



ASPECTE ALE CADRULUI LEGAL ȘI INSTITUȚIONAL PENTRU COMBATERICA TRAFICULUI DE FIINȚE UMANE ÎN REPUBLICA MOLDOVA

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Rezumat

Obiectivul prim al Republicii Moldova privind traficul de ființe umane constă în prevenirea și combaterea acestui flagel, protejarea victimelor traficului, urmărirea traficanților și promovarea coordonării acțiunilor naționale și a cooperării internaționale în domeniu. În acest sens, se ia în considerare cadrul legal și politica națională în domeniul luptei împotriva traficului de ființe umane existente în țară care fac referință la legile în domeniu și Planul național pentru combaterea traficului de ființe umane. Cadrul instituțional de acțiune împotriva traficului de ființe umane include principalele instituții, precum Comitetul Național pentru Combaterea Traficului de Ființe Umane, Centrul pentru Combaterea Traficului de Persoane, Comisiile Teritoriale pentru combaterea traficului de ființe umane, Echipele Multidisciplinare, Organizații internaționale și ONG-urile, Sistemul Național de Referire pentru protecția și asistența victimelor și potențialelor victime ale traficului de ființe umane.

Autoritățile Republicii Moldova continuă consolidarea eforturilor pentru a asigura funcționarea eficientă și creșterea coordonării tuturor organelor publice implicate în implementarea măsurilor anti-traffic la nivel național și local. Un alt efort ce se merită de consolidat constă în continuarea activității ONG-urilor active în domeniul combaterii traficului de ființe umane în Republica Moldova, oferindu-se posibilitatea de a participa la procesul decizional și adoptarea măsurilor concrete pentru a îmbunătăți cooperarea și comunicarea între poliție



și ONG-uri la nivel local, în special în ceea ce privește identificarea victimelor traficului de persoane.

Cuvinte-cheie: Cadrul legal, Planul Național pentru combaterea traficului de ființe umane, Comitetul Național pentru combaterea traficului de ființe umane, Centrul pentru Combaterea Traficului de Persoane, Comisii teritoriale pentru combaterea traficului de ființe umane, Sistemul național de referire pentru asistența și protecția victimelor și potențialelor victime ale traficului de ființe umane

THE LEGAL FRAMEWORK AND INSTITUTIONAL ACTION AGAINST TRAFFICKING IN HUMAN BEINGS IN MOLDOVA

Abstract

Republic of Moldova aims to prevent trafficking in human beings, protect victims of trafficking, prosecute traffickers and promote co-ordination of national actions and international co-operation. In this sense, overviewing the legal framework and policy in the field of action against trafficking in human beings are worth to mention the approved laws in domain and National Plan for Combating Trafficking in Human Beings. The institutional framework for action against trafficking in human beings includes the main institutions as the National Committee for Combating Trafficking in Human Beings, Centre for Combating Trafficking in Persons, Territorial commissions for combating THB, Multidisciplinary teams, International organizations and NGOs, National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking.

Moldovan authorities should continue strengthening its efforts in order to ensure its effective functioning and increase the co-ordination of all public bodies involved in the implementation of anti-trafficking measures at the national and local levels. Further enhance the role of NGOs active in the field of combating THB in the Republic of Moldova, by providing them with the possibility to participate in the decision-making process and to take practical measures to improve co-operation and communication between the police and NGOs at the local level, especially as regards identification of victims of trafficking.

Keywords: Legal framework, National Plan for Combating Trafficking in Human Beings, National Committee for Combating Trafficking in Human Beings, Centre for Combating Trafficking in Persons, Territorial Commissions for combating THB, National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking



Trafficking in human beings violates the rights and affects the lives of countless people in Europe and beyond, in this sense Republic of Moldova aims to prevent trafficking in human beings, protect victims of trafficking, prosecute traffickers, and promote co-ordination of national actions and international co-operation. Article 4 of the Moldovan Anti-Trafficking Law affirms the human rights-based approach to action against human trafficking, by stating that the fight against THB is to be carried out on the basis of observance of human rights and fundamental freedoms, and the acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings.

Overviewing the legal framework and policy in the field of action against trafficking in human beings are worth to be mentioned the approved laws in domain and National Plan for Combating Trafficking in Human Beings.

