affairs.

for the issuance of documents for third country nationals, etc.; (iii) registers the workers assigned to work for a period of up to 90 days; and (iv) performs the duties of keeping records of third country nationals; (v) collect, process, personal data with regard to third country nationals who come and get residence or domicile in the Republic of Moldova.

In the field of *asylum and statelessness*, BMA: (i) grants, ceases and cancels refugee or humanitarian protection status; (ii) recognizes, refuses and cancels statelessness status; (iii) administers the shelter for third country nationals and solves problems related to its activity, etc.

In the field of *combating illegal stay of third country nationals*, BMA: (i) verifies the legality of stay and placement of foreign and stateless persons on the territory of the Republic of Moldova; (ii) takes measures to detect fictitious marriages between third country nationals and Moldovan citizens, as well as submits requests for invalidating those; (iii) issues with regard to third country nationals and stateless persons return decisions, including, under escort, revocation and cancellation of the right of stay, cancellation of visa; (iv) performs

the removal of third country nationals and stateless persons from the territory of the Republic of Moldova; (v) submits requests to the court regarding taking into custody of third country nationals and stateless persons, who cannot be removed within 24 hours, as well as regarding the extension of its duration; (vi) applies the tolerance regime in the Republic of Moldova, as regards third country nationals and stateless persons; (vii) implements readmission agreements concluded between the Government of the Republic of Moldova and the governments of other states.

The Regulation on organization and functioning, structure and staffing of the BMA does not provide for specific tasks of the BMA, with reference to THB and exploitation of third country nationals. In the event that the employees of BMA receive information related to case of THB or exploitation, they reach out to CCTP, or POCOSC:

*“...usually, THB appears initially as illegal migration” (IIA\_E\_1);*

*“...on the criminal side, including human trafficking, labour, slavery, etc., cases shall be forwarded to institutions with competences in the field: Prosecutor’s Office or CCTP” (IIA\_E\_8).*

BMA, including the 3 territorial structures are responsible for identification of third country nationals in different situations of illegal stay: exceeding the term of stay, not meeting the conditions of stay, etc. While combating illegal stay, BMA employees frequently face cases of undeclared labour of third country nationals. Interviewed BMA representatives reported the existence of sanctioning cases when third country nationals were illegally employed. Migrants identified in these situations are mainly from former countries of USSR (Ukraine, Russian Federation, Uzbekistan, etc.). At the same time, no migrants from Asian (not post-Soviet) or African countries were identified in such situations.

**Center for Temporary Placement of Foreigners (CTPF)**, subdivision of the BMA was created in 2008. CTPF is a specialized structure,

subordinated to BMA that designed for temporary accommodation of third country nationals declared undesirable or against whom the measure of return or expulsion was disposed and which have been taken into public custody.<sup>37</sup> The Center provides protection to third country nationals, supports full and effective respect of their rights, dignified and respectful treatment, accommodation for the period established by the legislation in force.<sup>38</sup>

In 2010-2013, IOM Mission to Moldova implemented an important instrument for monitoring the observance of rights of persons in state custody, called the Observation Mechanism, that later was transmitted to be used by CTPF/BMA. Moreover, CTPF is monitored by the Ombudsman (People's advocate) and collaborates with around 23 countries to establish the iden-

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<sup>37</sup> Regulation of the Center for Temporary Placement of Foreigners, approved by the Government Decision No. 493 of 07.07.2011.

<sup>38</sup> CTPF was renovated and equipped by the IOM Mission to Moldova.

<sup>39</sup> CTP was reformed in the framework of MIGRAMOL, GUMIRA and SIREADA projects (2009-2013), coordinated by the IOM Mission to Moldova and funded by the EU with additional support of the governments of Austria, Finland and Sweden. The Center was renovated and equipped and provided with additional human resources for the provision of medical, legal, social, psychological services, according to European standards. A cycle of specialized trainings and study visits to several similar centres in Europe has helped to increase the capacity of staff employed in order to lay the foundations for high standards in the area of migrants' rights, regardless of their status. In 2010, the Memorandum of cooperation on ensuring the rights of foreign nationals and

tity of the immigrant in such a way that his/her rights are respected.<sup>39</sup>

CTPF is the place where the irregular migrant spends the last stage of his stay in the Republic of Moldova, before being returned to the country of origin or third country, which accepts to receive him. The CTPF representative noted that, annually:

*“100-120 third country nationals pass through the institution, of which about 40% are undocumented and declare a certain identity that needs to be verified” (EIA\_E\_7).*

The vast majority of migrants arriving in CTPF are men and *“up to 10% are women.”* Usually these are irregular migrants, who have violated the regime of residence or crossing of the state border:

*“...migrants from Asia, Africa, caught at the border or on the territory of the RM” (IIA\_E\_7).*

For each placed third country national, an identification file is

opened and CTPF connects with the institutions in the country of origin of the foreigner, through institutions that are mandated by the Republic of Moldova or through agreements signed by the Republic of Moldova with other countries. However, there are cases, when the country of origin does not recognize its citizens. This is a specific category of third country nationals from the former countries of the USSR (Ukraine, Russian Federation, Kazakhstan, etc.), who have de-registered from the country of origin. In such situations, migrants are documented as stateless.

Third country nationals in state custody and accommodated in CTPF may apply for asylum if they have indisputable evidence for it. Similarly, if confirmation data is given, a migrant in the CTPF may be recognized as victim of THB. However, there have been no cases of identification of third country nationals placed in CTPF as victims of human trafficking or exploitation until 2018.<sup>40</sup>

**National Employment Agency (NEA)** in light of the latest reforms, was

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stateless persons placed in CTPF between MIA, Border Guard Service (current BP), IOM, Legal Center of Lawyers, Institute of Criminal Reforms was signed. Gradually, by 2013, all responsibilities were passed from IOM to the BMA and now maintenance costs of the centre are borne by the state. Details of SIREADA project results – [https://www.iom.md/sites/default/files/publications/Migration%20management/pdf/9\\_SIREADA%20Nesletter%20%20Issue%201%20to%20Issue%205\\_ENG.pdf](https://www.iom.md/sites/default/files/publications/Migration%20management/pdf/9_SIREADA%20Nesletter%20%20Issue%201%20to%20Issue%205_ENG.pdf)

<sup>40</sup> In 2018, the BMA and CCTP reported the case of Turkish citizens exploited in construction industry.

excluded from directly interacting with immigrants who want to work in the Republic of Moldova (to give a favorable opinion for employment and document the right to work). In 2018, changes were made to the normative framework, whereby the BMA was mandated to confirm the status of immigrant for work purposes. Changes are aimed at simplifying the procedures for providing employment to third country nationals. Previously, the immigrant had to personally submit two sets of documents – one for the BMA and another for the NEA. Currently, the immigrant's employers are involved in this process with the BMA taking over and transmitting the second copy of the file to the NEA.

Representatives of BMA consider that the activity of state institutions will become more effective, following the amendments made to the legislation in 2018 because:

- i. employers are more familiar with the work of foreign nationals;
- ii. third country nationals know that they need to do the papers, otherwise they are penalized, including with deportation;
- iii. employees of the BMA have better relations with local institutions.

One of the interviewed BMA employees noted that now local bodies:

*“...can get the information out much quicker and much more effectively, and employers and foreign nationals become more and more self-disciplined and responsive to the requirements of the law” (IIA\_E\_3).*

**State Labour Inspectorate** also went through reorganizations. The representative of this institution noted the impossibility of identifying cases of labour exploitation of both citizens of the Republic of Moldova and foreigners on the grounds that they were limited in their powers and could not carry out unannounced verifications:

*“... changes include that one may carry out inspections at the premises of institutions, control bodies are now inviting the economic operator to them” (IIA\_E\_19).<sup>41</sup>*

Respectively, State Labour Inspectorate is unable to comply with relevant International Labour Standards to which Moldova is a party - Labour Inspection (industry and commerce) Convention, 1947 (No.81) and Labour Inspection (agriculture) Convention, 1969 (No.129).

<sup>41</sup> Law no. 131 of 08.06.2012 on state control over entrepreneurial activity.

**Center for Assistance and Protection of Victims and Potential Victims of THB (CAP)** is a public institution providing highly specialized social services for persons identified as victims of human trafficking, citizens of Moldova in cases of crisis. CAP started its activity in January 2001 in the framework of the one of the projects of IOM Mission to Moldova, in response to the increasing demand for rehabilitation services for a large number of Moldovan women returning from the Balkan countries after exploitation experiences. Later on, CAP was officially established through the *Government Decision Nr. 847 of 11.07.2008 on the creation of the Centre for assistance and protection for victims and potential victims of THB*, as a public institution, subordinated to the Ministry of Social Protection, Family and Child (at present - Ministry of Health, Labour and Social Protection/MHLSP).

Often, CAP is the first place of interaction of the victim of THB with assistance services, where he/she can receive help after returning to the Republic of Moldova. Over the years, CAP has become the most important and most demanded service provider for trafficked persons in Moldova.

Currently, CAP is a key element of the National Referral System to Protect and Assist Victims and Potential Victims of Trafficking Human Beings (NRS). NRS represents a special framework for cooperation of state structures and civil society at different levels of public administration with the aim of providing assistance and protection to victims and presumed victims of THB, as well as to potential victims of THB - individuals who are at risk of been trafficked.

CAP grants accommodation, food, medical, social, psychological and legal services to beneficiaries. These services are accessible to victims, presumed victims and potential victims of THB, citizens of the Republic of Moldova, identified abroad or on the territory of the Republic of Moldova. In exceptional circumstances, CAP provides accommodation, medical services, food and other services to foreigners - victims and presumed victims of human trafficking and exploitation (children and women).

## **2.2. Legal status of the migrant and access to assistance and protection**

### **Right of residence**

Third country nationals who enter the Republic of Moldova can

legally stay on its territory during the period provided by the visa only, except when they have been granted the right of temporary residence or permanent residence. The right of *temporary residence* may be granted to third country national for:

- immigration for employment;
- studies;
- family reunification;
- humanitarian, voluntary or religious activities;
- long-term medical treatment, spa treatment or recovery;
- protection of victims of THB or domestic violence;
- specialists or foreign investors;
- other purposes provided by national legislation.<sup>42</sup>

Depending on the reason for the request, the right of temporary residence can be granted for a period of up to 5 years and for a different period in cases provided by law. When the deadline expires, the migrant must leave the Republic of Moldova if he has no reason to apply for permanent residence.

<sup>42</sup> Law No. 200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova, art. 31.

<sup>43</sup> Law No. 200 of 16.07.2010, art. 42<sup>1</sup>.

It is important to highlight legal details that determine the right of temporary residence for third country nationals, victims of THB. The third country national who is or has been a victim of THB, including, if he has entered the territory of the country irregularly, may obtain and extend the right of residence if the following conditions are met cumulatively:<sup>43</sup>

- a) third country national shows a clear willingness to cooperate with competent authorities in identifying and prosecuting the participants of the crime of which he/she is the victim;
- b) third country national has severed any relations with persons suspected of committing the crime whose victim he/she is;
- c) third country national stay on the territory of the Republic of Moldova is necessary for the proper conduct of criminal proceedings;
- d) third country national poses no danger to national security and / or public order.

In order to apply for granting or extending the right of temporary residence for victims of THB, it is



necessary to present a number of documents:

- a) decision of the criminal prosecution authority to recognize him/her as an injured party;
- b) the state border crossing document or any other document confirming his/her identity and if they are missing, a declaration on honor in which they will mention the identity data;
- c) confirmation of residence in the Republic of Moldova.

The right of temporary residence for victims of THB may be granted at the victim's request, for a period of 6 months with the possibility of extension for a period of up to 6 months under the above conditions. Upon expiry of the right of provisional residence in respect of victims of THB, general provisions on the regime of third country national in the Republic of Moldova shall apply.

The right of temporary residence for victims of THB may be revoked in one of the following situations:

- a) victim resumed and actively liaises with persons suspected of committing the THB crime;
- b) competent authorities shall consider the cooperation of

the victim to be fraudulent or consider the complaint to be fraudulent or unfounded;

- c) third country national stay in the country poses a danger to national security and / or public order;
- d) victim stopped cooperating during the criminal proceedings;
- e) one of the situations specified in art. 275 of the Code of Criminal Procedure (circumstances that exclude prosecution).

The right of temporary residence for victims of THB and related residence permit shall be granted free of charge.

According to the Law no. 200 of 16.07.2010 (art. 45), the right of *permanent residence* in the Republic of Moldova may be granted to the foreigner holding the right of temporary residence, if he meets the following conditions cumulatively:

- a) he/she has the right to temporary legal stay, and continues on the territory of the Republic of Moldova for at least 3 years in case of a foreigner married to a citizen of the Republic of Moldova;
- b) he/she has the right of legal and continuous temporary

residence on the territory of the Republic of Moldova for at least 5 years, in case of a third country national from other categories;

- c) prove that he/she has sufficient means of existence, except for third country nationals married to Moldovan citizens;
- d) has living space;
- e) holds a certificate showing the average level of knowledge of the state language or a certificate issued by an educational institution teaching in Romanian with the exception of beneficiaries of old-age pensions;
- f) meets the conditions of entry into the Republic of Moldova, provided by law;
- g) none of the reasons for not allowing entry into the territory of the Republic of Moldova provided by the law occurred during the stay in the Republic of Moldova;
- h) hasn't had a criminal record in the last 3 years.

### **Forms of protection of migrants**

It is essential to point out that competent authorities of the Republic of Moldova are obliged to provide protection, i.e. asylum, and

ensure the access on the territory of Moldova of any third country national at the time of written or verbal application, stating with absolute certainty that he requires protection. Asylum seekers cannot be sanctioned for entering or staying illegally on the territory of the Republic of Moldova. The treatment of these people will be in line with international human rights standards.

The Law No. 270-XVI of 18.12.2008 on asylum in the Republic of Moldova (art.16) has established four forms of protection for third country nationals:

- refugee status;
- humanitarian protection;
- temporary protection;
- political asylum.

In granting forms of protection to migrants, Moldovan legislation complies with international standards.

Refugee status – a form of protection of the foreign citizen or stateless person who fulfils the conditions laid down in the UN Convention relating to the Status of Refugees, done in Geneva on 28 July 1951 and the Protocol relating to the Status of Refugees, done in

New York on 31 January 1967. This status gives the immigrant, who as a result of a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or public opinion, is outside the country of his nationality and is unable or, owing to such fear is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it. Refugee status shall be granted without time-limit.

If there is no danger to the life of the third country national in his home country, he/she does not fall under the provisions of the existing regulatory framework and is turned down. The decision can be challenged in court and during this period, the third country national can stay on the territory of the Republic of Moldova as an asylum seeker. If the court finds that the asylum seeker does not meet the requirements of No. 270-XVI of 18.12.2008, he/she is obliged to leave the territory of the Republic of Moldova.

