



# **Fight against Trafficking in Human Beings and Organised Crime – Phase 2 (THB/IFS/2)**

## **Assessment of the Referral System for Victims of Trafficking in the Republic of Moldova**

**2017**



Report prepared by Liliana Sorrentino, Independent Expert

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## List of Acronyms

Centre for Combating Trafficking in Persons (CCTP)  
International organizations (IOs)  
Ministry of Labour, Social Protection and Family (MLSPF)  
Centre for Assistance and Protection of victims and potential victims of human trafficking (CAP)  
National Coordination Unit (NCU)  
National Referral Mechanism (NRM)  
National Referral System (NRS)  
Non-governmental organizations (NGOs)  
Territorial Multidisciplinary Teams (TMDTs)  
Victim of trafficking (VoT)  
Trafficking in Human Beings (THB)

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## Introduction

This report is an assessment of the national referral system for identification, assistance and protection of rights of victims of trafficking in the Republic of Moldova. It is prepared in the framework of the project “Fight against Trafficking in Human Beings and Organised Crime – Phase 2 (THB/IFS/2)” implemented by the International Centre for Migration Policy Development (ICMPD) in cooperation with Expertise France (EF) and the International Foundation of Administration and Public Policies of Spain (FIIAPP). The project targets Albania, Azerbaijan, Bosnia and Herzegovina, Moldova, Pakistan and Turkey and is implemented in the framework of the EU Instrument contributing to Stability and Peace (IcSP). Building on the achievements of the project “Fight against Trafficking in Human Beings – Phase 1” implemented in Azerbaijan, Bosnia and Herzegovina, Moldova and Turkey from January 2013 to September 2014, the project seeks to contribute to the prevention of and fight against transnational organised crime, particularly in relation to trafficking in human beings (THB), by providing the participating countries with policy, legal and technical expertise and knowledge.

This report examines current referral and coordination mechanisms in place in Moldova to identify victims and potential victims of trafficking, at national and transnational level, and to refer them to support services while protecting their rights. The analysis of the Moldovan National Referral Mechanism (NRM) is based on the understanding that an NRM is a co-operative framework through which state actors fulfil their obligations to protect and promote the human rights of trafficked persons, coordinating their efforts in strategic partnerships with civil society.<sup>1</sup> The basic aims of an NRM are to ensure that the human rights of trafficked persons are respected and to provide an effective way to refer victims to support services. In addition, such referral mechanisms need to be also transnational; a “Transnational Referral Mechanism integrates the process of referral from initial identification through return and assistance between countries of transit, destination and origin” and it involves both public institutions and NGOs in the various countries.<sup>2</sup>

The report begins with an overview of human trafficking in the country, and then it discusses national legislation, the institutional framework with its coordination and referral mechanisms to address trafficking. The report then moves on to the analysis of the specific components of the referral process: victim identification, granting reflection period and residence permits, victim assistance, access to justice, return and repatriation, transnational referral mechanisms. It ends with conclusions and recommendations on how to improve the existing national referral system and enhance the protection of rights of trafficked persons, adults and children.

## Methodology

The report was prepared in the period from October 2016 to July 2017. This work involved a combination of desk research and primary research with semi-structured in-depth interviews with key informants and collection of a few case studies.

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<sup>1</sup> OSCE ODIHR, National Referral Mechanisms: Joining Efforts to Protect the Rights of Trafficked Persons. A Practical Handbook, 2004, p.15 [www.osce.org/node/13967](http://www.osce.org/node/13967)

<sup>2</sup> ICMPD, The Way Forward in Establishing Effective Transnational Referral Mechanisms, 2012, p.25.

The fieldwork interviews were conducted with professionals from a variety of public institutions, non-governmental organizations (NGOs) as well as from international organizations in the fall of 2016. The selection of participants in interviews was very carefully done with the support of ICMPD in Vienna and in Moldova, and with the Ministry of Labour, Social Protection and Family (MLSPF). The approach adopted was multidisciplinary, so interviewees included several categories of experts: police, prosecutors, victim support organizations, social workers, health officials, lawyers, policy-makers and experts from NGOs and international organizations. The interviews took place in Chisinau and Causeni. In addition, some interviews were done via Skype and others through the submission of a written questionnaire via e-mail; some follow up data requests were also sent to a few organizations. In total fourteen agencies for a total of 30 individuals were interviewed/consulted for this report. Fieldwork included also a visit to two centres for assistance to trafficked persons.

In addition to the analysis of fieldwork interviews, the report is based on a careful analysis of a wide range of laws, policies, studies, reports, guidelines and other documents publicly available that were collected with the support of: ICMPD Representative in Moldova, the NRS National Coordination Unit in the Ministry of Labour, Social Protection and Family, the Centre for Assistance and Protection in Chisinau, and the Permanent Secretariat to the National Committee on Combating THB. Furthermore, the report builds on previous work by ICMPD in South Eastern Europe, and in particular on: the Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons and the report *The Way Forward in Establishing Effective Transnational Referral Mechanisms*.<sup>3</sup>

The draft report was presented at a validation workshop that was jointly organised by ICMPD, the IOM Mission to the Republic of Moldova and the Ministry of Labour, Social Protection and Family on 27-28 June 2017 in Chisinau. The objective of the workshop was to present the main findings of the assessment to national stakeholders and to ask them to validate the recommendations that were put forward. About 100 stakeholders from public institutions and NGOs operating at central and local level, as well as representatives of international organizations attended the workshop. At the workshop stakeholders were divided into three main groups and were asked to consider the key findings, to validate the proposed recommendations. The report was then finalised on the basis of the comments and feedback received by the stakeholders.