Apart from the Council of Europe Anti-Trafficking Convention, the Republic of Moldova is party to the United Nations Convention against Transnational Organized Crime and its Protocols, the United Nations Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the relevant Council of Europe Conventions concerning co-operation in criminal matters [1]. The Republic of Moldova is also party to the Convention on the Rights of the Child and its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography [2].

The national legal framework to prevent THB, assist and protect victims and prosecute traffickers is set out in the Law on Preventing and Combating Trafficking in Human Beings (hereinafter “Anti-Trafficking Law”), adopted on 20 October 2005. The law covers prevention, assistance and protection of victims (with special attention to child victims), liability of physical and legal persons for committing trafficking-related offences, co-operation between public authorities, NGOs and other representatives of civil society, as well as co-operation with other States and international organizations [3].

In addition, provisions defining THB as a criminal offence are contained in the Criminal Code (CC), in particular Article 165 entitled “trafficking in human beings” and Article 206 entitled “trafficking in children”. There are several other provisions in the CC which relate to THB, such as Article 207 (illegal transportation of children abroad), Article 208.1 (child pornography), Article 220 (pimping), Article 361 (fabrication, possession, sale or use of false official documents) and Article 362.1 (organization of illegal migration) [4].



In terms of secondary legislation, the following Government decisions regulate institutional and substantive arrangements of action against trafficking in human beings: - Government Decision No. 472 of 26 March 2008 on approval of the nominal composition of the National Committee to Combat Trafficking in Human Beings, the Regulation of the National Committee for Combating Trafficking in Human Beings and the National Plan to Prevent and Combat Human Trafficking for 2008-2009, as amended by Government Decision No. 795 of 3 December 2009 (creating the Secretariat of the National Committee for Combating Trafficking in Human Beings), Government Decision No. 835 of 13 September 2010 on the approval of the National Action Plan for Preventing and Combating Trafficking in Human Beings in 2010-2011 and Government Decision No. 559 of 31 July 2012 approving the National Plan for Preventing and Combating Trafficking in Human Beings for 2012-2013;

- Government Decision No. 484 of 26 June 2014 approving the National Plan for Preventing and Combating Trafficking in Human Beings for 2014-2016 and amending Government Decision no. 472 of 26 March 2008;

- Government Decision No. 898 of 30 December 2015 regarding the approval of the framework Regulation on the organization and functioning of protection and assistance to victims of human trafficking and minimum quality standards;

- Government Decision No. 228 of 28 March 2014 regarding the approval of the Regulation on Multidisciplinary teams within National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking;

- Government Decision No. 270 of 28 April 2014 regarding the approval of the Instructions regarding intersectoral cooperation mechanism for the identification, assessment, referral, support and monitoring of child victims and potential victims of violence, neglect, exploitation and trafficking in human beings;

- Government Decision No. 234 of 29 February 2008 regarding the approval of the framework of territorial commissions to combat trafficking;

- Government Decision No. 948 of 8 July 2008 regarding the approval of the Regulation on the procedure for repatriation of children and adults victims of human trafficking, smuggling of migrants and unaccompanied children;

- Government Decision No. 1362 of 29 November 2006 on the approval of the Framework Regulation on the organization and operation of assistance and protection center's for victims of trafficking in human beings;

- Government Decision No. 847 of 11 July 2008 on the creation of

assistance and protection centres for victims and potential victims of trafficking in human beings;

- Government Decision No. 122 of 4 March 2011 on the approval of the National Action Plan between the Republic of Moldova and the European Union on visa liberalization regime, which contains a chapter dedicated to preventing and combating organized crime, including trafficking in human beings;

- Parliament Decision No. 257 of 5 December 2008 on the Approval of the Strategy of the National Referral System to Protect and Assist Victims and Potential Victims of Trafficking in Human Beings and the Action Plan for the implementation of this Strategy for 2009-2011.

In addition, certain provisions relevant to combating THB and protecting victims of trafficking are contained in the Law on the Protection of Witnesses and Other Participants in Criminal Proceedings (in force since 27 September 2008) and the Code of Criminal Procedure (CCP), in particular Articles 110 and 111 concerning special procedures and protection of witnesses [5].