*Humanitarian protection* – protection granted to a third country

national who does not fulfil the conditions for recognition of refugee status, but who has serious concerns and reason to believe that in case he/she were sent to his or her country of origin, he/she would be exposed to a real risk of suffering serious harm. Serious injury means acts of physical and psychological violence, including sexual violence; impossibility of a repeat trial, as a result of a discriminatory or disproportionate punishment, charges or penalties as a result of the refusal of the fulfilment of military service in the event of a dispute; existence of a capital punishment sentence or existence of threat of execution; torture, treatment or punishment, cruel, inhuman or degrading treatment or punishment of the applicant in his or her country of origin. Humanitarian protection is granted for an indefinite period of time, but on an annual basis, the situation in the country of origin of the beneficiaries of humanitarian protection shall be reviewed in order to assess the need to continue this form of protection.

*Temporary protection* - protection of an exceptional nature intended to ensure that in the event of a mass inflow of internally displaced persons who cannot return

to their country of origin, protection is immediate and temporary, where there is a risk that the asylum system cannot process this inflow without adverse effects for its effective functioning in the best interest of persons concerned and other persons in need of protection. Temporary protection is granted for a period of one year, and in case where reasons for temporary protection persist, duration can be extended by 6 months, for a period of not more than 2 years.

*Political asylum* - protection granted in exceptional cases to persons who have held positions of political, diplomatic or public interest in other countries or in international bodies, persons who showed a remarkable attachment to, respect for, and concern for the Republic of Moldova and other prominent personalities, who are persecuted in their country of origin, and call on the President to grant this form of protection. Conditions, rules, regulations, and the reasons for the grant of political asylum are established by the special decree of the President of the Republic of Moldova.

The Law on asylum in the Republic of Moldova established the legal status of asylum-seekers, beneficiaries of international protection,

temporary protection and political asylum, as well as the procedure for granting, cessation and cancellation of protection. According to this law:

- *asylum seeker* is the foreign national who has submitted an application for asylum, which is not settled by irrevocable decision;
- *beneficiary of international protection* is the foreigner or stateless person who has been recognized as a refugee or has been granted humanitarian protection;
- *temporary protection beneficiary* is the foreigner who benefits from exceptional protection designed to ensure immediate and temporary protection in the event of a massive and spontaneous flow of displaced persons who cannot return to their country of origin.

### **Tolerance regime**

Tolerance of stay on the territory of the Republic of Moldova is the permit to remain on the territory of the country for third country nationals who do not have the right of residence, and who, for objective reasons, cannot leave its territory.

The following people can benefit from the tolerance regime:<sup>44</sup>

- a) third country nationals against whom the measure of public custody was applied and who could not be returned within 6 months;
- b) third country nationals who are not allowed to leave the Republic of Moldova as a result of suspension of the right to freedom of movement for reasons set out in the legislation, and which do not meet the conditions for granting the right of residence;
- c) third country nationals whose application for protection in accordance with the law has been rejected by an irrevocable court judgment and who, for objective reasons have not left the territory of the Republic of Moldova within the time prescribed by law;
- d) third country nationals whose temporary presence on the territory of the Republic of Moldova is required by public interests;
- e) third country nationals who are or have been **victims of THB during the reflection**

**period** (presumed victims of THB);

- f) third country nationals with regard to whom the measure of removal from the territory of Republic of Moldova was suspended.

Tolerance is granted for a limited time. Tolerance granted to a foreigner - victim of THB can be cancelled by the request of a criminal investigation body, if it is determined that the foreigner at his own initiative has reinstated and maintains an active connection with those who are suspected of having committed the offence of THB the victim of which he/she is, or if such person poses a threat to national security and/or public order. Currently, there are a number of foreign nationals in Moldova who requested and received the status of tolerance regime. Tolerance regime can be granted by the commission created within BMA and there are clear criteria for granting it.

### **Informing migrants about their rights**

Public awareness campaigns and other forms of information dissemination are very important

<sup>44</sup> Law No, 200 of 16.07.2010, art. 68.

tool to put into use the legislative provisions, to promote and protect the rights of third country nationals in Moldova. Several sources of information<sup>45</sup> about possibilities for the protection of migrants are used in Moldova: (i) information boards at the points of crossing at the border with relevant information available in 6 languages; (ii) legal aid provided by civil society organizations, partners of BMA in the framework of CTPF; (iii) Call Centre of the BMA, which operates according to the regular program and provides informational assistance in Romanian, Russian and English; (iv) information and documentation one-stop shops for third country nationals within the BMA (territorial subdivisions in Centre, North and South of the Republic of Moldova).

Having been informed about migrants' rights, the third country national can apply for international protection in written form and BMA employees are obliged to examine this application and conduct an interview with the applicant. In order to provide the requested form of protection, an evaluation is made by a BMA de-

cision counselor who is obliged: (i) to inform the asylum seeker about the purpose of the interview, about his rights and obligations, about the procedure to be followed and the fact the information he/she has will serve as a basis for decision making; (ii) to make sure that the applicant has provided in his asylum application the most complete and clear statement of the necessary information and circumstances; (iii) to assess the veracity of the applicant's allegations and evaluate the evidence presented, interpreting, if necessary, doubts in favor of the applicant in order to establish objective and subjective elements of his situation; (iv) correlate the subjective and objective elements with the criteria established by the national legislation in order to grant international protection; (v) to draft a reasoned decision regarding granting international protection and submit it to the head of the Asylum and Integration Department for official approval.

### **Practice of granting refugee status**

During the war in Syria, ethnic-mixed families took refuge in Moldova, where one parent was

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<sup>45</sup> Although the process of applying for some form of protection in the RM is described in 6 languages of international and regional circulation, there is no mention of the risk of being exposed to THB and exploitation and the procedure of being taken under protection as a victim of THB.

from Moldova and the other – from Syria (mostly persons who had previously completed studies at one of the universities in Moldova). Refugees from Syria have been singled out as “classic refugees,” families with members of different ages, around 200 people.

During the armed conflict between Ukraine and the Russian Federation, Moldova received about 200 other refugees from Ukraine, “classical refugees” as well. They applied for refugee status, only if it was not possible to legalize their stay in another way. For many Ukrainians, status of asylum seekers or refugees was perceived as a disgrace. Representatives of the BMA, participants in the study, also reported such situations in the case of refugees from Syria.

The analysis of the practical work showed that there are two of the categories of asylum seekers: (i) those who are applying for this status upon crossing the border or by sending a direct request to the BMA; and (ii) those who are applying for this status when they found that they transit irregularly the territory of the Republic of Moldova in order not to be returned to the country of origin.

If an immigrant detained at the border by the BP applies for asylum, the BP takes note of the request and keeps him in the special room at the border crossing points for asylum seekers. Subsequently, within 24 hours, the BMA takes over these people and places them in the special Center for Placement of BMA - special open relief center for asylum seekers that operates according to the Government Decision No.1023 of 22.12.2012 on the approval of the Regulation of the Center for Placement.

Irregular immigrants (both those detained at the border by the BP and those identified as illegal on the territory of the Republic of Moldova), based on the court decision are placed in CTPF (closed detention facility). In such situations, the BP initiates a criminal case and the court decides to put the person in the CTPF for a month, but sometimes for 3-6 months, maximum - 6 months. Under certain conditions, the period may be extended for another 3 months. During this period, BMA identifies the person, by addressing the country of origin, and then repatriates the person to the country of origin if he/she has not applied for asylum. If the person is seeking asylum, the BMA is examining the application. For

the court hearing, the BMA identifies the lawyer, provides the translation. In case of vulnerable migrants, it is necessary to provide clothing according to the season.

Once the person enters the asylum procedure, he/she is informed about all rights and with the support of civil society organizations, partners of the BMA, the person is offered support, and some services, including legal advice and assistance.

Many third country nationals, after applying for asylum, continue to migrate to other countries. This is a feature of refugees from Afghanistan and other Asian countries. Most of them leave illegally the territory of the Republic of Moldova and settle in EU countries.

BMA employees highlighted the need to classify migrants into several categories and recognized that the number of categories of vulnerable migrants is increasing, however the current economic situation in our country does not allow the introduction of new forms of protection for migrants.

### **Granting the status of THB victim**

During the period of stay of migrants on the territory of the Republic of Moldova, there may be

situations where people become vulnerable to situations of THB or exploitation. Even though such cases may occur, the BMA staff pointed out that in fact they have not had such information:

*"...in any case, in my experience, since I have been working in the nursing home, I have more than 12 years here, I have not had any cases of THB and exploitation of third country nationals on the territory of the Republic of Moldova" (IIA\_E\_2).*

At the same time, there have been situations, when some of the employees of the BMA had suspicions about the THB status of third country nationals:

*"I had a case of a real-life example, a person from Africa has been brought to Moldova. He had to go to one of European countries, but having arrived in the Republic of Moldova, his passport has been stolen..."*

This individual was able to escape out of the hands of human traffickers and came to the BMA to apply for asylum. In such cases, the information is transmitted to the Division for combating illegal stay of foreign nationals, to CCTP



or to another competent authority, which has the power to conduct a criminal investigation

Currently, presumed cases of THB are not documented by the BMA:

“... we understand that they paid money for it. But can we consider this as a victim of THB? In the given case, the person simply arrived in an unknown country without documents. Such cases usually are qualified as a violation of the residence regime” (EIA\_E\_2).

BMA employees consider that their possibilities to identify that the migrant is part of a criminal scheme are reduced. First of all, they draw attention to some details of migrants’ applying for asylum – upon crossing the border or when leaving the Republic of Moldova. In such situations, the BMA decision counselor who interviews the migrant, sees the need for a more rigorous review and ask some additional questions about his/her personal situation/ circumstances: (i) How did the person get into the Republic of Moldova, legally or irregularly? (ii) Who helped him? (iii) How did he travel?

Questions like these allow BMA employees to detect some signs

of THB or to see if the asylum applicant can be a part of an illegal scheme of migration, as well as to initiate the verification procedure. There is no standard screening form or other tool for identification cases of THB elaborated for BMA employees:

*“... there are certain standard requirements and questions..., but it is also a variable part, because each case is investigated individually and depending on the situation” (IIA\_E\_2).*

It leads to the conclusion that the training of BMA decision counselor to identify cases of human trafficking and exploitation is very important because it is up to them to ensure the rights of victims are respected. Currently, the training of these counselors is multilateral, focused on different cultural particularities of migrants (differences in culture, religion, etc.), but the peculiarities of THB and exploitation of foreigners, as well as the direct and indirect signs of this complex phenomenon, must be integrated in their training curricula. It is also necessary to elaborate and officially approve the standard screening form (questions that should be asked in the above-mentioned situations) and more accurate procedures for identification of traf-

ficked and exploited migrants and referral of presumed victims to the relevant structures.

Participants to the research signaled that, in Moldova, no documents have been issued so far to confirm the status of foreigner - victim of THB, because no such requests were made, although it is not very clear which institutions the victim should address to with such a request. Representatives of POCOCSC reported that they can officially provide a certificate for the BMA, which confirms that the migrant is a victim of THB and/or is recognized as an injured party in the criminal trial. Such requests from the BMA or other institutions have not existed so far. We find that a clearer mechanism is needed for granting the victim status of THB and exploitation. In the opinion of POCOCSC, the BMA also should develop the clearer mechanism of legalization of stay foreigner – victim of THB in country (granting residence permit and issues of identity card), based on this certificate that confirms status of trafficked person. Representatives of BMA noted that the status of victim of THB and residence permit should be granted in cooperation with criminal investigation authorities, which is more complicated for them than usually.

According to interviewees the lack of requests for the status of victim of THB and exploitation by migrants in the Republic of Moldova, is determined by multiple causes:

- (i) Victims of THB and exploitation do not realize they are victims. Specialists perceive exploitation and human trafficking, but migrants see these as a way of making money: *“They do not know what exploitation means, what begging means, what forced labour means. Sometimes they have performed such tasks in their country, for this reason they consider them normal”* (IIA\_E\_20);
- (ii) Victims of THB and exploitation do not want to stay in the Republic of Moldova, they want to transit through our country and reach the established destination, where the benefits from the state for the status of victim of THB and exploitation are higher: *“In Germany, Great Britain, etc. there is another standard of living. The victim is protected, has a residence permit, has social accommodation for one or two years, until he/she starts coping, has a work permit, professional training course, employment”* (IIA\_E\_20);

- (iii) Victims of THB and exploitation are being manipulated and frightened, they don't know the laws, their rights: "... *they are afraid to make certain statements*" (IIA\_E\_21). No less significant is the fact that they usually have little information about who the organizer was, how the process went, because at different stages the guides change, etc.;
- (iv) Victims of THB and exploitation do not know Romanian or Russian and there is usually no open communication between them and representatives of competent authorities in Moldova;
- (v) Some victims are embarrassed by the situation they find themselves in: "*They want to forget all this nightmare fast-*

*er, return home and start living normally*" (IIA\_E\_21);

- (vi) Trafficked and exploited migrants prefer to obtain the status of asylum seeker and not status of victim of THB. BMA representatives specified that sometimes: "...*we understand that people were trafficked, at the same time they are not documented... Recently we had a case with two applicants who came through Moldova and were going to cross into an EU country, but when they were stopped by our border guards for illegal crossing, they applied for asylum*" (EIA\_E\_2).

Interviews with vulnerable migrants confirm that most of them do not perceive or realize that they are victims of human trafficking or exploitation.



### III. PECULIARITIES OF MIGRANTS' VULNERABILITY TO HUMAN TRAFFICKING AND EXPLOITATION ON THE TERRITORY OF THE REPUBLIC OF MOLDOVA

#### **3.1. Migration trends of citizens of other states on the territory of the Republic of Moldova**

In Moldova, there are various data sources referring to the population of foreign origin present on its territory. In this study, we will rely on the operational data shown by the BP, BMA and the Public Services Agency (PSA) related to migration trends and current situation on irregular migration, THB and exploitation of migrants, who are citizens of other states, stateless persons and persons with undetermined nationality.

#### **Immigration of foreigners**

The analysis of immigrant flows in Moldova shows a slight increase for the years 2007-2015, after which there follows a slight decrease and a new increase in 2018 (Table 2). In 2019, the grow-

ing trend of immigrants remained, in the first 11 months 4240 immigrants have been registered. The data shows that Moldova does not have and did not have massive trends of immigrants. The annual number of third country nationals immigrating to Moldova in recent years is about 4 thousand people, the vast majority of them are men. Every 3rd immigrant arrives in the Republic of Moldova for family reunification, every 4th - for work purposes, every 5<sup>th</sup> - for studies, the rest (about 20%) - for other purposes. The analysis of trends regarding the purpose of arrival in Moldova shows the increase in the number of those, who come with the goal of family reunification. The latest legislative changes related to the admission of labour force from other states may influence the increase in the flow of immigrants for work purposes.

The analysis of immigrant populations, sorted by the country of origin, shows immigrants from around 100 countries. For the vast majority of countries, these are unique cases. The distribution of immigrants according to the country of citizenship, reveals that there have been changes in the top 3 countries of origin for

2018. Most immigrants arrived from Ukraine (19%), Turkey (16%) and the Russian Federation (15%). The number of immigrants from Turkey has increased 2 to 3-fold in the past 2 years, from 7% in 2016 to 16% in 2018. Azerbaijan, India and Uzbekistan also show significant increases in the number of immigrants to Moldova.