Among the limitations of this assessment, it is important to notice that the report does not examine the situation in the Transdnistrian region, nor it explores the current mechanisms of cooperation and referral that have been established with local NGOs on the left bank of the Dniester/Nistru river. Moreover, another important limitation of the assessment relates to the fact that trafficked persons were not interviewed for this assessment; to address this limitation the report builds on the findings from a survey conducted by La Strada Moldova among trafficked persons who were beneficiaries of the NRS, as well as on numerous interviews with victims' lawyers and social workers who assisted them.<sup>4</sup>

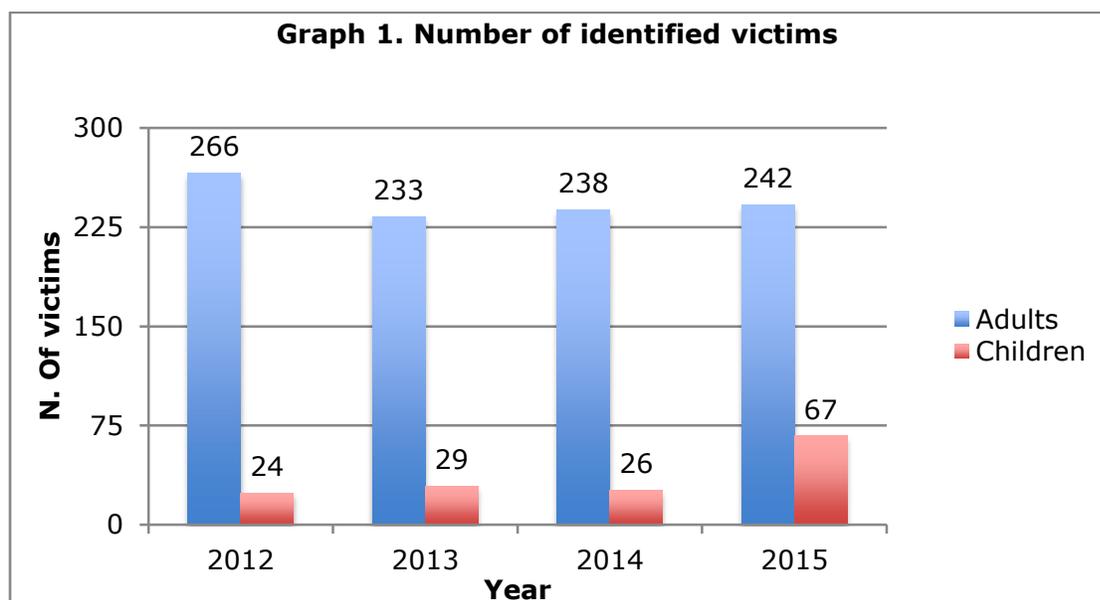
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<sup>3</sup> ICMPD, *Guidelines for the Development of a Transnational Referral Mechanism for Trafficked Persons: South- Eastern Europe*, 2009; ICMPD, *The Way Forward in Establishing Effective Transnational Referral Mechanisms*, 2012.

<sup>4</sup> La Strada Moldova, *The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights*, 2013.

## Human trafficking in Moldova: a brief overview

Moldova is mainly a country of origin for trafficking in human beings with 69% of cases of cross border trafficking in 2015.<sup>5</sup> There are emerging indications that the country is being used also as transit and destination.<sup>6</sup> In 2015 the number of identified victims was 309 of which 22% were child victims. In 2015 there was a notable increase in the number of identified child victims from 26 in 2014 to 67, this was due to the detection of a large case of child trafficking for labour exploitation.<sup>7</sup> With regard to adults, on average in the period 2013-2015 the number of identified adult victims was 238 per year (Graph 1).<sup>8</sup>



Source: Elaboration of data from MIA CCTP (2016)