The anti-trafficking policy in the Republic of Moldova is set out in the National Plan for Preventing and Combating Trafficking in Human Beings. The current National Plan, covering the period 2014-2016, is the sixth of this type adopted by the Moldovan Government. It covers main areas as: management and co-ordination of activities; assistance and protection of victims and witnesses, including identification, repatriation, rehabilitation and reintegration; prosecution of traffickers, including proactive investigation and compensation of victims; and international cooperation, including police cooperation [6]. The main responsibility for the implementation of the National Plan lies with the National Committee for Combating Trafficking in Human Beings.

Analyzing the institutional framework for action against trafficking in human beings, main institutions in this sense could be mentioned the National Committee for Combating Trafficking in Human Beings, Centre for Combating Trafficking in Persons, Territorial Commissions for combating THB, Multidisciplinary teams, International organizations and NGOs, National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking.

The National Committee for Combating Trafficking in Human Beings (“the National Committee”) was established in 2001. It is a permanent consultative body of the Moldovan Government, created with the aim of co-ordinating the activities of relevant bodies. Amongst the functions of the



National Committee are: making policy proposals to the Government concerning combating THB; supervision of the implementation of the activities included in the National Plan; collection and analysis of information concerning the scale and trends of THB; drafting proposals for legal improvements; organizing awareness-raising campaigns; and co-ordinating the activities of the Territorial Commissions. The National Committee periodically evaluates the implementation of the National Plan and reports to the Government.

The composition of the National Committee was approved by Government Decision No. 472 of 26 March 2008 [7]. It is currently chaired by the Deputy Prime Minister of the Republic of Moldova and is composed of representatives of the following bodies:

- Ministry of Foreign Affairs and European Integration
- Ministry of Social Protection, Family and Child
- Ministry of the Interior
- Permanent Secretariat of the National Committee
- General Prosecutor
- Ministry of Justice
- Ministry of Culture
- Ministry of Health
- Ministry of Education
- Ministry of Youth and Sport
- Ministry of Information Technologies and Communications
- Ministry of Finance
- Supreme Security Council
- Information and Security Service
- Border Guard Service
- General Inspectorate of Police
- Centre for Combating Trafficking in Persons
- Bureau for Diaspora Relations
- State Labour Inspectorate
- Licensing Chamber
- Administrative Territorial Unit of Gagauz-Yeri.

The National Committee meets at least once in three months. Representatives of NGOs and international organizations active in the anti-trafficking field participate in the meetings of the National Committee with a consultative vote. Thus meetings of the National Committee have been attended by representatives of the Organization for Security and Co-opera-



tion in Europe (OSCE), the International Organization for Migration (IOM), the United Nations Children's Fund (UNICEF), and the NGOs "La Strada" Moldova and "Terre des Hommes" Moldova. All these organizations are consulted by the Government when adopting anti-trafficking legislation and other important initiatives.

Further, in accordance with Article 11(7) of the Anti-Trafficking Law, a Coordinating Council of law enforcement bodies was established in June 2007 in order to supervise the implementation of criminal legislation related to THB and submit annual reports to the Prosecutor General and the National Committee.

The Centre for Combating Trafficking in Persons (CCTP) was established in 2006 under the Ministry of the Interior with a view to improving the investigation and prosecution of cases of human trafficking. It is composed of officials assigned by the Ministry of the Interior, the Prosecutor General's Office, the Customs Service, the National Migration Bureau, the Border Guard Service, the Information and Security Service, and the Centre for Combating Economic Crimes and Corruption. The purpose of bringing together representatives of these bodies is to increase the effectiveness of investigations and prosecutions of trafficking offences. The CCTP has 40 staff members in Chisinau and one law enforcement officer in each district of the Republic of Moldova.

Anti-trafficking action at the local level is coordinated by Territorial Commissions for combating trafficking in human beings, which are set up in each region as well as in each administrative district of Chișinău. The Territorial Commissions are subordinated to the National Committee and are financed by the local authorities' budgets [8].