**Table 2. Number of immigrants, by countries of their citizenship, 2007-2018**

Country of citizenship	Number of persons per year											
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
<b>Total arrived</b>	<b>2074</b>	<b>2744</b>	<b>2009</b>	<b>2510</b>	<b>2719</b>	<b>3116</b>	<b>3357</b>	<b>4204</b>	<b>4210</b>	<b>4080</b>	<b>3712</b>	<b>4223</b>
<i>Of which, citizens of the countries:</i>												
Ukraine	394	579	436	375	384	403	396	537	754	734	682	752
Romania	197	353	186	309	360	445	602	853	646	464	426	450
Russian Federation	256	300	230	294	240	305	335	517	567	705	686	683
Israel	56	183	278	482	455	407	463	525	548	594	455	489
Turkey	462	514	244	287	266	337	446	421	373	293	245	426
USA	90	56	39	59	75	173	125	199	209	165	206	187
Italy	...	...	...	...	...	...	...	206	180	170	139	130
India	...	...	...	...	...	...	...	40	37	80	85	128
Syria	31	36	34	34	34	65	64	34	33	20	15	24
China	13	16	8	23	21	23	38	17	28	36	24	27
Bulgaria	48	45	28	43	21	25	18	37	23	19	...	17
Jordan	9	13	7	3	8	6	8	26	12	...	...	13
Azerbaijan	...	...	...	...	...	...	...	...	65	61	80	171
Uzbekistan	...	...	...	...	...	...	...	...	37	24	27	41
Georgia	...	...	...	...	...	...	...	...	31	24	24	22
Other countries	518	649	539	601	855	927	862	1038	1017	800	610	663

Source: MIA / BMA

### Stock of foreigners

The total number of foreigners documented in Moldova, with valid residents permits, as of 31.03.2019, constituted about 19.4 thousand

persons, of which 7.9 thousand foreigners held permanent residence permits and about 11.5 thousand - temporary residence permits. The analysis of foreign population based

on countries of previous citizenship shows that on 31.03.2019, the most significant share of 51% of the aggregate were nationals of Ukraine and Russian Federation (28% and 23% respectively), followed by Romania (11%), Turkey (5%) and USA

(5%), the rest of the countries were represented by approximately 2% or less. A fairly big share of the total number of foreigners living in Moldova is maintained by stateless persons (4,8%) and persons with indefinite citizenship (1%).

**Table 3. Number of third country nationals living in the Republic of Moldova, 2007-2017 (stock at the end of the year)**

Country of citizenship	Number of persons										
	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
<b>Total arrived</b>	<b>14853</b>	<b>16955</b>	<b>18563</b>	<b>20099</b>	<b>19678</b>	<b>20191</b>	<b>21092</b>	<b>21685</b>	<b>21876</b>	<b>22333</b>	<b>22508</b>
<i>Including</i>											
Ukraine	4669	5630	6552	7114	7392	7171	7005	6953	7092	7054	6959
Russian Federation	3246	3854	4430	5001	5032	4736	4815	4812	4973	5281	5574
Israel	300	420	637	957	1096	1527	1694	1925	1908	2077	2667
Stateless <sup>46</sup>	1065	1180	1350	1360	1312	1262	1526	1524	1513	1482	1459
Romania	460	595	557	691	714	865	1072	1275	1138	1055	1016
Individuals with an undetermined nationality	468	450	403	357	352	331	327	317	305	286	269
Italy	181	221	233	250	273	328	339	429	480	500	488
USA	223	139	143	164	175	326	387	442	450	396	426
Belarus	226	265	270	296	299	300	322	318	310	318	299
Azerbaijan	223	234	196	201	216	223	239	252	276	294	312
Armenia	...	...	...	...	177	179	322	196	204	208	213
Kazakhstan	...	...	...	...	178	176	178	184	190	205	199
Syria	305	262	214	177	167	199	208	181	165	143	134
Germany	74	100	106	121	107	123	137	136	115	127	129
Uzbekistan	...	...	...	...	74	93	121	141	138	151	151
RM (former citizens)	795	964	995	804	-	-	-	-	-	-	-
Turkey	1005	941	779	792	711	810	929	920	890	914	902
India	...	...	...	...	...	...	...	47	72	155	228
Georgia	...	...	...	...	...	...	...	124	125	111	110
Other countries	1613	1700	1698	1814	1832	1990	1471	2201	1729	1576	1573

Source: PSA

<sup>46</sup> Stateless – according to the 1954 UN Convention relating to the Status of Stateless Persons (art.1).

18723 third country nationals were documented with national identity documents in Moldova as of 01.07.2018, of which 8525 - with the right of permanent residence, and

10198 - with the right of temporary residence. There are differences regarding ranking of countries with most immigrants, depending on the right of residence offered (Table 4).

**Table 4. Top 10 countries from which foreign nationals with the right of permanent residence and provisional residence arrive, as of 01.07.2018**

Total with the right of permanent residence	8525	Total with provisional residence	10198
<i>Of them, by country of origin</i>		<i>Of them, by country of origin</i>	
<b>Ukraine</b>	3168	<b>Ukraine</b>	2155
<b>Russian Federation</b>	2825	<b>Israel</b>	1852
<b>Stateless persons</b>	994	<b>Russian Federation</b>	1712
<b>Romania</b>	215	<b>Romania</b>	771
<b>Persons with non-determined nationality</b>	211	<b>Turkey</b>	707
<b>Belarus</b>	140	<b>Italy</b>	422
<b>Turkey</b>	134	<b>USA</b>	375
<b>Azerbaijan</b>	122	<b>India</b>	212
<b>Armenia</b>	90	<b>Azerbaijan</b>	178
<b>Kazakhstan</b>	75	<b>Armenia</b>	108
-	-	<b>Belarus</b>	104

Source: MIA / BMA

Representatives of the BMA pointed out that there is a migration flow through Moldova to Europe from Ukraine, the Russian Federation, but also from Asia and Africa. In particular, it was noted that after the World Football Cup in the Russian Federation (2018):

*“... we have cases of migration from Bangladesh, Afghanistan, Cameroon transiting the Re-*

*public of Moldova... Different groups pass through the Republic of Moldova by land, not by air. We have over 15 people from Bangladesh already detained” (EIA\_E\_1).*

Representatives of the BP signaled that after the World Cup, there is a high concentration of Asian and African migrants in the Russian Federation and Ukraine. Their aim

is to reach Schengen/EU countries. Thus, for example, Bangladesh did not appear in the statistics of the Republic of Moldova, as a country of origin of migrants until 2018. But in August-October 2018 several flows of migrants from this country came to the attention of the BP:

- (i) 14 August 2018 - 4 migrants detained in Moldova;
- (ii) 17 September 2018 - 8 migrants transmitted to the BP of the Republic of Moldova by the BP of Romania;
- (iii) 29 October 2018 - 8 migrants detained in Moldova.

BP representatives noted that the presence of these flows confirms the existence of a group specialized in illegal transportation of migrants from Ukraine to the EU through Moldova.

## Asylum

International protection of refugees in Moldova is granted in accordance with the provisions of international standards in the field, as well as of the national legislation, which derives from them. The number of asylum applications in Moldova during 2015-2018 varied continuously. During 2015, 276 asylum applications were submitted at the first request, an increase of 31 cases compared to the previous year. We are seeing a decrease in 2016-2017 and a growth trend for 2018. Growth trends are also obvious for beneficiaries of humanitarian protection, including stateless persons - from 150 applications in 2015 to 255 in 2018, and refugees - from 144 in 2015 to 163 in 2018 (Table 5).

**Table 5. Involuntary migration of population of foreign origin**  
(stock at the end of the year)

Indicators	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Annual number of asylum applications, persons	75	57	42	90	72	177	163	245	276	120	75	104
Annual number of beneficiaries of humanitarian protection, including stateless persons	20	20	12	25	20	45	83	63	150	54	46	255
Number of refugees, people	89	84	80	70	56	72	78	124	144	153	152	163

Source: MIA / BMA

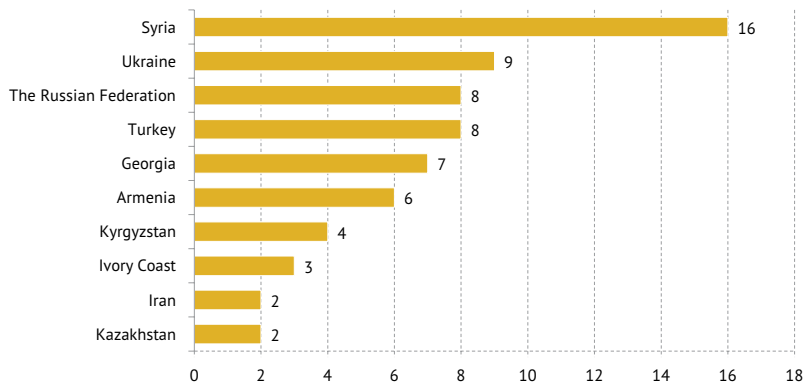


Analysis of data on the number of asylum applications and international protection granted shows that during 2017, 42 decisions were issued to reject the asylum application, which constitutes a decrease of refusals to grant international protection by 1.8 times, compared to 2016. Most refusals to grant international protection were issued with reference to citizens of Turkey, Ukraine, the Russian Federation and Armenia. The refusals were based on the fact that applications did not

comply with the legal provisions for granting international protection, as well as the fact that the situation in the countries of origin of the asylum seekers was taken into account.

In 2017, within the structure of asylum applicants when it comes to the first application, as per the countries of origin, the prevailing numbers were the citizens of Syria, they accounted for 21%, followed by Ukraine - 12%, Turkey and Russian Federation - 11% (see Figure 1).

**Figure 1. Top 10 countries of asylum seekers in Moldova, year 2017, number of cases**



Between January and October 2018, the BMA registered 103 asylum applications. Most of the requests were from immigrants from Turkey- 40, Russian Federation - 12, Ukraine - 10, Armenia – 7, Bangladesh – 5, Uzbekistan – 5, following 1-2 requests from representatives

of other states. Representatives of BMA have noted that:

*“..asylum seekers from Turkey and Ukraine usually do not violate the regime of stay in Moldova, but people from countries such as Afghanistan, Bangladesh are migrants who mostly*

*are staying illegally on the territory of the Republic of Moldova. Migrants from the Russian Federation and Armenia are both legal and illegal” (IIA\_E\_2).*

### Statelessness

On 31.12.2018, in the Republic of Moldova there were registered: (i) 1908 stateless persons, documented with valid documents; (ii) 721 stateless persons with expired identity documents; (iii) 8818 people with old soviet type passports, of which 8512 are citizens of the Republic of Moldova and (iv) 1822 persons with undetermined nationality.

### Combating illegal stay

The right of residence for foreigners on the territory of the Republic

of Moldova is provided by the *Law No. 200 of 16.07.2010 on the regime of foreigners in the Republic of Moldova*. Violating the provisions of this law attracts both administrative liability and criminal liability, including forms of punishment such as administrative fines, withdrawal of the right of residence, placement in detention, involuntary removal and prohibition on entry into the country. The main indicators on combating illegal stay of third country nationals vary every year. In 2018, 471 cases of return of third country nationals were registered, 117 third country nationals were taken into public custody, and 599 – declared undesirable (Table 6).

**Table 6. Main indicators on combating illegal stay of third country nationals, individuals, 2007-2018**

Indicators	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Return of third country nationals	0	0	0	0	54	380	238	474	622	695	507	471
Public custody	0	0	71	80	103	88	81	104	120	144	97	117
Declared undesirable	0	0	0	0	6	2	8	67	110	65	93	599

Source: MIA / BMA

In 2018, 2613 administrative protocols were drawn up for violations of residence regulations for third country nationals in Moldova. Of the total number of documented con-

traventions, the largest part (87%) is due to violations of residence rules and about 13% is due to contraventions related to undeclared labour of foreigners (Table 7).

**Table 7. Number of violations of the residence regulations in Moldova by third country nationals, by type, 2015-2018**

Types of violation	2015	2016	2017	2018
Illegal stay	4059	3485	3312	2266
Undeclared labour	355	414	361	347
Other cases	3	8	2	0
<b>Total</b>	<b>4417</b>	<b>3907</b>	<b>3675</b>	<b>2613</b>

Source: MIA / BMA

### Irregular migration statistics

The data of the *Automated sub-system for registration of cases of the state border law violations* shows an increase of violations related to irregular migration of 14.6% in 2018. The share of violations in the area of irregular migration was 26.2% of total violations registered

by the BP in 2018. This means that every fourth illegal act registered by the BP subdivisions was irregular migration.

In 2018, 94 % of cases, related to irregular migration, were violations of the residence regime, while 6% of cases were violations of the state border (Table 8).

**Table 8. Statistical indicators of events and facts registered by BP related to irregular migration, 2015-2018**

	2015		2016		2017		2018	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
<b>Irregular migration</b>	<b>1461</b>	<b>1495</b>	<b>1078</b>	<b>1101</b>	<b>1240</b>	<b>1251</b>	<b>1421</b>	<b>1446</b>
<b>I. Violation of the regime of residence</b>	<b>1373</b>	<b>1377</b>	<b>1038</b>	<b>1042</b>	<b>1186</b>	<b>1186</b>	<b>1330</b>	<b>1330</b>
<sup>1</sup> <sub>47</sub>	522	526	376	378	302	302	414	414
<sup>2</sup> <sub>48</sub>	845	845	660	662	884	884	916	916
<sup>3</sup> <sub>49</sub>	1	1	2	2	0	0	0	0
<sup>4</sup> <sub>50</sub>	5	5	0	0	0	0	0	0
<b>II. Violation of the state border</b>	<b>88</b>	<b>118</b>	<b>40</b>	<b>59</b>	<b>54</b>	<b>65</b>	<b>91</b>	<b>116</b>
1. Outside BCP <sup>51</sup>	21	39	19	36	11	21	17	31
2. Fake document	57	66	20	21	38	38	69	80
3. Substitution of person	8	10	0	0	5	6	5	5
4. Clandestine <sup>52</sup>	2	3	1	2	0	0	0	0

Source: BP

<sup>47</sup> Non-declaration of entry in to the country within the prescribed time limit.

<sup>48</sup> Did not voluntarily leave the territory of the Republic of Moldova upon the expiry of the prescribed period.

<sup>49</sup> Non-declaration of the term for submitting the application for granting / extending the right of residence.

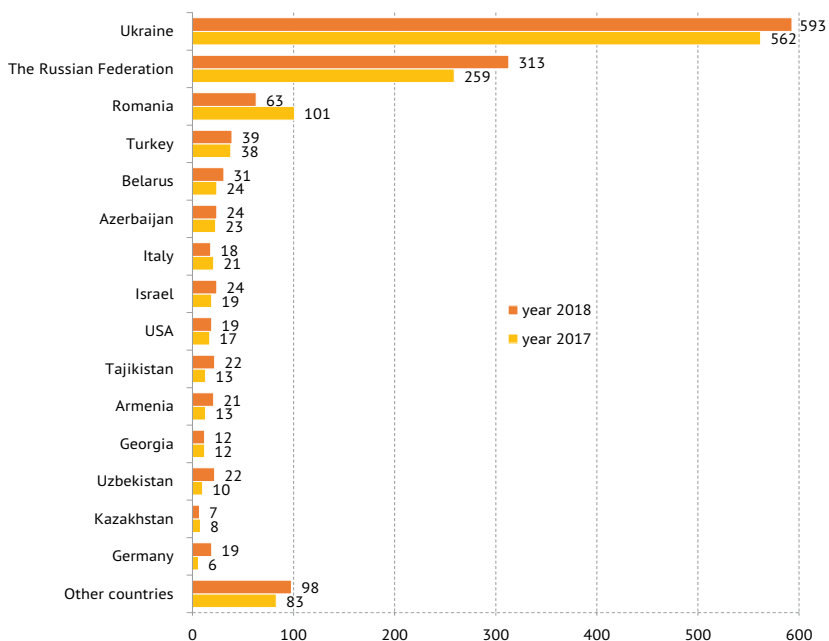
<sup>50</sup> Use of wrong data by declaring false data in order to obtain a visa or identity documents.