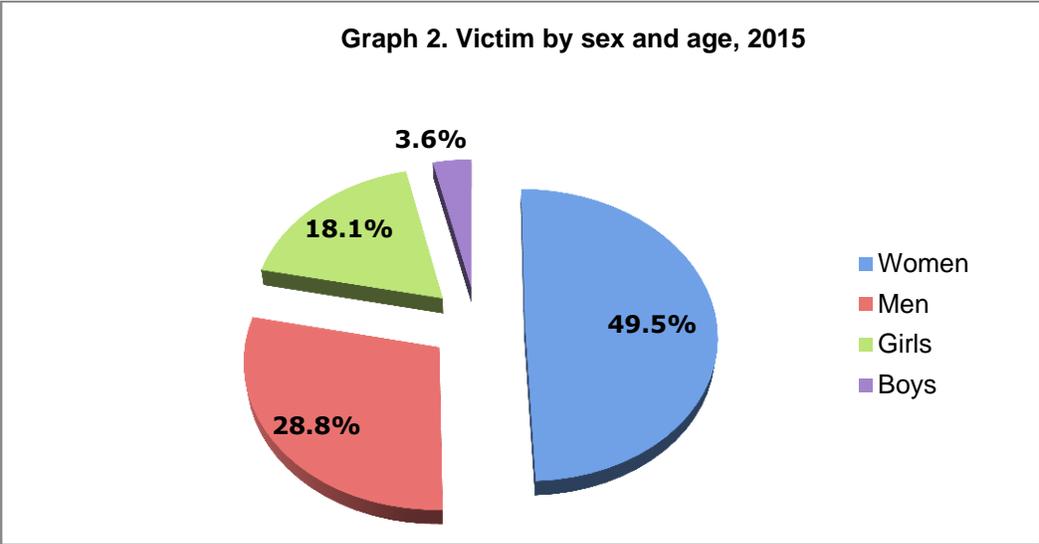
In 2015 women and girls accounted for about 67,6% of all identified victims, while men and boys represented respectively 28,8% and 3,6 % of total victims (Graph 2).

<sup>5</sup> Ministry of Internal Affairs Republic of Moldova, Centre for Combating Trafficking in Persons, Raport Monitorizarea situației în domeniu traficului de ființe umane - analiza stării și dinamicii infracționale pentru anul 2015, 2016. Hereinafter: MIA CCTP (2016).

<sup>6</sup> MIA CCTP (2016).

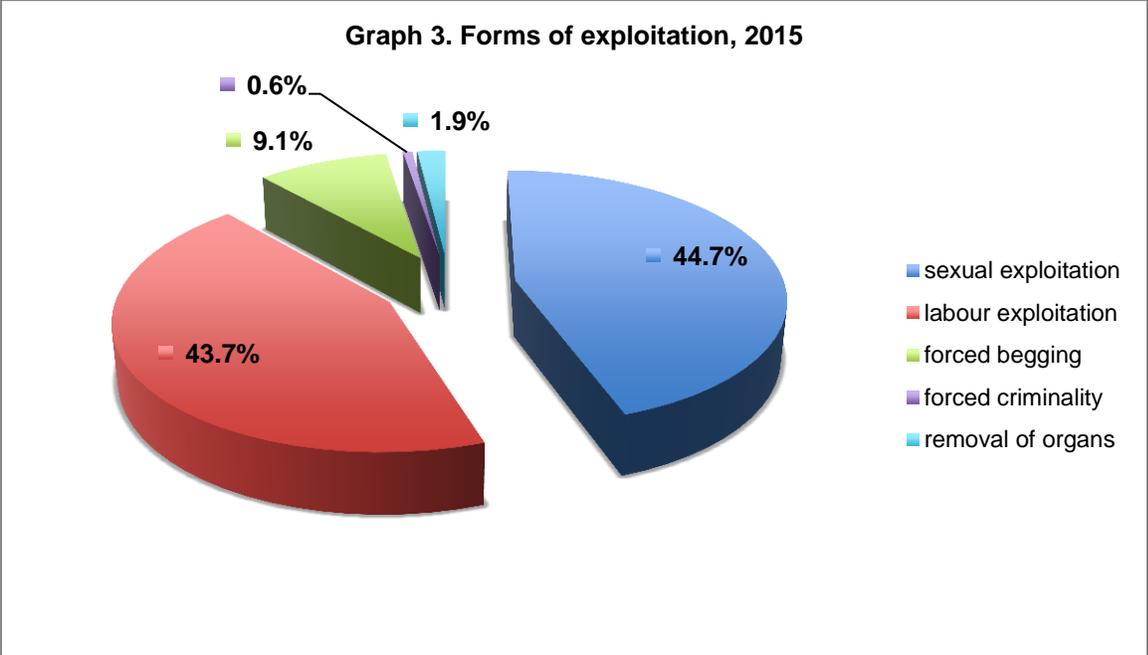
<sup>7</sup> MIA CCTP (2016).

<sup>8</sup> MIA CCTP (2016).



Source: Elaboration of data from MIA CCTP (2016)

The prevailing forms of exploitation are sexual and labour exploitation followed by forced begging, removal of organs and forced criminality (Graph 3). Labour exploitation occurs particularly in the agricultural and construction sectors. Since 2014, the first cases of trafficking for forced criminality have been detected, and in 2016 the Centre for Combating Trafficking in Persons (CCTP) detected a large case involving men trafficked to the Russian Federation to be used as drug-couriers. A few cases of THB for the purpose of removal of organs, tissues or cells were also investigated.