The composition of the Territorial Commissions is approved by the Chairman of the local authority. The commissions are chaired by the Deputy Chairman of the local authority and are composed of local representatives of the ministries and other public authorities with competence in the field of preventing and combating human trafficking, as well as NGOs active in this field.

The Territorial Commissions organize prevention activities (such as awareness-raising campaigns, workshops and meetings), co-ordinate victim protection and assistance, take part in research programs, analysis and collection of statistical data at the local level, and report to the National Committee on measures to improve the impact of anti-trafficking activities.

Multidisciplinary teams have been set up at the regional level in order to coordinate the implementation of a systematic and human-rights based



approach to the protection and assistance of victims and potential victims of trafficking. These teams are subordinated to the Ministry of Labour, Social Protection and Family. They are composed of representatives of the local social assistance and family protection departments, medical establishments, the Police, offices of the Registry, the National Employment Agency, as well as NGOs and other relevant bodies[9]. The multidisciplinary teams may identify persons vulnerable to human trafficking and provide assistance to them. At present, the multidisciplinary teams employ a total of 344 specialists.

International organizations have a strong presence in the anti-trafficking field in the Republic of Moldova. The IOM, the United Nations Development Program (UNDP), UNICEF and OSCE have provided extensive assistance in the setting up of the national anti-trafficking framework. This has included assistance in drafting legislation, financing the training of relevant professionals and victim assistance programs, and contributing financially to the functioning of the Permanent Secretariat of the National Committee.

NGOs have also played a key role in the field of action against human trafficking in the Republic of Moldova, through awareness-raising activities, training, research and providing assistance to victims. The main NGOs currently working in the field of preventing and combating THB are the International Centre “La Strada”, “Terre des Hommes” Moldova, the National Centre for Child Abuse Prevention, “Save the Children” Moldova and “Médecins du Monde”.

The International Centre “La Strada” contributes to the drafting of legislation, bilateral agreements and guidelines in the anti-trafficking field, informs the public about the risks of THB and the need for safe migration, carries out research and assists victims of trafficking, including prior to their formal identification. “Terre des Hommes”, the National Centre for Child Abuse Prevention and “Save the Children” Moldova focus their activities on the prevention of child trafficking and the protection of children from abuse. Their activities also include assistance to child victims of trafficking discovered in the Republic of Moldova or abroad. Apart from these four main NGOs, there are a number of other NGOs at the national and local level which participate in the operation of the National Referral System or contribute otherwise to preventing and combating trafficking in human beings.

The National Referral System for Assistance and Protection of Victims and Potential Victims of Trafficking (“NRS”) is a framework for cooperation between governmental and non-governmental bodies. The NRS

was launched on a pilot basis in 2006 by the Ministry of Labour, Social Protection and Family, in partnership with the IOM, in five districts of the Republic of Moldova. At present, the NRS has been expanded to cover the entire territory of the Republic of Moldova. The NRS Strategy for 2009-2011 was adopted by Parliament on 5 December 2008 with the aim of enhancing the co-ordination among public authorities, NGOs and other actors in carrying out anti-trafficking activities.

The operation of the NRS is ensured by the territorial commissions and the multidisciplinary teams, with the support of the local authorities, international organizations and NGOs. As of 2006, the functioning of the NRS is co-ordinated by the National Coordination Unit (NCU) set up under the Ministry of Labour, Social Protection and Family. The sum of 150 642 Euros was allocated during the period 2006-2009 for establishing the NRS and preparing training teams. These funds were provided by international donors with the co-ordination by the IOM [10].

In the light of the above, the author considers that Moldovan authorities should continue strengthening its efforts in order to ensure its effective functioning and increase the coordination of all public bodies involved in the implementation of anti-trafficking measures at the national and local levels. Further enhance the role of NGOs active in the field of combating THB in the Republic of Moldova, by providing them with the possibility to participate in the decision-making process and to take practical measures to improve cooperation and communication between the police and NGOs at the local level, especially as regards identification of victims of trafficking.

Generalizing, is worth to be said that the state structures in order to provide examples of good practice should play a more active role in the further implementation of the legal framework and policy in the field of action against trafficking in human beings, coordinate actions between all anti-trafficking community on national and local level policy and to emphasize the importance of being continue involved in the prevention of trafficking and the identification and assistance of victims.

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