1330 foreigners who violated the residence regime were recorded by BP in 2018, 12.1% more than in 2017. Out of the total number of foreigners who violated the residence regime, 69% - are people who did not leave the territory of the RM upon the expiry of the prescribed time, and the remaining 31% - are people who did not declare their entry in to the country

within the time limit established by national legislation.

The countries of origin of the immigrants documented for violation of residence regime is shown in Figure 2. Thus, most of them are from Ukraine (45% in 2018, compared to 47% in 2017), the Russian Federation (24% in 2018, compared to 22% in 2017) and Romania (5, in 2018, compared to 9% in 2017).

**Figure 2. Number of persons documented for violation of residence regime, according to the country of origin, 2017-2018**



Source: BP

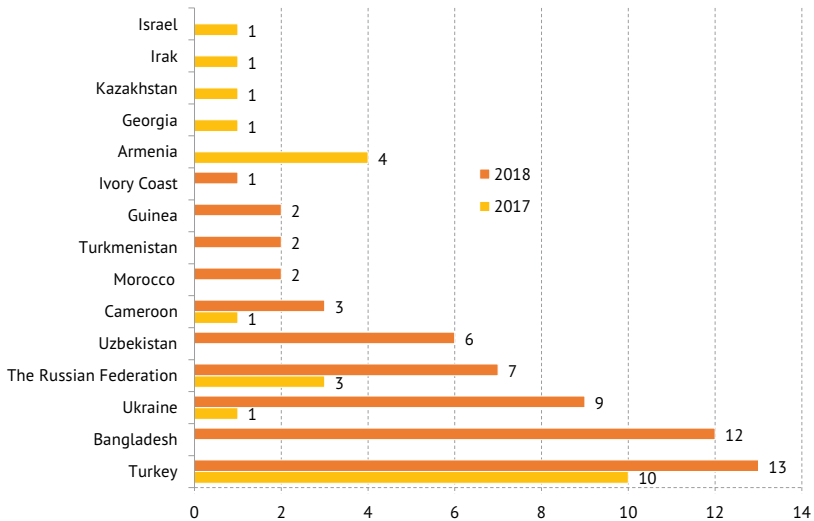
<sup>51</sup> By bypassing the state border crossing points (on the “green” border sector).

<sup>52</sup> Hidden from border control in a specially arranged place, as a rule, in a vehicle

116 people/91 cases of violation of state border were documented in 2018. The number of people increased by 78.5% , while the number of cases increased by 68.5% compared to 2017. Cases of violation of state border that were recorded in 2018, include cases of

false documents (76 %), cases of bypassing the state border crossing point (19 %) and substitution of the person to whom the travel document belonged (5 %). The country of origin of the persons detained for violating the state border is shown in Figure 3.

**Figure 3. Number of persons documented for violation of state border, according to the country of origin, 2017-2018**



Source: BP

Analysis shows that Turkey is in the top countries of origin of foreigners who have violated the state border of the Republic of Moldova, both in 2017 and 2018. However, there is a high rate of violation of state border by citizens from

former USSR countries, current members of the Commonwealth of Independent States. We also find that in 2018, there were detained for violation of state border people from Bangladesh, Morocco, Guinea, Ivory Coast.

### 3.2. THB and exploitation of migrants on the territory of the Republic of Moldova

Cases of THB of foreigners, citizens of other states on the territory of the Republic of Moldova are very rare. According to the vast majority of experts participating in the research, Moldova is not a destination country, but only a transit country for migrants from some countries in Asia and Africa (Box 1).

CCTP representatives mentioned that Moldova is the final destination country for migrants “in few cases”. In such situations, migrants represent countries with a low level of living conditions, with a high degree of unemployment, local conflicts, wars.

BP representatives reported that they sometimes identify cases of irregular migration at the borders, but not of THB or exploitation of migrants. They also specified that they hadn’t encountered cases when migrants filed complaints because they were victims of THB or exploited on the territory of the Republic of Moldova:

*“...in any case, for 3 years since I have been in BP, I have not encountered such situations” (EIA\_E\_12).*

#### Box 1. Experts opinions on international migration

*“The Republic of Moldova is not the country migrants want to reach” (EIA\_E\_5).*

*“Moldova is used as a transit country in case of international migration schemes... This is proven by the case of Bangladeshi migrants, more cases related to citizens of Syria” (IIA\_E\_6).*

*“RM is also not attractive for the sexual exploitation of foreign nationals” (EIA\_E\_11).*

Other interviewed experts from state bodies (GPO, POCOCSC, etc.) also reported that in their professional activity, there were no cases of THB and exploitation of foreigners on the territory of the Republic of Moldova (Box 2).

IOM representatives noted that they registered some cases of migrants, citizens of other states, victims of THB and exploitation, who receive assistance within IOM programs:

*“Assistance is not conditional on citizenship, that is, everything is done individually on each case, based on identified needs” (IIA\_E\_13).*

But, in their opinion, there are no trends to increase the number of such cases:

**Box 2. Experts opinions on the presence of THB cases and exploitation of third country nationals in Moldova**

*"We have not encountered in the practice of the General Prosecutor's Office cases when citizens of other states are victims of THB, on the territory of the Republic of Moldova" (EIA\_E\_5).*

*"At POCOCS, since 2016, I do not know of any pending cases of foreigners, migrants to be victims of THB or who would be directly exploited. There are several cases when foreigners are involved in trafficking as authors, co-authors, but namely as victims - there were no cases. I know that there are a few cases in the RM, but it is more about exploitation through labour and begging. I know for sure about 2 cases in 2017-2018" (EIA\_E\_6).*

*"We have not had situations where migrants, citizens of other states, declare themselves victims of THB or exploitation, when crossing the border" (EIA\_E\_11).*

*"... these are single cases. They transit through the Republic of Moldova to reach other destinations".*

IOM representatives also reported about the assistance provided to 3 underage girls from Ukraine,

victims of sexual exploitation, cases of trafficking of underage boys from Turkey, one case of children from Germany involved in drug testing, other cases of women, but also men from Uzbekistan, etc.

Some lawyers who provide assistance to foreigners in CTPF pointed out that among the beneficiaries there were also people with signs of being victims of THB or exploitation. For example, during the period of providing assistance in the last 6 months they reported 2 cases with suspicious signs of THB and exploitation:

*"...two boys from Morocco with signs of human trafficking and the case of 10 people from Turkey with signs of labour exploitation" (IIA\_E\_21).*

CCTP, BMA, CAP see situations with signs of recruitment and transportation of foreigners, with the purpose of begging and labour exploitation, but the vast majority of interviewed experts see these cases as "exceptions".

Representatives of prosecutor's offices pointed out that, in order to investigate a case of human trafficking or exploitation, they need a complaint of the migrant but so far there have been no complaints from them. Cases of irregular im-

migration of third country nationals are more characteristic to Moldova, and sometimes there are suspects in THB of third country nationals, but it is difficult and complex to investigate such cases:

*“...they are met here, they are accommodated by their countrymen. So, we suspect sometimes, but we never get a statement from them. If they're victims, they don't complain. They're in transit here and they're leaving anyway. They are accommodated up to a week, until they receive the papers and then go to another country” (EIA\_E\_6).*

As such, some of the interviewed experts pointed out that:

*“The phenomenon of THB and exploitation of migrants on the territory of the Republic of Moldova, is not topical” (IIA\_E\_6);*

*“We are not a country that is very economically developed, so that third country nationals could be abused, exploited on the territory of RM” (IIA\_E\_3).*

Representatives of BMA have shown that exploitation through labour of third country nationals is rare in the Republic of Moldova. The most common being when they detect:

*“...third country nationals who do illegal labour” (IIA\_E\_8).*

Also, in their view, the exploitation through labour of third country nationals “of colour” from Asian or African countries can be easily identified:

*“May be someone is subjected to labour exploitation, but they are certainly immediately seen and detected. If he is of colour it draws attention... and I don't know of such cases, possibly people from countering know something more” (IIA\_E\_3);*

*“You can't make them work on hills, because you can tell from a distance and they can be found” (IIA\_E\_7).*

Representatives of competent authorities investigating cases of THB and exploitation specified that in recent years in Moldova, a greater emphasis has been placed on the identification of crimes of sexual exploitation, including in the online environment which is punished, while labour exploitation has remained in the shadows, not giving it the necessary attention. The expert explanations include two aspects: (i) sexual exploitation is a more severe form of exploitation, with more serious consequences for victims. It



involves women more often and, as a result, more attention is paid to cases where women are victims; (ii) labour exploitation has no severe consequences on the psychological aspect of the victim: *"...it is an intellectual abuse in which lies persist"* (IIA\_E\_9).

Another problem reported by experts is the perception of the phenomenon of exploitation:

"I do not know if exploitation is perceived as such" (IIA\_E\_3).

Some experts reported that the identification of cases of labour exploitation is closely related to the mentality of society, including that of migrants. Thus, the majority of migrants do not perceive labour exploitation, and the Moldovan citizens do not consider that it is necessary to combat labour exploitation in all cases:

*"...if the person went and worked at the neighbor all summer and he did not get paid then this is exploitation. But, if he paid them less than they agreed, that's not exploitation. We are in such a dire economic situation that everyone in the village can be exploited, let alone foreigners. It makes no sense to exploit foreigners"* (EIA\_E\_10).

The BMA staff has noted that in the Republic of Moldova there are clear mechanisms with regard to the detection of undeclared labour of foreigners, including methods that are peculiar for the activity of police. Mechanisms for cooperation between the BMA and other units of MIA, such as police, border guards, in the field of combating illegal stay of foreigners, documentation of foreigners, etc. are quite good. However, there are no mechanisms for the identification of third country nationals - victims of THB and labour exploitation.

The representative of State Labour Inspectorate contends that in the Republic of Moldova there might be cases of labour exploitation, including exploitation of migrants. However, the employees of the Inspectorate are unable to identify such cases after some changes made to the legislative framework, related to the carrying out of state control of compliance with labour law. At the same time, it was specified that the situations of labour exploitation of third country nationals are in fewer numbers than the cases of labour exploitation of Moldovan citizens.

Data presented by CCTP, at the request of the author of this report,

show that there were no cases of THB offences registered against third country nationals in 2016-2017, but in 2018, 4 cases were initiated in relation to crimes of this kind (Table 9). The main purpose of human trafficking of third country nationals on the territory of Moldova is labour exploitation (3 victims), followed by begging exploitation (2 victims). Of the 5 victims identified, 4 are male and

one female. The predominant recruitment method is deception combined with abuse of vulnerability of third country nationals, followed by deception combined with threat of violence. The analysis of the country of origin of foreign citizens, presumed victims of THB on the territory of Moldova, shows that of the 5 people, 3 are citizens of Turkey, one is of the Russian Federation and one of Ukraine.

**Table 9. CCTP data on THB offences and exploitation of third country nationals registered in 2016-2018**

Number of offences registered	Article of Criminal Code based on which case was started	Type of offence	Number of victims	Confirmation of case	Gender	
					B	F
<b>Year 2016 - cases were not recorded</b>						
<b>Year 2017 - cases were not recorded</b>						
<b>Year 2018</b>						
3 offences	Art. 165	THB for labour exploitation	3	Yes	3	0
		THB for exploitation of begging	2	Yes	1	1
1 offence	Art. 165	THB for labour exploitation	10	Reclassification based on art.362 <sup>1</sup> -organisation of illegal migration	10	0

Source: CCTP data

It is necessary to note that among cases of THB for labour exploitation and exploitation through begging, which entered the CCTP's loop, predominate cases

with victims who are vulnerable migrants from the former USSR countries - Russian Federation and Ukraine (Box 3), as well as citizens of Turkey (Box 4).

**Box 3. Criminal cases initiated by CCTP with reference to THB and exploitation of third country nationals on the territory of the Republic of Moldova**

***Case Study 1. THB for exploitation through begging of a disabled man from the Russian Federation, 2018***

Criminal case initiated by the CCTP of MIA on 12.01.2018, according to elements of the offense, provided by art. 165 para. (2) let. d) of Criminal Code in relation to the fact that in September 2017, individual “X”, together and in agreement with an unidentified person named “Ruslan” and other individuals not identified by the prosecution, acting for the purpose of exploitation through begging of “Y”, citizen of Russian Federation. By abusing the position of vulnerability of the person expressed by the precarious situation in terms of social survival, have organized transportation of “Y” from Russian Federation to the Republic of Moldova. Arriving at the destination, “Y” was harbored at several rented apartments, being subjected to exploitation through begging in different locations of the Republic of Moldova.

***Case Study 2. THB for exploitation of begging of a pregnant woman from Ukraine, 2018***

Criminal case initiated by the CCTP of MIA on 08.10.2018, according to the elements of the offense, provided by art. 165 para. (2) let. c) of the Criminal Code regarding the fact that, approximately at the end of April 2018, an individual unidentified by the criminal investigation body, named “X”, staying on the territory of Odessa, Ukraine and acting for the purpose of exploitation through begging of the Ukrainian citizen “Y”, recruited her by deceit under the pretext of employment as a babysitter and abusing the position of vulnerability of the victim, has organized transportation of “Y” from Ukraine to Moldova illegally, bypassing the border crossing point. The unidentified individual named “X” knew for certain that the victim “Y” was pregnant.

After “Y” arrived in a location not identified by the criminal investigation body on the territory of the Republic of Moldova, the unidentified individual named “X” sheltered her in a house. Abusing the vulnerability position of “Y”, because the individual was on the territory of a foreign state and lacked the necessary means for existence, by threatening her with physical violence, “X” forced “Y” to beg in different locations on the territory of the Republic of Moldova. Subsequently, the money gathered from begging was taken from victim “Y” by the unidentified person named “X”.

Although official data presented by the CCTP does not confirm the existence of cases of THB and exploitation of foreigners on the territory of the Republic of Moldova during 2016-2017, representatives of some institutions who participated in the research, pointed out that they referred cases of THB of third country nationals, including minor children to this institution during this period. These divergences show that investigating cases of THB is a rather complicat-

ed process and that there are many suspects, but it is difficult to prove the offense. As an example, see Case Study in Box 4 (10 men from a rural locality in Turkey, with kinship ties between them, age 18-70 years). We point out that this case has been referred to the CCTP by the BMA. The BMA addressed the complaint of citizens from Turkey who worked in the Republic of Moldova at a construction company and who were not paid salaries during several months.