Source: Elaboration of data from MIA CCTP (2016)

The main countries of destination are the Russian Federation, Turkey, Northern Cyprus, United Arab Emirates, Germany, Italy, Greece, France, Ukraine, and Poland. There are also faraway countries as destination for example China, Thailand and Cambodia.<sup>9</sup>

Most victims are recruited through deception and abuse of a position of vulnerability; they are approached both in person and online. They are usually unemployed and in a difficult financial situation, lack regular sources of income, and often have child dependants. At destination victims are usually coerced into exploitation through debt bondage, threat of or violence, confiscation of identity documents etc.<sup>10</sup> Child victims of trafficking mostly come from very vulnerable families, or in many instances they have no parents or lack effective parental care.

According to data from the CCTP in the period 2013-15 a total of 475 cases of trafficking in persons were initiated (of which 189 in 2015) and 82 of child trafficking (of which 38 in 2015).

In the period 2013 - July 2015 the General Prosecutor Office reported a total of 73 convictions for trafficking in persons and 16 for child trafficking.<sup>11</sup>

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<sup>9</sup> MIA CCTP (2016) p. 15-19.

<sup>10</sup> MIA CCTP (2016)

<sup>11</sup> UNODC, Global Report on Trafficking in Persons, Country Profiles Eastern Europe and Central Asia, Republic of Moldova 2016.

## Legislative framework

Moldova has a wide-ranging and comprehensive legal framework to address all aspects of THB and this includes a comprehensive Law on Preventing and Combating Trafficking in Human Beings (hereinafter Anti-Trafficking Law)<sup>12</sup>, specific provisions in the Criminal Code (CC), relevant provisions in the Criminal Procedure Code (CCP) and a number of related policies and regulations. The legislation is aligned with the main international standards and in particular with the Council of Europe Convention on Action against Trafficking in Human Beings and the UN Trafficking Protocol.

Articles 165 and 206 of the Criminal Code criminalise respectively trafficking in human beings involving adults and trafficking in children. These two criminal provisions are in line with the international standards requirements; they criminalise both domestic and international trafficking, whether or not committed by organised criminal groups. These two offences are punished with 6 to 12 years and 10 to 12 years imprisonment respectively. The CC further establishes the liability of legal persons for THB offences (Article 165.3)<sup>13</sup>; it also criminalises the use of services of a victim of THB, with the knowledge that the person has been trafficked (Article 165-1).<sup>14</sup> In 2013 amendments to the CC were introduced to better distinguish trafficking in persons from the related offences of obtaining forced labour (Article 168) and pimping (Article 220).<sup>15</sup>

The Anti-Trafficking Law addresses with a human rights-based approach the various aspects of anti-trafficking action. The Law provides extensive measures for the protection and assistance to victims, for the prevention and combating of THB and for international cooperation.<sup>16</sup> The Anti-Trafficking Law establishes also the institutional anti-trafficking framework for preventing and combating THB; it defines the role of competent public authorities and contains specific provisions related to cooperation with NGOs.<sup>17</sup> The Anti-Trafficking Law refers specifically to the role of NGOs in victim identification and assistance; such provisions contribute to laying the foundation for setting up a national referral system for the protection of victims' rights.<sup>18</sup>

It is also worth noting that the Anti-Trafficking Law includes definitions of child and adult trafficking that are slightly different than those in the Criminal Code. More specifically, the list of exploitative purposes included is broader; for instance among the exploitative purposes the Law includes "the use of a woman as surrogate mother or for reproductive purposes", "abuse of child's rights with a view to illegal adoption", "compelling to engage in other activities that violate fundamental human rights and

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<sup>12</sup> Republic of Moldova, Law on Preventing and Combating Trafficking in Human Beings N. 241-XVI of 20 October 2005 (hereinafter Anti-Trafficking Law).

<sup>13</sup> The liability of legal persons is also established under Article 31 of the Anti-Trafficking Law.

<sup>14</sup> For an analysis of the legislative framework compliance with international standards see Council of Europe GRETA, Reports concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, GRETA (2012) and GRETA (2016).

<sup>15</sup> Council of Europe GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Republic of Moldova, 7 June 2016, GRETA (2016).

<sup>16</sup> Republic of Moldova, Law on Preventing and Combating Trafficking in Human Beings N. 241-XVI of 20 October 2005.

<sup>17</sup> Republic of Moldova, Law on Preventing and Combating Trafficking in Human Beings N. 241-XVI of 20 October 2005, see in particular Chapter II and III.

<sup>18</sup> *ibid.*

freedoms". It would be important to ensure consistency of the relevant provisions of the Criminal Code with those of the Anti-Trafficking Law.

In 2004 the Supreme Court of Justice issued a Plenum Decision, which provides legal interpretation of the individual elements of the offences of trafficking in human beings and child trafficking.<sup>19</sup> This legal guidance has proven very important to inform judicial and prosecutorial practice. Today, given the extensive court practice on THB and related offences and the recent amendments to the Criminal Code, it would seem timely and necessary for the Supreme Court of Justice to analyse again judicial practice, clarify the interpretation of the offences of human trafficking, forced labour, pimping and other related crimes and issue updated guidance including on recommended practices to ensure the protection of rights of child and adult victims/witnesses of trafficking in human beings and forced labour.<sup>20</sup>

During the field assessment, several stakeholders mentioned forthcoming amendments to the Anti-Trafficking Law with a view to establishing a more specific legal basis for national referral mechanisms and to defining the notions of presumed victim and potential victim.<sup>21</sup>

Furthermore, in 2016 the Parliament adopted a Law on Rehabilitation of Victims of Crime that establishes a number of support services for victims of crime and a state compensation scheme.<sup>22</sup> Victims of trafficking will be eligible for compensation under the State Compensation scheme, which will be established on January 1, 2018.<sup>23</sup>

The main challenge is ensuring the full and effective implementation of all relevant legal provisions to address comprehensively human trafficking.