**Box 4. Criminal cases of THB for labour exploitation of foreigners, initiated in 2018 by CCTP based on art.165 of the Criminal Code and later on reclassified to the organization of illegal migration, based on art. 362<sup>1</sup> (2 criminal cases initiated on the same case)**

Criminal case initiated by the CCTP of MIA on 23.10.2018, according to the elements of the offense, provided by art. 165 para. (2) let. b), d), of the Criminal Code on the fact that in the year 2018, individuals unidentified by prosecution, acting in concert and by mutual agreement, staying on the territory of the Republic of Moldova, aiming at the labour exploitation have recruited, by deception, under the guise of hiring for a well-paid job in Moldova and by abuse of position of vulnerability citizens of Turkey, "X", "Y", "Z" and other persons, unidentified by the criminal investigating authority.

Having arrived at Chisinau International Airport, victims were met by persons not identified by the prosecution body who have used the vulnerability position of victims "X", "Y", "Z" and other persons not identified by the prosecution body (because of their presence on the territory of another state without necessary means for existence). The offenders harbored them in an unidentified location and have not paid the promised salaries for carrying out different work in construction violating the initial promises regarding employment.

At the same time, individuals not determined by prosecution, acting in concert and by mutual agreement, in pursuit of the criminal goal under the pretext of obtaining a residence permit in the Republic of Moldova have

seized the passports of citizens of Turkey, “X”, “Y”, “Z”, and other persons, unidentified by the criminal investigating authority.

During September 2018, persons unidentified by the prosecution body, acting together and jointly for the purpose of forced labour exploitation of victims, returned the passports to citizens of Turkey only after citizen “X” communicated that if the passport is not returned, a complaint would be filed with the BMA. They were thus not paid for the work done, according to the contract.

Most cases of human trafficking and exploitation of migrants on the territory of Republic of Moldova were identified by CCTP and assisted within CAP - a specialized institution for assistance to victims and presumed victims of THB (Box 5). CCTP initiated criminal cases on the given cases, some of which were still investigating in 2019.

### **Box 5. Criminal cases of THB and exploitation of third country nationals identified on the territory of the Republic of Moldova**

#### **Case Study 1. Trafficking for medical testing of children from Germany, 2015**

*“It’s child trafficking through illegal use in medical or scientific testing or experiments ... Children from Germany, who had mental health problems and were receiving specific treatment, were taken to Crimea. The events in Crimea prompted their transportation to the Republic of Moldova.*

*The drugs used in the treatment of patients attracted interest because they were not allowed in the Republic of Moldova. The experiments took place in the Republic of Moldova, the doctor was from Germany, but the assistants were from Ukraine.*

*It was difficult to provide the right classification of the offence. The purpose of exploitation was unclear, and it was difficult to define it, because the legislation of the Republic of Moldova had no legal provisions in this respect.*

*However, we have already changed the Criminal Code. Conducting medical testings and experiments was recognized as one of the purposes of exploitation in cases of THB.”*

#### **Case Study 2. Exploitation through begging of underage children from Ukraine, 2016**

*“In 2016, we had 3 beneficiaries for assistance: mother with two children (boy and girl) from Ukraine, exploited through begging on the territory of Moldo-*

va. After years of exploitation, the Directorate of Social Assistance and Family Protection in one of the rayons in Moldova identified this case of exploitation through begging and asked CAP to repatriate the children to Ukraine, because the mother managed to flee and cross the border back to Ukraine.

One child (girl) ended up with us, and I did not know where the second child (boy) was. He was later identified as exploited through begging with a fake ID in Germany. It was done because the respective guardianship authority in Moldova has committed a number of errors working on this case. This made the guardianship over children for a foreign person without a kinship relation, the so-called "grandmother". As a result, the boy crossed the border of the Republic of Moldova with false papers, with the so-called "grandmother" and was exploited in Russia, Ukraine, Germany.

A criminal case has been filed and several charges have been brought up: attempted rape of the girl and exploitation through begging of the boy (at present he is 10 years old, he was 8 at the time). It was established that the boy has been exploited from the age of 4.

Due to the cooperation relations of CAP with similar organizations in Ukraine, the mother was identified and found, she also stated that she was previously a victim of THB and exploitation through begging in Moldova.

Currently, we are in the last stages of the criminal case to press charges of exploitation through begging and attempted rape."

### **Case Study 3. Labour and sexual exploitation of a woman from the Russian Federation, 2015**

"A young woman from the Russian Federation was found in Soroca city, being exploited by gypsies, including, sexual exploitation.<sup>53</sup>

The young woman was undocumented. She was saved from exploitation thanks to a young man from Ocnita city. Subsequently, they lived as partners. As a result of concubinage, 2 children were born. Since the mother had no identity documents, it was very difficult to prepare the birth certificates for the children. Only the father was mentioned in the birth certificates.

The case is very difficult. Our lawyer still goes to meetings. So far, we haven't been able to find the victim's mother, establish her birthplace, so she can be issued an ID.

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<sup>53</sup> The original expression was preserved, but we mention that it is correct to use the term "roma".

*The victim applied for stateless person status, but the stateless person ID document can not be issued for her, because she does not have a birth certificate and so far lives on the territory of Moldova. She's already had her third child. Two of the children are documented based on the father's documents in Ocnita, but not the third child."*

#### **Case study 4. Labour exploitation of a woman from Ukraine, 2016**

*"There was another case of exploitation of a woman in Soroca by gypsies.<sup>54</sup> The woman was brought to the Republic of Moldova by gypsies. After that, she found a way to flee, but she got into another gypsy family...*

*When we found her, she showed us where she was sleeping (outside, on a bed with springs ... like the animals in a shed).*

*Gypsies said they made her take wood from one place to the other in exchange for food.*

*From what she said, she was really harshly exploited because she was doing the hardest labour. Not only was she carrying wood, but she was splitting wood, etc.*

*The case was reported by neighbours of the gypsy family, who were Moldovans. They called social assistance from Soroca.*

*It was difficult to get her back to Ukraine. I applied to the local public authorities in Ukraine through the embassy and IOM. I got a positive response that she was from there and that she had a brother and an aunt. So she could go back home.*

*As a result, we prepared the necessary documents for her and then she returned home."*

#### **Case Study 5. Labour exploitation a minor from Turkey, 2017**

*"We had a young minor, from Turkey, who wanted to go to Germany. He arrived from Turkey in the Gagauz region of the Republic of Moldova. He only spoke Turkish and thought that he lived in a Turkish area in Germany. For 1 year, he was exploited through labour on the territory of the Republic of Moldova.*

*Law enforcement referred him to our center to obtain assistance in voluntary repatriation.*

*The most important thing was that he had an ID and had parents. It was possible to repatriate him with the help of a person from our center to the mountains in the Kurds area in Turkey."*

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<sup>54</sup> The original expression was preserved, but we mention that it is correct to use the term "roma".

The data collected in the study shows that in the RM:

- (i) in irregular migrant flows there are situations of exploitation and there are victims and presumed victims of THB and exploitation, but only a part of them are identified by competent Moldovan bodies;
- (ii) the cases of migrants-victims and presumed victims of THB and exploitation, identified by the Moldovan authorities are difficult to prove, many of them have no resolution;
- (iii) there are criminal cases with signs of THB and exploitation, initiated on irregular migration, Moldova being a transit country to the EU;
- (iv) the countries of origin of migrant – victims and presumed victims of THB or exploitation or vulnerable immigrants are the former countries of the USSR (Ukraine, Russian Federation, etc.), but also - other countries of Asia, Africa;
- (v) most of the time victims and presumed victims of THB and exploitation are unaware of the danger and crimes which they are exposed to.

### **3.3. Characteristics of vulnerability of migrants on the territory of the Republic of Moldova**

In the framework of this research during August 2018 – June 2019, in-depth individual interviews were conducted with 12 vulnerable migrants, including migrants in relation to whom cases on THB exploitation were initiated by CCTP. The collected information has allowed to identify and analyze the characteristics of vulnerability of migrants, factors that increase the likelihood of trafficking and exploitation of foreign nationals on the territory of the Republic of Moldova.

#### **Sociodemographic characteristics of vulnerable immigrants**

Sociodemographic characteristics of 12 vulnerable migrants:

- Gender: 8 men and 4 women.
- Age: 16 to 37. We mention that in the case of 2 minor migrants (16 and 17 years), a medical examination was ordered to establish their age accurately, considering that they intentionally declared a younger age than the real one (table 10).



- Civil status: 8 of the 12 migrants are single, 3 were in cohabitation relations either by the time they arrived in the Republic of Moldova or after they arrived in the Republic of Moldova. One person was with his wife and children in Moldova.
- Education: 3 out of 12 migrants have no education, including 2 illiterates (unable to read or write); 2 have general basic education (graduated from 9 grade), 4 - secondary education (11 - 12 grades) 1 - vocational education, 2 - higher education. Among those with higher education, we note that the immigrant from Syria has done higher education in the field of medicine in Moldova, the one from Bangladesh mentioned that he has studies in business.

**Table 10. Sociodemographic characteristics of vulnerable migrants interviewed, individuals**

Sociodemographic features		Number of persons
Gender	Male	8
	Female	4
Age	16-20 years	4
	21-24 years	1
	25-29 years	4
	+ 30 years	3
Studies	No education (illiterate)	3
	General basic education ( graduated from 9 grade)	2
	Secondary education (graduated from 11-12 grades)	4
	Vocational education	1
	Higher education	2
Marital status	Celibate	8
	Marriage	1
	Domestic partnership	3

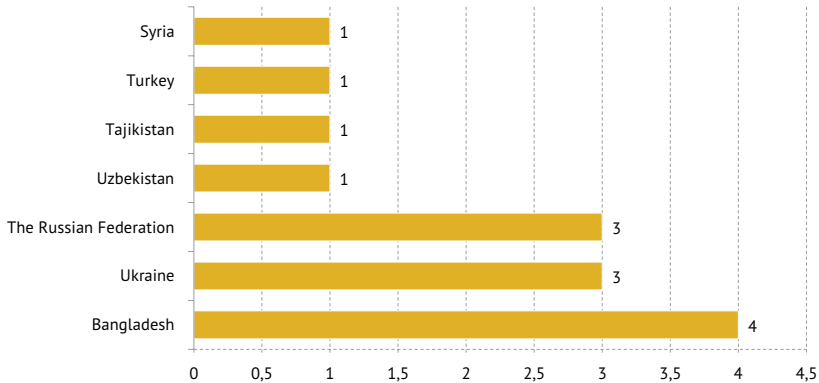
Analysis of migrants' countries of origin shows that citizens of Bangladesh prevail among the migrants interviewed – 4 pers., followed by those from Ukraine – 3 pers. and one person from each of the following countries: Russian

Federation, Uzbekistan, Tajikistan, Turkey and Syria (Figure 4). The 4 Bangladesh migrants represent 3 separate groups of irregular migrants: a group returned from Romania, a group stopped at the border with the Republic of Mol-

dova before crossing the border with Romania, the third group stooped on the territory of the Republic of Moldova. According to ethnicity, it should be highlighted

that of the 12 migrants, 4 were Bengali, 2 - Ukrainians, 1 - Roma (Ukraine national), 1- Turkish, 1 - Syrian, 1 - Russian, 1 - Uzbek, and 1 - Tajik.

**Figure 4. Country of origin of interviewed migrants, persons**



All interviewed migrants (except those from Ukraine and Syria) had passed through other countries before their arrival in Moldova. Most couldn't name the countries they went through. Two of the 4 interviewed Bangladeshi migrants, according to reported stories, came to Moldova from Ukraine, but two others mentioned that they came from Romania, (possibly, they declared that they came from Romania in the hope that they would be handed in to authorities of Romania, which is an EU country).

Out of the 12 migrants interviewed, 9 do not have the right of residence on the territory of the Republic of Moldova, compared to 3 who are entitled to it (1 - holds a 4 year residence permit, 1 - has a temporary residence and 1 - has permit to remain on the territory of the Republic of Moldova in regime of tolerance).

The official status of migrants at the time of the interviewing was the following: 4 - have been apprehended for violating the residence regime, 4 - were arrested at the border and appealed for asylum, 2

**Box 6. Features of vulnerability of a victim of THB and exploitation**

She is Roma, from Ukraine, undocumented, mentally retarded, illiterate, pregnant.

Does not keep relations with parents (father is in prison and she does not know her mother), does not have a stable place to live, she is into begging.

The victim does not know personal information (date of birth, how old he is, etc.).

She grew up in a boarding school, but frequently fled it as a teenager.

- were in the process of preparing the documents for statelessness. There also was one beneficiary of humanitarian protection and one beneficiary of tolerance regime.

Until the migration experience, 10 of the 12 migrants had no work experience. 10 were also vulnerable in their home country (except one migrant from Syria and another from Bangladesh).

The Bangladeshi immigrants mentioned that before they arrived in Moldova, they did not know about the existence of a country with this name:

*"I thought Moldova was a city"*  
(IIA\_3\_M).

## Recruitment

Of the 12 migrants interviewed, 11 were recruited by partial or total deception, combined with abuse of their position of vulnerability in the country of origin (Box 6). The deception, most often, was manifested by false promises about a legal and stable job. The abuse of position of social vulnerability was determined by the low levels of income, as well as by the health situation (disability/infirmity, pregnancy, etc.). This is characteristic for both women migrants and men migrants. In extreme cases, physical violence was used, and some women - victims were subjected to inhuman, degrading treatment.

The promised destination for 6 of the 12 migrants was the Republic of Moldova, and for the other 5 - a country from the Schengen/EU area (1 person returned to Syria).

The recruitment was done by individuals, but differently for the 2 final destinations: the Republic of Moldova and the Schengen/EU area. Thus, those who were promised Moldova as final destination, were recruited frequently by familiar people from the country of origin, less often unknown persons from Moldova, who promised them to be employed in the area of construction, manufactur-

ing, housekeeping or childcare activities, etc. Most migrants in this category did not pay money in advance, but agreed to pay an agreed-upon sum from the promised salary at the destination. The migrants, whose final goal was the Shengen/EU space, turned to an unknown person or a group of unknown persons from their home country to organize their departure. They, personally, or their relatives paid in advance an amount ranging from 5.000 to 10.000 US dollars for organizing their emigration<sup>55</sup>. In case of some, the family would sell the land they owned to pay for the migration costs.

In the case of a migrant from Syria we can not talk about recruitment. His departure from the country of origin was prompted by the war in Syria. Respectively, it was decided that the family should immigrate to the country of origin of the wife (husband, wife and 2 minor children) during the war period.

The reasons for leaving the country of origin declared by migrants are diverse: poverty, lack of work, etc. The Bangladeshi mentioned poverty, but also the political regime (the family is in opposition to the political regime), including corruption, etc.

## Transportation

The transportation facilities used for the movement of the 12 interviewed migrants were different on different portions of the route: airplane, car, including in trunk of a car or other camouflaged places of the vehicle, as well as sometimes - on foot.

Some migrants crossed the border of the Republic of Moldova legally, but some of them illegally. Thus, 4 migrants entered the Republic of Moldova legally, with their own documents. However, 8 of them entered illegally without documents or with false documents. In addition, one migrant from Ukraine crossed the border bypassing the border cross points.

It was also found that migrants, who had Moldova as their final destination, crossed the border accompanied by one person. The migrants going towards the Shengen/EU area, crossed the border in small groups, 4-8 people, who did not know each other, even if they were from the same country of origin.

Additionally the Bangladeshi migrants reported that they began the migration process in February - May 2018. Some reported that at the first stage they flew by plane

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<sup>55</sup> Bangladeshi migrants said that the payment made for organising the emigration was either \$ 8,000 - \$ 10,000.

to India, later they were taken to Pakistan, Russian Federation or Ukraine, crossing the borders of several countries either on foot or in cars. During the trip, their documents were confiscated and they never worked during migration. They were usually confined to their homes, organized in groups with other migrants, but did not know each other and were not allowed to leave. Juvenile migrants from Bangladesh mentioned that they arrived as far as Turkey, and then they arrived in Romania from where they were returned to the Republic of Moldova.

### **Forms of exploitation**

Of the 12 migrants interviewed, 7 - were exploited. One woman was forced to beg, 3 women and 3 men were subjected to labour exploitation (men migrants were not paid for their work for a period of 4 to 6 months).

### **Support provided by authorities**

Some migrants appealed for help to the Moldovan authorities (a migrant from Syria and a migrant from Uzbekistan), but most sought help after being detained. Three of the Bangladeshi migrants have applied for asylum and are on standby, and one has obtained permission to stay in the country under a regime of tol-

erance. They said that they want to stay in Moldova and get work.

Data collected in the study show that each asylum application case is examined at the BMA. The BMA conclusion to each application could be challenged in court. This is characteristic for both migrants who come to the BMA and for those who are detained under the CTPF.

The support provided to migrants by the authorities differs depending on the situation. For example, the migrant from Syria and his family appealed to the BMA for support. The support provided included: (i) granting the status of beneficiary of humanitarian protection (applied for asylum); (ii) granting the permission to work legally; (iii) legal advice; (iv) small financial support, 1000 lei monthly, during 6 months; (v) support for the integration of children in kindergarten and school; (vi) Romanian language courses; (vii) recreation activities, etc.

In addition, this family was referred to civil society organizations that offered support in the integration of children in the educational process. It is necessary to mention that in Moldova, there are several civil society organizations that provide support to asylum seekers and refugees (Box 7).

## **Box 7. Civil society organizations supporting asylum seekers and refugees**

### **1) Organization "Ave Children"<sup>56</sup>**

Social services package, based on projects for asylum seekers and refugees:

- food packages, clothing, footwear;
- financial support;
- support for the integration of children into the educational system.

### **2) Refugee Charity Centre<sup>57</sup>**

- employment mediation services in order to facilitate legal employment based on the employment contract;
- cultural and social activities;
- support further education (vocational schools, colleges, universities);
- support for the integration of children into the educational system.

### **3) Legal Center of Lawyers<sup>58</sup>**

- legal advice;
- legal aid.

An immigrant woman, victim of THB received surgery after a road accident was given assistance at birth, was offered accommodation services, for the period of stay in Moldova. As a result of working with CCTP, work was started with the authorities of Ukraine on the preparation of identity documents.

The uncovered needs mentioned by migrants include: Romanian language courses, information support and free medical insurance policy. Some of the Bangla-

deshis mentioned that they intend to stay in the Republic of Moldova. For better integration, they want to be offered free courses for studying the Romanian language.

### **Signs of migrant vulnerability**

We relied on characteristics of 12 interviewed migrants and other cases that were described by the interviewed experts.

### **Illegal ways of entering the Republic of Moldova**

Vulnerable migrants usually violate the state border by submitting

<sup>56</sup> <https://avecopiii.md/>

<sup>57</sup> <http://charity-centre.blogspot.com/>

<sup>58</sup> <https://cda.md/index.php/en/>

false documents or avoiding state border crossing points.

#### Violation of the regime of residence

It was mentioned that those who enter Moldova for a period of up to 90 days and did not voluntarily leave the territory of the country upon the expiry of prescribed period are more vulnerable to THB and exploitation, because they are not documented and are not in the BMA reach. Third country nationals who come for a longer term are documented, most likely. There are, however those who have entered the territory of RM for many years, have been married, have children but do not have an official stay in the Republic of Moldova, and are at high risk of illegal employment or labour exploitation (see Box 8).

#### **Box 8. Migrants who have not legalized their stay**

*"A Tajik is married to a Moldovan woman and has 4 children. He had a tractor driver's license, but he did not legalize his stay because he had to bring a certificate that he was not married there (in the country of origin) and several documents confirming that he was from another country and another culture.*

*He integrated, speaks Romanian, but was found to be working on the tractor. His legal relationship with the employer was not official..." (IIE\_8).*

A specific category of vulnerable migrants was presented to us by BMA employees, the North Regional Service for stateless (Box 9).

#### **Box 9. Stateless persons**

*"There are many migrants who have returned from the Russian Federation...*

*They are with Soviet passports, have no right of residence, no right to work, but have no citizenship either.*

*I recently went to the Russian Embassy with a case. The embassy looked at the Soviet passport and said that he is not one of theirs, that he is not registered with them, but he was not registered with us either. And now we have to see, give him a status...*

*Very many of them are poor..." (IIE\_8).*

Some of the vulnerable migrants arrive at centres for homeless people. For example, the employees of the Center for homeless people "Reîn-toarcere", from mun. Balti noted that there were 7 cases of migrants, citizens of other states in a situation of vulnerability, in 2017 and in 2018 – 5 cases. Vulnerable immigrants are from Tajikistan, Ukraine, Russia, Belarus. The vast majority of them are men, aged 40-45, up to 50 years, with serious health problems (Box 10).

The employees of centers for homeless take steps in their coun-

**Box 10. Migrants from centres for homeless**

*"We have a new case. I wrote requests to the city hall, to create a commission, to analyze this case: the person has been in the Republic of Moldova for 8 years. He's not talking, he's bedridden.*

*According to the neighbors, he worked for a priest, being exploited through work, but he does not speak." (IE\_18).*

try of origin to document the person and to initiate the return process, but it takes a long time, about 3 years. However, there are also cases when after documenting the person, he/she refuses to return to the country of origin:

*"... the last case was from Belarus. This beneficiary now has an identity card, but doesn't want to leave" (IE\_18).*

Country of origin

Citizens of former Soviet countries (Ukraine, Russian Federation, Kazakhstan, Tajikistan, Belarus, Uzbekistan) are vulnerable to THB and exploitation, as well as citizens of some Asian countries (Turkey, Afghanistan, Bangladesh, Pakistan, Sri-Lanka) and African countries - Cameroon.

Presence of a degree of social vulnerability

Frequently, vulnerable migrants were vulnerable also in the country of origin (persons with disabilities, pregnant women, persons without close relatives, without studies and/or with a low level of education, beggars, etc.).

Method of recruitment in the country of origin

Individuals who were promised the Republic of Moldova as final destination were recruited by deception.

Migrants from countries of Asia and Africa have turned to specialized individuals or groups in their country of origin.

Gender

Both women and men.

Age

Most are young men, up to 30 years old, but there are cases of older people. For example, in the case of 10 migrants from Turkey, one person was 70 years old. Participants of the research reported age differences. For example, vulnerable migrants from CIS countries are over 40 years old, and those from Asian countries are up to 30 years old. A specific category



is unaccompanied minors, who come from disorganized families and thus become vulnerable.

#### Marital status

Most often, vulnerable migrants, susceptible to human trafficking and exploitation, are unmarried.

#### Duration of travel

Migrants from Asian and African countries are told they will arrive within a month, but it takes years.

In the case of migrants from former countries of the USSR, the duration of travel is from several days to 2 weeks, maximum.

#### Lack of ID

The lack of identity documents, which are lost, destroyed or taken over by recruiters, is common.

#### Food and clothing

The food is poor. For example, a group of Bangladeshi migrants, detained at the border of the Republic of Moldova with Romania,

ate corn from the field and wore summer clothes in October.

#### Physical characteristics

Most have disabilities and other health problems. The Negroid race prevails, in case of migrants from countries of Africa and Asia.

#### Psychological characteristics

Introverted people, less communicative, frequently irresponsible, sometimes aggressive, marginalized.

#### Other features

Most do not know Romanian, Russian or English.

Interviewed experts pointed out that there is a guide in Moldova on the identification of victims and potential victims of THB, citizens of the Republic of Moldova, with established features/signs of vulnerability to THB.<sup>59</sup> It could also be adapted for the identification of immigrants victims and presumed victims of THB and exploitation.

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<sup>59</sup> Approved by the Decree of the MHLSP No.33 of 20 February 2012.



## IV. CURRENT WORKING METHODS WITH PRESUMED CASES OF HUMAN TRAFFICKING AND EXPLOITATION OF MIGRANTS

### 4.1. Ways to identify and investigate cases of THB and exploitation of migrants in the Republic of Moldova

#### Identification

Identifying victims of THB and exploitation among migrants on the territory of the Republic of Moldova is a difficult and complex process. During the process of identifying migrants - victims of THB and exploitation, several institutions must be involved: CCTP, GPO, BP, BMA, CAP, local public authorities (mayors, social workers), civil society organizations, etc.

The research data show that most of the presumed cases of THB and exploitation of migrants were identified with the support of CAP, BMA and the Anti-Trafficking Hotline (0 800 77777) operated by the PA International Center “La

Strada” and then referred to CCTP. According to national legislation, presumed cases of child trafficking and exploitation should be referred to the police: *“We are obliged to notify the police”* (IIA\_E\_20).

Employees of CAP mentioned that they also suggest to adult victims whom they assist that they should talk with officers from CCTP when there are signs of human trafficking occur:

*“If at the end of the counseling session with the victim there are some concerns, we suggest that the victim discusses them with a CCTP officer. Police officers come to us and discuss, and find those elements that are specific to human trafficking, and then there are the applications, complaints, explanations”* (IIA\_E\_20).

The analysis of criminal cases on THB and exploitation of migrants

in Moldova also shows that different institutions identify and refer cases to CCTP or GPO. CCTP representatives confirmed that they have never had migrants directly addressing them with requests, referrals, as victims of trafficking or exploitation:

*“I have never, in my practice, encountered any case of any foreigner coming to file a complaint” (IIA\_E\_9).*

Migrants usually interact with BMA representatives and they should have clear skills to identify these situations. In this area, several actions are needed. CCTP employees have stated:

*“Perhaps, until now, we have not placed enough attention on identifying foreigners who are vulnerable to human trafficking and exploitation on the territory of the Republic of Moldova. In this case, we need closer cooperation with BMA and other institutions” (EIA\_E\_10).*

Some cases of trafficking and exploitation of migrants are discovered by chance. Sometimes, victims of THB and exploitation manage to flee and turn to different institutions for help (Box 11).

According to some participants in the study, there are also cases of

#### **Box 11. Juvenile victim who asked for assistance**

*An underage girl ran away from her home and addressed a day care center operated by a religious organization. The employees of this religious center appealed to a children’s rights specialist from the Department of Social Assistance and Family Protection who, in turn, referred the child to CAP.*

*Specialists from CAP determined that the girl was exploited through labour and that there was an attempted rape. It was also found out that the girl is of Ukrainian origin and holds citizenship of this country. Before finding the mother of the child to whom she could be repatriated, a referral was made to CCTP. After that, the prosecution was initiated.*

exploitation through labour of foreigners, which are not identified:

*“There are many cases that are not known ... The migrant works isolated from society... I know such cases in the north of Moldova, in Briceni, Edinet, when citizens of Ukraine came for work and are have been exploited. They harvest potatoes, pick apples” (IIA\_E\_20).*

It was noted that Moldovan institutions do not always manage to identify Moldovan citizens sub-

jected to labour exploitation, not to mention foreign nationals. In addition, local public authorities, including community social workers, do not consider vulnerable migrants to be their responsibility: *“If it is a foreigner, he is not mine”* (EIA\_20). That is, such situations are not always referred to the authorities.

BP must be involved in identifying victims of trafficking and exploitation, migration flows at the border of the Republic of Moldova. Experts noted that BP officers are trained to identify victims and presumed victims of THB among Moldovan citizens who leave the Moldovan border, but they do not aim to identify victims and presumed victims of the THB among third country nationals who enter or leave the Republic of Moldova. Besides, BP employees stressed that they do not have enough time to identify cases of trafficking and exploitation at the entrance or exit of the Republic of Moldova:

*“The number of people entering and leaving the Republic of Moldova is very high and we do not have enough time ... Only sometimes you can see some signs of abuse: fear, marks, bruises and then you understand that she is controlled by*

*someone else. For example, we have girls from Dubai who are in and out, in and out, just so they don't violate the visa regime”* (IIA\_E\_20).

Representatives of BP at the Chisinau International Airport stressed that flows and categories of migrants crossing the Moldovan border are extremely diverse, and so are the crimes committed by some of them. Finally, the *modus operandi* of traffickers and carriers is *constantly changing*.

Impediments / barriers in the process of trafficked persons' identification are multiple and include:

- (i) indifference displayed by institutions in identifying victims and presumed victims of THB and exploitation, especially among third country nationals: *“...there is indifference to ours (victims of THB and exploitation, citizens of the Republic of Moldova), not to mention foreign ones”* (IIA\_E\_20);
- (ii) authorized bodies do not have the standard operating procedures and tools for identification of trafficked persons among foreign nationals;
- (iii) language spoken by migrants is often a barrier to commu-

nication and identification. Immigrants-victims and presumed victims of THB and exploitation, who are citizens of Ukraine, Russian Federation and other CIS countries are easier to detect due to knowing the Russian language and the presence of translators, if necessary. Migrants - victims and presumed victims of trafficking and exploitation, who are nationals of countries in Asia, Africa are more difficult to identify, on the grounds that authorized professional translators are missing: "...as a rule, we use the services of a third person who comes from that country. Obviously, the translation that he does, having no studies in the field, leaves much to be desired. He does not translate correctly, and the information is lost" (EIA\_E\_7); "... in translation, some information is lost anyway. No matter how good the translation is, some of the information is lost" (EIA\_E\_11). It was also noted that: "official translators are not always in good faith" (EIA\_E\_11).

- (iv) Mayors and local social workers often don't report suspicious situations of THB or

exploitation of migrants to police or other institutions.

Some interviewees have signalled that there are more cases when foreigners are victims or presumed victims of THB and exploitation, but not always: "... there is a desire to identify and refer them because this is an extra nuisance."

Representatives of civil society stressed that: "... authorities have little interest in seeing anything more than custody, if foreigners are presumed victims of human trafficking or exploitation. If along the way, some details are found, they are not referred to" (EIA\_E\_21).

Representatives of BMA noted that they act on the basis of their competences. Thus, in case of signs of THB and exploitation, CCTP is notified. In other cases, for persons held in CTPF, steps are taken in the countries of origin of persons in custody to see what are the possibilities of repatriation.

IOM representatives noted that police officers have some skills to identify victims of THB and exploitation, but they need to be improved both by training and by developing special tools. However, it was stressed that border police at the Chisinau International Airport is ready to identify cases of THB,

compared to those at other border crossing points. Another aspect mentioned by the interviewees is the turnover of personnel among different categories of specialists, including policemen.

A large number of interviewees pointed out that the progress of identifying victims of THB among migrants can be achieved through collaboration between different stakeholders. The fact is that representatives of different institutions need training to be able to identify victims of THB and exploitation. The lack of clear identification procedures is perceived by the experts participating in the study as convenient for the authorities:

*“... all of them are comfortable with how things are”*  
(IIA\_E\_21);

*“... they just bury their heads in the sand (like ostriches) rather than identify victims”*  
(IIA\_E\_20).