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<sup>19</sup> Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova "On the Application of Legislation with respect to Trafficking in Human Beings and Trafficking in Children" no. 37 of 22 November 2004.

<sup>20</sup> See also IOM, Analytical Study on the investigation and trial of cases of trafficking in persons and related Offences, 2013. Hereinafter IOM (2013).

<sup>21</sup> Interviews with public officials and international organisations.

<sup>22</sup> Law No. 137 on Rehabilitation of Victims of Crimes, 29 July 2016.

<sup>23</sup> Law No. 137 on Rehabilitation of Victims of Crimes, 29 July 2016; see in particular Chapter 4 and Article 22.

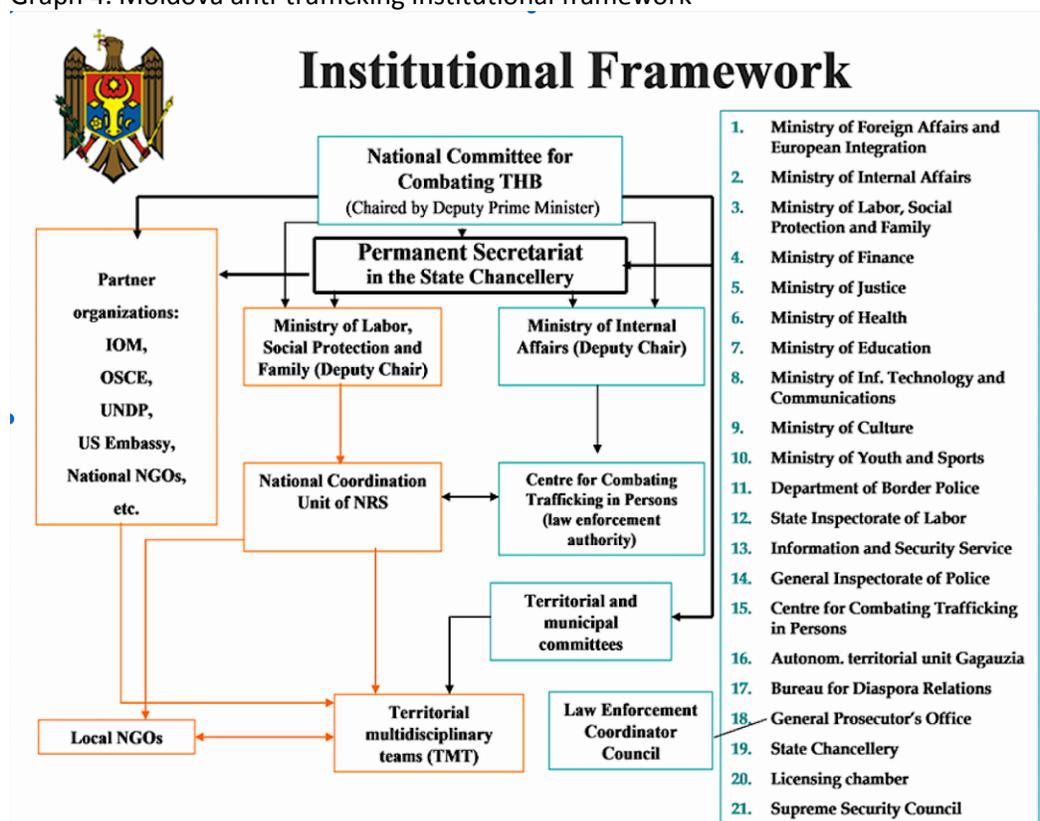
## Institutional Framework and National Referral System

This chapter describes the country's institutional anti-trafficking framework and in particular the key features of the established National Referral System (NRS) for Protection and Assistance of Victims and Potential Victims of Trafficking in Human Beings.

The Anti-Trafficking Law has fostered the establishment of a very articulated institutional framework to address THB as shown in the flowchart below.<sup>24</sup> This includes (Graph 4):

- Policy-making bodies at national and district levels i.e. the National Committee and the Territorial Commissions,
- A national coordination and monitoring body – the Permanent Secretariat to the National Committee,
- A National Referral System (NRS) with a Coordination Unit, operational multidisciplinary teams at district and community levels and specialised centres for victim assistance,
- A specialised law enforcement agency – the Centre for Combating Trafficking in Persons (CCTP).

Graph 4. Moldova anti-trafficking institutional framework



Source: National Committee for Combating Trafficking in Human Beings<sup>25</sup>

<sup>24</sup> Anti-Trafficking Law, Chapter II.