It turns out that the basic problem is “mentality”, expressed by the unwillingness to get involved.

CCTP representatives have signaled that there are currently no procedures to help representatives of different bodies identify victims

of THB and exploitation among migrants, unless they declare this fact by themselves. Thus, in order to improve the identification process of migrants-victims of THB and exploitation on the territory of the Republic of Moldova, it is necessary to:

- Develop a clear procedure and tools to facilitate the identification process. Interviewees mentioned that a guide would be welcome, that would cover signs of risk of THB and exploitation of migrants for BP employees and other structures, including, standard screening forms for identification;
- Train specialists of competent bodies (CCTP, GPO, BMA, BP) and local authorities (mayors, community social workers). Some of them do not know what human trafficking is, not to mention how use to identify a trafficked person.

### **Investigation**

The investigation of criminal cases with regard to THB and exploitation of third country nationals on the territory of the Republic of Moldova is made most often by CCTP, fact proved by the data of this study, but some officers of

POCOSC and BP also have competences in this field. Thus, cases of THB arrive less to the attention of CCTP:

*“...only cases of illegal migration come to our attention when some criminal groups are involved” (IIA\_E\_10).*

Employees of this institution perceive irregular migration as a risk of THB. Participants in the research highlighted: *“CCTP officers that we cooperated with are fully prepared to investigate cases of THB and exploitation” (IIA\_E\_20).*

BP usually gets involved in the investigation of irregular migration cases, for example, the case of minors from Bangladesh. If an investigation process is initiated by BP, no other process can be initiated by CCTP.

The process of investigating cases of THB and exploitation of foreign migrants is more difficult, because these people do not know the language and the national legislation of the Republic of Moldova, thus, the need for translators arises. Less difficult aspects in this case are those related to Russian and Ukrainian speakers.

The difficulties referred to by the interviewees in investigating and documenting migrants-victims

and presumed victims of THB and exploitation are:

- Need for a translator, when the migrant is detained by BP or other authority, in order not to violate the terms of Investigation provided by the legislation;
- Proving the crime, since in the case of migrants, situations are disguised as transit visas, business opening, in order to obfuscate the purpose of exploitation. The phenomenon of THB takes on a “more intellectual, sophisticated”, “more subtle”, “more veiled” form;
- Documentation procedures are bureaucratic and stagnate the investigation procedure;
- Lack of specialized shelter for placement of migrants - victims during criminal investigation. Migrants can not be placed at CAP (sometimes exceptions are made in situation of juveniles and women);
- Knowledge and understanding of the peculiarities of THB phenomenon in its various manifestations: *“... we can't rely entirely on the statements of foreigners” (IIA\_E\_11).* Sometimes migrants, especially

men, do not perceive that they are being exploited by the representatives of their diaspora. If they were offered work for 10-12 hours a day, the immigrant perceives the situation as a good one;

- Changes and innovations in modus operandi that criminals introduce regularly: *“We have to be one step ahead of them. However, in cases of THB and exploitation, criminals are always one step ahead of us” (EIA\_E\_10).*

Experts pointed out that it is difficult to identify victims of THB in cross-border migrant flows which transit through Moldova:

*“...there is not much to prove, nor does the victim know exactly what will happen at the destination” (EIA\_E\_13).*

Respectively, it is difficult for the prosecution bodies to establish the status of these migrants:

*“...in case of 2 Turkish children, the prosecution body gave them both the status of juvenile offenders and status of injured party” (IIA\_E\_13).*

In these cases the IOM insisted that the risk assessment prior the return of these minors to Turkey is

made and only after this procedure the children should be repatriated (Box 12).

#### **Box 12. Difficulties in establishing the status of migrants in situations of vulnerability**

*„The question I asked then: how can I return them to the country where they came from, if I do not know their situation? They were young and wanted to get to Germany, to work...*

*We then facilitated and made the assessment in the country of origin. The IOM representative asked the authorities and it was confirmed that the family had raised money that they had paid for the migration. Under international conventions and treaties, you cannot return a citizen to a country if there is a risk of trafficking or other risks. Later it was confirmed that their parents will take them back them, it's ok that they have family, they were repatriated” (IIA\_E\_13).*

## **4.2. Ways of providing assistance and protection for foreign victims of THB and exploitation**

According to some interviewees, we are better at identifying trafficked persons than at providing assistance and protection for them:

*“He has victim status and cannot be returned or deported, but we do not have a range of*



*services to provide for him and no clear procedures of treatment compliant with human rights” (IIA\_E\_21).*

Currently, the IOM provides support, assistance and protection to victims and presumed victims of THB and exploitation in the Republic of Moldova and other countries. CAP is also involved in providing assistance and protection to children and women-migrants, victims and presumed victims of THB and exploitation. Most often, this center provides accommodation, food and legal aid.

Some victims of irregular migration, possibly, of human trafficking or exploitation too, end up in CTPF. However, some tools do not apply in the CTPF to differentiate victims of trafficking and exploitation among irregular migrants.

Difficulties nominated by the interviewees in providing assistance and protection to migrants-victims and presumed victims of trafficking and exploitation are:

- (i) Lack of a specialized shelter for migrants - victims, as well as presumed victims of THB and exploitation and the attempt to place them in existing services: “...such kind of beneficia-

*ries do not exist in the regulations” (IIA\_20);*

- (ii) High costs in case of placing these persons in the existing system. Costs are necessary for documenting the person, providing medical care, providing food, etc. Limited funding with old regulations in both CTPF and in CAP.

Other difficulties relate to more specific issues, related to the spoken language, procedures for examining and determining the age of migrants, placing minors in specialised residential centres, not

### **Box 13. Specific difficulties**

*“Since November 2018, we have been working with a minor asylum seeker to place him in a residential home for children, since he is a juvenile. On Friday, January 25, we received a letter from the Municipal Division for Children’s Rights Protection that we cannot place him in a center of this type, because the minor does not speak Romanian, Russian or other international language, so we cannot place him. This is a direct indication of discrimination.” (IIA\_15).*

together with adults, etc. (Box 13).

There was also a need to improve the assistance provided in CTPF by placing a greater emphasis on prop-

er respect for human rights and dignity towards persons in custody.

### **4.3. Interaction between actors involved in identifying, investigating and assisting migrants vulnerable to THB and exploitation**

#### **Collaboration between actors with responsibilities for identification, investigation and assistance**

Inter-agency and inter-sector cooperation is aimed at supporting the performance of tasks of various state and non-state actors involved in preventing and combating THB and related offences, as well as in assisting trafficked persons. In this respect, the CCTP cooperates with the GPO (Counter THB Section), BP, BMA, other subdivisions of the MIA and with other national law enforcement authorities, including within the Coordinating Council of Law Enforcement Bodies under the Prosecutor General<sup>59</sup> especially created for this purpose.

There is a cooperation agreement signed between the BP and the CCTP that has established cooperation mechanisms in areas of mutual interest, such as information exchange, joint risk analysis products (reports, risk profiles on the

THB), joint actions and operations to prevent, detect and combat THB and organise irregular migration, training in the field of combating THB, mutual consultations, etc.

In the context of liberalization of the visa regime with EU/Schengen countries and the association process with the EU initiated by Moldova, the risk of its transformation from the country of origin of THB into a transit country and/or destination country of THB has been estimated. As a result, it has been identified that there is a need for greater cooperation between the CCTP and the BMA, in particular in the field of detection of presumed cases of THB of foreign nationals, which stay illegally on the territory of the Republic of Moldova. The process of co-operation between the two authorities has been initiated, but is not completed yet. It is necessary to sign a special cooperation agreement, which sets out the objectives, scope and forms of cooperation and/or to develop common inter-agency procedures.

The CCTP analyses the information on the criminal situation in the field of THB, based on the methodology launched in early 2014. The integrated and automated informa-

<sup>60</sup> *National report on preventing and combating trafficking in human beings for 2012*. National Committee for Combating THB, Chisinau, 2013.

tion system for recording offenses, criminal cases and persons who have committed offenses (IAISOCP), managed by MIA, is a tool for collecting, exchanging information and managing relevant data about all criminal acts.<sup>61</sup> All law enforcement authorities with related duties have authorized access to register information on examined cases of THB.

In October 2014, the CCTP made public its first report on the strategic review of the THB phenomenon - *"Monitoring the situation in the field of trafficking in human beings. Analysis of the status and dynamics of crimes for the year 2013"*.<sup>62</sup> CCTP ensures the registration, collection and analysis of data on THB in accordance with the legal framework in force.<sup>63</sup>

In addition, the CCTP shall participate jointly with the BP and the BMA in the joint risk analysis exercise. This cooperation continues within the joint task force created at the beginning of 2014 in the field of risk analysis on combating

irregular migration, organized and cross-border crimes, including THB.

CCTP employees stressed that there is a good collaboration with the BMA representatives:

*"We work smoothly with the BMA because the BMA is also a subdivision of the MIA. They do not have a prosecution body in the structure. They refer cases identified to us, and we as a structure specialized in prosecution, investigate them. The BMA provides us with operative information, clarified by them and then the CCTP starts the investigation"* (EIA\_E\_10).

In addition, it was specified that some BMA employees are former employees of the CCTP.

Obviously, BMA employees need to know the signs of THB and exploitation in order to identify trafficked persons. This problem is currently resolved through telephone consultations offered by CCTP: *"In such cases, they call us and consult with*

<sup>61</sup> Law No. 216 of 29.05.2003 on the integrated and automated information system for recording offenses, criminal cases and persons who have committed offenses.

<sup>62</sup> *Monitoring the situation in the field of trafficking in human beings. Analysis of status and dynamics of crimes for the year 2013*. Center for Combating Trafficking in persons, Chisinau, 2014.

<sup>63</sup> Law No.241-XVI of 20.10.2005 on preventing and combating trafficking in human beings.

us” (EIA\_E\_10). Some interviewees signalled the need to strengthen the capacities of the BMA employees in this area, including through the development of special tools: *“We must help them. They cannot do these things alone” (IIA\_E\_10).*

One also mentioned the need to study good practices of developed countries on the subject under consideration:

*“We need to see the experience of other countries, their standard operating procedures and concrete interoperability protocols for the institutions involved” (IIA\_E\_5).*

Some interviewees also mentioned, that they do not have a clear regulative framework concerning inter-agency cooperation in the field of identification and investigation of cases of THB and exploitation of foreign nationals, prior to establishing their clear status:

*“There is no pre-determined legal framework. Institutions shirk ... The BMA says: “Take him until the judge decides”; but MHLSP answers: “He does not meet our standards of class as a beneficiaryies” (IIA\_E\_13).*

BP signalled that there are no procedures regarding the transmission of detained migrants by the BP to

the BMA on non-working days (Saturdays and Sundays, as well as national holidays).

Inter-agency collaboration in the process of providing assistance and protection is flawed, frequently personal contacts are used to provide the necessary support:

*“We had a case in the summer. It’s not over yet. A girl of about 12-14 years old. BP reported on a certain level of risk to BMA, the latter had to refer the matter to the guardianship authority or to the local social assistance service where she was identified... But BMA said: “She is not our responsibility, because she is a child and, we don’t work with children, call the IOM” (EIA\_E\_13).*

Even though such presumed cases of THB are identified by BP or other competent authority, there are no clear referral procedures to ensure the access of victims to the necessary assistance and protection. Difficulties with accommodation also arise in case of detection of mothers with minor children, since the mother should not be separated from the child.

Representatives of the IOM mentioned gaps in the activity of Moldovan institutions, after identifying some migrants, foreign citizens in vulnerable situations, presumed

victims of THB and exploitation. They specified that there are no clear procedures regarding urgent actions to be taken with these citizens after their identification as presumed victims:

*"We have identified the victim and it is good if this person agreed to participate in criminal proceedings. In this case, long-term placement is guaranteed for this person. But usually it takes a week to find a solution for accommodation. In the first few days, we are forced to move the foreign citizen from one location to another because the BMA has its own procedure that should be followed. They cannot make decisions quickly. The crisis centre for migrants (CTPF) says: "If I take him, what is his status?" (IIA\_E\_13).*

After establishing the status of the foreign national as the injured party on a particular criminal case, things get a bit simpler. At this stage the main difficulties are related to collaboration or lack of collaboration of the victim/injured party and translators.

Lack of specialized shelter for migrants-victims of THB or exploitation also represents a big problem. Usually, minors and women-victims are placed at CAP. Men-victims usually stay on the street, only some

of them are placed at centers for homeless people. - If victims are irregular migrants, they are placed in CTPF that is a detention center:

*"I do not understand why victims of trafficking are kept in temporary placement center for foreigners" (IIA\_E\_21).*

The lack of clear procedures and responsibilities of state agencies in this area had led to more risks to the victims, which usually have no place to stay, have no money, have no clear status, thus contributing to the exposure of these individuals to situations of abuse, exploitation, trafficking, etc.

### **Cooperation with authorities from countries of origin**

Collaboration with embassies of former countries of the USSR in the Republic of Moldova was appreciated by interviewed experts as good. They confirmed that consuls of countries such as Ukraine and Belarus: *"...are very receptive and understand that they are their citizens. They too, have the same limits, procedures and terms as we do" (EIA\_E\_20).* It takes longer to interact with the Embassy and Consulate of the Russian Federation, because they do not have a National Register of Population in digital format.

At the same time, some interviewees stated that the mentioned

countries of origin require payment of a consular fee when Moldovan authorities request to establish the identity of migrants. Thus, whenever the consular fee is last not paid, resolving the case is delayed.

However, there are cases when representatives of embassies or consulates do not answer to the requests of authorities:

*“Turkey does not want to recognize the phenomenon of trafficking” (IIA\_E\_20);*

*“We have had a case with Turkey, they did not respond at all... They were reluctant. They did not act as the Germans did, who said that they take their citizens and take responsibility” (EIA\_E\_13).*

In such situations, the IOM comes with some contributions related to the payment for return services, translation, etc.

### **Cooperation with other transit and destination countries**

Representative of CTPF announced that sometimes third country nationals subjected to THB and exploitation in Ukraine are removed to the Republic of Moldova instead of their countries of origin. (Box 14).

For some interviewees it is not clear how authorities from Moldova and Ukraine are cooperating in this field:

#### **Box 14. Migrant - victim of exploitation in Ukraine**

*“The national of Uzbekistan was invited to work at a poultry factory in Ukraine, Odessa region. He worked for 3 months, but was not paid for the work performed. The Ukrainian authorities did not deport this person to his country of origin – Uzbekistan, but only forced him to leave the territory of Ukraine. He did not have money for a ticket to Uzbekistan and he bought a ticket to Chisinau...”*

*He arrived in the Republic of Moldova without money at the beginning of winter..*

*The BMA says that this is not our man, because he did not violate the regime of stay on the territory of the RM, respectively cannot be placed at CTPF. He cannot be placed at CAP because he is a man...”*

*He spent two days and nights at the bus station and no one could help him...”*

*“Why do foreign nationals exploited in Ukraine, arrive in the Republic of Moldova? Why does Ukraine not repatriate them directly?” (IIA\_E\_13).*

The situation of this migrant from Uzbekistan shows that the existing mechanism of cooperation between state and non-state actors in the field of assistance and protection of trafficked persons cannot ensure prompt intervention in all cases of THB of foreign nationals.