The National Committee (NC) is a high-level policy-making inter-ministerial body with the participation of NGOs and international organisations.<sup>26</sup> The operational arm of the NC is its Permanent Secretariat and its tasks include: coordination of anti-trafficking action in cooperation with public institutions, NGOs and International Organizations (IOs), policy monitoring and reporting on THB, putting forward proposals for legislative amendments and National Action Plans (NAP). In addition to maintaining the overall picture of the human trafficking situation in the country, the Permanent Secretariat leads and coordinates the country efforts to counter trafficking. The Permanent Secretariat's annual report on the implementation of anti-trafficking laws and policies provides valuable insights on the various aspects of counter-trafficking action, including victim identification, protection and assistance, as well as specific recommendations for strengthening the NRS.

At district level, the Territorial Commissions operate as multi-disciplinary policy-making bodies to foster the coordinated implementation of the NAP at local level.<sup>27</sup> The Territorial Commissions are also tasked with coordinating THB prevention and victim assistance at local level.<sup>28</sup> Furthermore, the President of the Territorial Commissions is responsible for the setting up of local Territorial Multidisciplinary Teams (TMDTs); such multidisciplinary teams are in their turn mandated with a range of operational tasks for the implementation of the NRS, including identification and assistance to victims and potential victims.<sup>29</sup> A recent study by the OSCE illustrates in details both the achievements and the operative challenges in the functioning of the Territorial Commissions.<sup>30</sup> Over the past years the Permanent Secretariat and the Ministry of Labour and Social Protection have engaged in a series of coordination and capacity building activities for members of the Territorial Commissions and multidisciplinary teams. Such capacity building activities have often been implemented with the support of international organizations. These activities are important to raise the understanding by local government actors of their role and responsibilities in addressing trafficking. The Territorial Commissions play indeed an important role in supporting a proper functioning of the NRS. In the current context of administrative decentralisation, the Territorial Commissions should specifically support and encourage the allocation of local budgetary resources to funding local protection and assistance services for victims and potential victims of trafficking. Moreover, since the Territorial Commissions are to ensure proper support for the operation of multidisciplinary teams at community level, they should foster effective cooperation among public institutions and NGOs in developing services for victim identification and assistance at local level.<sup>31</sup>

The institutional architecture to address THB includes also a specialised law enforcement structure, the Centre for Combating Trafficking in Persons, which operates within the National Inspectorate of Investigation of the General Police Inspectorate under the Ministry of Internal Affairs. The CCTP

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<sup>25</sup> <http://antitrafic.gov.md/pageview.php?!=ro&idc=13>

<sup>26</sup> Article 8 of the Anti-Trafficking Law.

<sup>27</sup> Anti-Trafficking Law, Article 9.

<sup>28</sup> Filipschi L., Rolul și capacitatea Comisiilor teritoriale în realizarea politicilor din domeniul prevenirii și combaterii traficului de ființe umane și implicarea organizațiilor neguvernamentale în acest proces", OSCE 2015, p.14. Hereinafter: OSCE Mission to Moldova (2015).

<sup>29</sup> Government of Moldova, Hotărîre Nr. 228 din 28.03.2014cu privire la aprobarea Regulamentului de activitate a echipelor multidisciplinare teritoriale din cadrul Sistemului național de referire.

<sup>30</sup> OSCE Mission to Moldova (2015)

<sup>31</sup> Government of Moldova, Hotărîre Nr. 228 din 28.03.2014cu privire la aprobarea Regulamentului de activitate a echipelor multidisciplinare teritoriale din cadrul Sistemului național de referire, para (5).

specialises in investigations of human trafficking crimes and adopts a proactive approach, i.e. it builds on crime analysis, intelligence gathering and flag indicators to detect and investigate potential trafficking situations. The Centre however has no exclusive competence on trafficking offences, and local police may also initiate investigations.

The General Prosecutor's Office also had a specialised team dedicated to THB that was placed within the CCTP premises but operated under its authority. However, as a result of the 2016 reform of the public prosecution service, a new Prosecution Office for Combating Organized Crime and Special Cases has been established and new prosecutors have been appointed to lead criminal prosecution in THB cases.<sup>32</sup> This new Prosecution Office seems not have prosecutors exclusively specialised on THB; also the cooperation between prosecutors and CCTP works differently given that they no longer share premises. Some stakeholders mentioned that as a consequence of the recent reform, several especially trained prosecutors who previously led THB prosecutions have left.<sup>33</sup> The reform of the country prosecution service is very recent and its impact on the effective prosecution of THB cases remains to be seen.

## The National Referral System

The establishment of the National Referral System in Moldova is the result of a long-term process that started with pilot projects by NGOs and international organizations more than a decade ago. In 2003 the OSCE Mission to Moldova in partnership with the NGO La Strada Moldova, and the OSCE/ODIHR – that was about to launch its handbook on national referral mechanisms- initiated some pilot activities to raise awareness about this concept.<sup>34</sup> In 2006, a joint project of IOM and the Ministry of Labour, Social Protection and Family launched the establishment of the NRS in five pilot locations throughout the country in partnership with local authorities and NGOs, this initiative was then extended to fourteen more districts.<sup>35</sup> In 2008 these efforts led to the adoption by the Parliament of the Republic of Moldova of the strategy for the establishment of the NRS to protect victims and potential victims of THB and the related action plan (hereinafter NRS Strategy).<sup>36</sup> Over the years, the NRS has been progressively extended through the country, reaching all districts/rayons and 3 municipalities (Chisinau, Balti and Comrat) and then also local communities thanks to the combined efforts of government institutions, international organizations, and NGOs. IOM and other donors in particular have been providing vital financial support and technical assistance for the development and functioning of the NRS and for the delivery of direct assistance services to victims and potential victims.<sup>37</sup>

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<sup>32</sup> Republic of Moldova, Law on the Prosecution Service of the Republic of Moldova, 25 February 2016, entered into force on 1 August 2016.

<sup>33</sup> Fieldwork interviews with public officials from law enforcement and social sector, and with IOs, October 2016.

<sup>34</sup> See for example OSCE Mission to Moldova, Trafficking in Persons, Witness Protection and the Legislative Framework of Moldova, 2003.

<sup>35</sup> IOM Moldova, email correspondence March 2017.

<sup>36</sup> Parliament of the Republic of Moldova, Decision on the Approval of the Strategy of the National Referral System to Protect and Assist Victims and Potential Victims of THB and of the Action Plan for the Implementation of the Strategy 2009-2011 N. 257 - XVI of 5 December 2008.

<sup>37</sup> See MLSPF (2016) for a detailed description of training and capacity building activities supported by IOM and other donors, as well as for direct assistance to NRS beneficiaries supported by IOM.

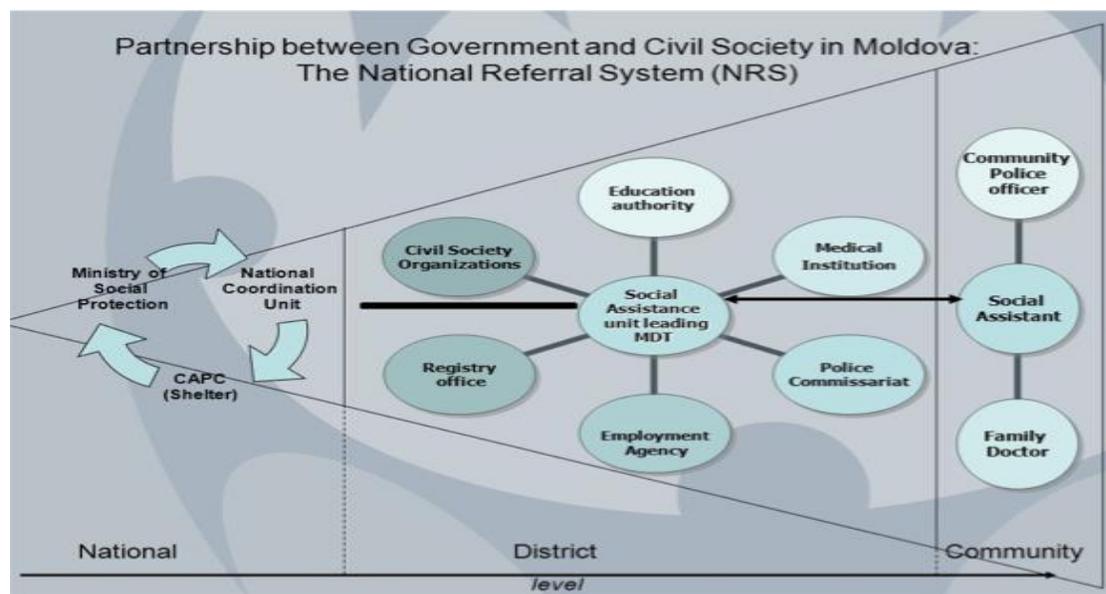
The NRS Strategy has guided development of the country system for assistance and protection to victims and potential victims. The NRS Strategy adopts a human-rights approach and includes among its core objectives the strengthening of social protection. This strategic approach intertwines prevention and protection efforts by providing assistance and protection not only to victims but also to persons at-risk of being trafficked, i.e. potential victims. This is referred to as pro-active prevention.

**What is the NRS?**

The National Referral System for protection and assistance to victims and potential victims of trafficking in human beings is a special cooperation and coordination framework of efforts made by state institutions in strategic partnership with the civil society, and other actors to protect the human rights of victims and the potential victims of trafficking in human beings.<sup>38</sup>

The chart below illustrates how the NRS is articulated at national and local level and the multidisciplinary partnerships established among public institutions and NGOs.