## CONCLUSIONS

Study confirms the general assumption that Republic of Moldova is not sufficiently prepared for the identification, investigation, assistance and protection of migrants - victims and presumed victims of THB and exploitation. Existing data allows us to say that some migrants, regardless of their legal status (including third country nationals, stateless persons, refugees, etc.), are exposed to human trafficking and exploitation on the territory of the Republic of Moldova.

Primary data collected in the study proves that Moldovan authorities have difficulties in identifying irregular migrants at risk of THB and exploitation, because the necessary tools and resources are missing. Even though Moldova has experience in countering and investigating THB and exploitation, as well as in protecting victims who are citizens of the Republic of Moldova, it is necessary to develop specific tools for identifying, investigating, ensuring the protection and assistance for foreign nationals that are victims or presumed victims of THB and exploitation. These tools should

be available to all bodies working in the field of migration management. In particular, there is a need to improve inter-agency and inter-sector cooperation between all actors involved in preventing and combating THB, ensuring that the rights of the migrants are respected, and the trafficked persons receive appropriate protection and assistance.

The report shows serious shortcomings in this area and, often Moldova is blamed for the lack of adequate training and sufficient ambition to identify, investigate, provide assistance and protection to migrants-victims and presumed victims of trafficking and exploitation. It was found that several cases of trafficking and exploitation of migrants, citizens of other states or stateless persons are identified by Moldovan authorities annually, and that the working mechanisms in this area needs to be improved.

### **Reviewing the data collected in the study, we arrive at the following conclusions:**

Identifying migrants vulnerable to THB and exploitation is a rather

complicated and polyvalent process. At European level, research on the Mediterranean and Western Balkan routes to Europe, incorporated in the IOM's Displacement Tracking Matrix (DTM), can be considered a starting point and good practices to follow. In particular, *Flow monitoring surveys*, which include a module on THB and other exploitation practices, can serve as a model for developing a specific questionnaire in the Republic of Moldova. This would be the first step for assessing and diagnosing the phenomenon of THB and exploitation of foreign migrants in Moldova, as well as for preventing and investigating this phenomenon.

Even though the Republic of Moldova has a solid institutional framework in the area of migration management and combating THB, given that it is less oriented towards identifying victims of THB and exploitation among foreign migrants, respectively, the investigation and granting protection to them is below the acceptable level. So far, neither BP, nor the CTPF from the Republic of Moldova have investigated irregular migrants, in terms of trafficking and exploitation (THB screening was not performed).

BP data for 2018 show a 15% increase of violations related to ir-

regular migration in comparison to 2017. Data of the *Automated sub-system for registration of cases of the state border law violations* shows the growth of violations of regime of residence (+12,1%), as well as violations of state border (+68,5%). Moreover, Bangladeshi migrants first appeared in the flow of people documented in 2018 for violation of state border of the Republic of Moldova. This fact confirms that there is an increased risk of exposure to THB and exploitation of vulnerable migrants.

Generally speaking, Moldova complies with international standards in providing forms of protection to migrants. The national legislation also guarantees the granting and extending the right to temporary stay for victims of THB who cooperate with competent authorities in investigation and prosecution of traffickers. Presumed victims of THB can obtain the right to temporary stay in Moldova during the reflection period in regime of tolerance.

However, the participants in the research signaled that no residence permits have been granted in Moldova to foreigners so far in relation to the status of victim or presumed victim of THB, since no such requests were made. Al-



though it is not very clear which institution the victim should apply to in order to obtain the status of victim or presumed victim of THB. According to the interviewees, the lack of applications for obtaining the status of victim of THB and exploitation from foreign migrants in the Republic of Moldova, is determined by multiple causes: (I) victims of THB and exploitation do not realize that they are victims; (ii) victims of THB and exploitation do not want to stay in the Republic of Moldova, they aim to transit the Republic of Moldova and reach the planned destination country where the benefits of THB victim status and exploitation are bigger; (iii) victims of THB and exploitation are manipulated and intimidated, they do not know the laws in order to make such a request; (iv) victims of THB and exploitation are seeking asylum and not the status of trafficked person, etc.

Perceptions of the majority of specialists interviewed show that Moldova is not a country of destination for migrants, thus, the cases of trafficking and exploitation of third country nationals on the territory of Moldova are “single cases”. Despite this, we point out that we cannot neglect the problem, even if cases are rare, they must be han-

dled professionally and responsibly with respect for human rights, migrant rights and victim rights.

The most common forms of exploitation of migrants on the territory of the Republic of Moldova are cases of exploitation through labour and begging. There are clear mechanisms in Moldova on how to identify cases of illegal stay and/or undeclared work of third country nationals, including specific methods of cooperation between the different units of MIA, such as BMA, police and BP. However, there are no mechanisms for the identification of migrants - victims of THB and labour exploitation.

Data collected in the study shows that in Moldova: (i) there are some cases and presumed cases of THB and exploitation of foreign migrants, identified by the competent authorities of the Republic of Moldova; (ii) there are also presumed cases of THB and exploitation of third country nationals in irregular migration flows that have not been identified by the competent authorities of the Republic of Moldova; (iii) the countries of origin of migrants-victims of THB, exploitation or vulnerable migrants, presumed victims, are the former countries of the USSR (Ukraine, Russian Federation, Uzbekistan,

etc.), as well as some countries of Asia (Turkey, Bangladesh, Pakistan) and Africa.

Features of vulnerability of migrants subject to THB and exploitation include: irregular entry in the Republic of Moldova (false documents or avoiding state border crossing), lack of identity documents, violation of work and residence permitting regime, presence of a disability or other health problems, lack of education or low level of education, etc. Unaccompanied children, women and men of different ages, from former countries of the USSR, or some Asian and African countries are vulnerable to THB and exploitation on the territory of the Republic of Moldova.

In order to improve the identification process of foreign migrants-victims of THB and exploitation on the territory of the Republic of Moldova it is necessary: (i) to develop a clear procedure and tools to facilitate the identification process. Interviewees mentioned that a guide that includes signs of risk for THB and exploitation of migrants would be useful for employees of BP and other bodies, as well as some standard operating procedures of interaction; (ii) training of specialists from different public

bodies, first of all, border guards, but also representatives of BMA, mayors, social community workers, etc.

Investigation of criminal cases with regard to THB and exploitation of foreigners on the territory of the Republic of Moldova is done mostly by CCTP - a fact proved by the data of this study, Officers of POCOCS and BP have competences in this area, as well.

Difficulties in investigating and documenting foreign migrants-victims and presumed victims of THB and exploitation include: (I) the need for a translator at the time the migrant is detained by the BP or another authority, in order to comply with the terms of investigation provided for by legislation; (ii) difficulties in proving the THB crime, since in the case of migrants, situations are disguised as transit visas or business openings, in order to obfuscate the purpose of exploitation; (iii) documentation procedures are bureaucratic and stall the investigation procedure, etc.

Difficulties in providing assistance and protection to migrants-victims and presumed victims of THB and exploitation refer to: (I) lack of a specialized shelter and other services for foreign migrants-victims

and presumed victims of THB and exploitation; (ii) high costs in case of placing these persons in the existing institutions (CTPF or CAP). Financial resources are required to document the person, provide medical assistance, provide food, etc. Currently, both CTPF and CAP have limited funding which is based on old norms; (iii) issues related to the spoken language, procedures for examining and determining the age of migrants, placing minors in specialized cen-

ters for minors and not together with adults, etc.

From a practical point of view, some interviewees have signalled that there is no clear framework for public bodies' cooperation and victim's referral, in case of foreign migrants-victims of THB and exploitation. The official cooperation procedure between institutions providing assistance to different beneficiaries is flawed, frequently personal contacts are used to provide necessary support.



## RECOMMENDATIONS

The study shows the need to improve procedures for working with foreign migrant-victims and presumed victims of THB and exploitation for the purpose of identification, investigation, and assistance. Based on accumulated data, we provide the following recommendations to the state and non-state actors involved in the process of identifying, investigating, providing assistance and protection to migrants - victims of THB and exploitation:

- Signing of a cooperation agreement between CCTP, BP and BMA with a view to establishing areas and forms of cooperation, holding regular meetings and consultations on matters of common interest, developing common procedures for identification and intervention in cases of THB among irregular migrants and/or asylum seekers, including stateless persons;
- Establishing a clear official procedure of granting status of victim of THB to foreign migrants (responsible state bodies, forms of interaction, role of civil society, etc.);
- Developing and implementing new working tools for BP, BMA, CTPF employees to identify victims of THB and exploitation among irregular migrants, asylum seekers, stateless persons, including standard screening form for this purpose;
- Developing a guide on the identification of victims of trafficking in migrants, asylum seekers, stateless persons, describing the basic characteristics of vulnerability;
- Develop a guide for the identification of presumed victims of THB and exploitation, which describes basic characteristics of vulnerability among irregu-

lar migrants, asylum seekers, stateless persons;

- Using local expertise, as well as involving foreign experts in the process of developing tools related to the identification of victims of THB among foreign migrants, standard operating procedures, as well as in the area of cooperation between public bodies involved in the process of identification, investigation, providing protection and assistance to trafficked persons;
- Training and capacity building for personnel of CCTP, BP, BMA, CTPF, community police officers, mayors, local social workers, etc. in the field of identification, investigation and provision of necessary protection for foreign migrants-victims of THB and exploitation;
- Improving the process of analysis of immigration risks, including the risk of THB in migration flows, by using not only primary information, but also the one from the investigation process (during the investigation process changes are made to the primary information);
- Dissemination and exchange of best practices in area of

preventing and combating THB and exploitation among foreign migrants with countries of origin, transit and destination of migrants-victims of THB and exploitation, as well as organizing relevant international forums;

- Introducing separate statistics in activity reports of CCTP, BP and BMA regarding cases of THB and exploitation of foreign migrants on the territory of the Republic of Moldova, as well as the disaggregation of data by different signs (registered criminal cases, investigated criminal cases, investigated criminal cases, criminal cases sent to trial, forms of THB and exploitation, countries of origin, victims profile, etc.);
- Adjustment of existing specialized social services for trafficked persons and services managed by the BMA for needs of foreign migrants-victims and presumed victims of THB and exploitation, as well as creating new services (accommodation, translation, etc.);
- Raising the level of awareness of the population towards the phenomenon of THB, involving mass-media; strengthening

the capacities of the representatives of the mass-media who present relevant information and capacities of communicators of competent authorities, so that media releases should be prepared and submitted in the right format. It's a well known fact that media is the fourth power in the state and it is very important for the research that is done at the academic level, and is often a popular method of data collection, data analysis, development of communication strategies with the public. Due to the lack of knowledge and the impossibility to distinguish between THB, illegal migration, smuggling of migrants, etc., there is misinformation and mistakes in the media that distort the true aspects of each subject;

- Alignment of national migration policies (migration for the purpose of employment, in particular) to the international system of integrity in recruitment - IRIS, an initiative developed by the IOM, which promotes "a whole-of-government approach" for the ethical

recruitment and protection<sup>53</sup> of migrant workers. Facilitating the dialogue between national state and non-state actors and between governments of countries affected by migration, between national and local authorities. Support for IRIS also includes the development and implementation of national action plans, roadmaps and bilateral arrangements on ethical recruitment and the development of new migration and employment policies, by avoiding the risk of THB and exploitation;<sup>54</sup>

- Preventing THB among foreign migrants by providing better information to third-country nationals on the possibilities and conditions of legal immigration. To achieve this goal, it is important to organize:
  - ✓ continuous information campaigns on the modalities of admission and stay on the territory of the Republic of Moldova;
  - ✓ informing citizens in the countries of origin, through the authorities with competences in the area of emigration about

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<sup>64</sup> International Recruitment Integrity System

<sup>65</sup> <https://iris.iom.int/government-engagement>

the possibilities of migration, their rights and obligations in the Republic of Moldova;

- ✓ involvement of diplomatic missions of the Republic of Moldova in the countries of origin, as well as diplomatic missions of these countries in Moldova in

the process of informing third country nationals;

- ✓ permanent information on risks arising from illegal migration, THB, undeclared labour, as well as sanctions and restrictive measures that may be applied.



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# ANNEXES

## Annex 1. Sociodemographic data of interviewed migrants

No.	Code	Gender	Age	Country of origin	Features
1.	IIA_1	Male	36 years	Syria	Asylum seeker. Returned to Moldova with family - Moldovan wife and 2 children
2.	IIA_2	Female	19 years	Ukraine	Roma THB victim, pregnant,, health issues, illiterate, undocumented
3.	IIA_3	Male	23 years	Bangladesh	Vulnerable immigrant
4.	IIA_4	Male	29 years	Bangladesh	Vulnerable immigrant
5.	IIA_5	Male	16 years	Bangladesh	Vulnerable Minor
6.	EIA_6	Male	17 years	Bangladesh	Vulnerable Minor
7.	IIA_7	Male	32 years	Uzbekistan	Vulnerable immigrant
8.	IIA_8	Female	25 years	Ukraine	Vulnerable immigrant
9.	IIA_9	Female	29 years	Russian Federation	Vulnerable immigrant
10.	IIA_10	Female	28 years	Ukraine	Vulnerable immigrant
11.	IIA_11	Male	20 years	Turkey	Vulnerable immigrant
12.	IIA_12	Male	37 years	Tajkistan	Vulnerable immigrant

## Annex 2. Sociodemographic data of interviewed experts

No.	Code	Gender	Institution
1.	EIA_E_1	Female	Bureau for Migration and Asylum (BMA)
2.	EIA_E_2	Male	BMA, Refugees Division
3.	EIA_E_3	Male	BMA, Division for legislation, coordination and data management
4.	EIA_E_4	Male	BMA Division for combating illegal stay of third country nationals
5.	EIA_E_5	Male	General Prosecutor's Office (GPO)
6.	EIA_E_6	Male	Prosecutor's Office for Combating Organized Crime and Special Cases (POCOCS)
7.	EIA_E_7	Male	Center for Temporary Placement of Foreigners (CTPF), BMA
8.	EIA_E_8	Male	BMA, North Regional Service
9.	EIA_E_9	Male	Centre for Combating Trafficking in Persons (CCTP), Investigations Section
10.	EIA_E_10	Male	CCTP, Criminal Investigation Section
11.	IIA_E_11	Male	General Inspectorate of Border Police (GIBP), Department for Special Investigations
12.	EIA_E_12	Male	GIBP, sector "Chisinau International Airport"
13.	IIA_E_13	Female	International Organization for Migration (IOM)
14.	EIA_E_14	Male	IOM
15.	IIA_15	Male	Legal Center of Lawyers
16.	EIA_16	Female	NGO "Ave Copii"
17.	IIA_E_17	Male	Refugee Charity Centre
18.	EIA_E_18	Female	Center for housing and adaptation of homeless people "Reintoarcere"
19.	IIA_E_19	Male	State Labour Inspectorate, Division for monitoring labour relations in the field of safety, health at the work place and investigation of work accidents
20.	IIA_20	Female	Center for assistance and protection of victims and potential victims of human trafficking (CAP)
21.	EIA_E_21	Female	Legal Center of Lawyers



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