Graph 5 Multidisciplinary partnerships between public institutions and NGOs



Source: MLSPF

The Ministry of Labour, Social Protection and Family is the lead government agency for the implementation of the NRS Strategy and the operation of the NRS for victim protection and assistance. Within the Ministry, a National Coordination Unit (NCU) for the NRS is responsible for coordinating

<sup>38</sup> Ministry of Labour, Social Protection and Family, Report on monitoring the implementation process of the Strategy of the National Referral System for Protection and Assistance to victims and potential victims of trafficking in human beings for 2015, 2016. Hereinafter MLSPF (2016), p.2.

victim referral to assistance at international, national and local level. The NCU is tasked with liaising and cooperating with the main shelter and local social & health services, education, civil registry, police, prosecutors, NGOs, IOM etc. to ensure that victims and potential victims are supported and have access to services. Notably, the NCU is tasked with cooperating and supporting the Territorial Multidisciplinary Teams (TMDTs) to foster the practical operation of the NRS at local level. Moreover, the NCU engages in regular monitoring of the NRS functioning and drafts an annual report for the MLSPF that in turn is responsible for reporting annually to the Government and to the National Committee. The NCU employs only one staff that has been seconded by IOM to the Ministry since the establishment of the Coordination Unit in 2006. Despite the fact that the NCU has been assigned a wide range of important tasks for the functioning of the NRS, the MLSPF has not yet institutionalised this coordination office and has been relying on IOM support for over a decade.<sup>39</sup>

At the core of the NRS there is the national Centre for Assistance and Protection of victims and potential victims of trafficking in human beings (CAP) that is the main specialised shelter for victim assistance and operates under the aegis of the Ministry of Labour, Social Protection and Family.

At local level the operational units of the NRS are the Territorial Multidisciplinary Teams (TMDTs) comprising local public institutions and NGOs operating in each district (see Graph 6). TMDTs are responsible for victim identification, and for coordinating and delivering direct assistance. In each team, the district Social Assistance and Family Protection Department is in charge of coordinating the TMDT's work.<sup>40</sup> The precise composition of the TMDTs varies from place to place; generally it is observed that there is a shortage of lawyers and psychologists.<sup>41</sup> There are also TMDTs, which operate at the community level, and generally include a social worker, a policeman and a doctor.<sup>42</sup>

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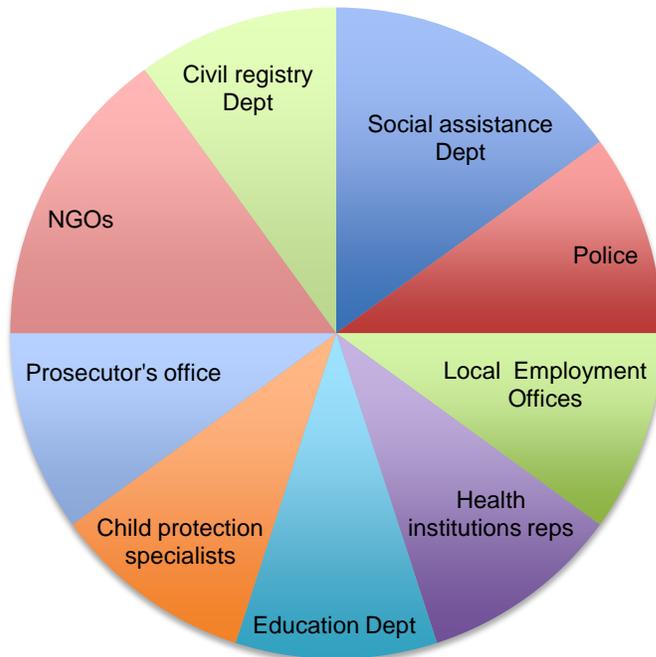
<sup>39</sup> MLSPF (2016), p.5. IOM Moldova, email correspondence March 2017.

<sup>40</sup> Government of the Republic of Moldova, Decision no. 228 Regulation on the activity of the territorial multidisciplinary teams of 28 March 2014. See also MLSPF (2016), p.4.

<sup>41</sup> More specifically, the MLSPF reports that in 2015 10 TMDTs (out of 37) had a psychologist among their members and only one TMDT had a lawyer as team members. See MLSPF (2016), p.10.

<sup>42</sup> At the local community level (village) the multidisciplinary team includes: the mayor /the deputy mayor, a social assistant, a policeman, a physician, and other public officials (teachers, priests, community mediators) NGOs and local priest. MLSPF (2016), p.7, 9.

**Graph 6. Composition of TMDTs**



This multidisciplinary network at local level is basically the backbone of the social protection system and significant and continued efforts are invested in building the capacities of the various local actors.

Most stakeholders from both NGOs and public institutions emphasised the achievements and praised the multidisciplinary and human rights approach of the NRS, and particularly the possibility for victims to access assistance regardless of whether they cooperate with law enforcement.<sup>43</sup> Further, several stakeholders from public institutions and NGOs stressed the importance of weighing various aspects of each THB case in a balanced way, they underlined also the added value of combining their diverse expertise and knowledge.<sup>44</sup>

*"The NRS is about team work. Social workers, medical assistants, police, education staff and others depending on the need of the person work together. What is good in NRS is its multi-sector and multidisciplinary approach." A public official*

<sup>43</sup> Similar findings are reported in La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights, 2013, p. 15. See also Ministry of Labour, Social Protection and Family, IOM, International Conference: Best Practices in the Implementation of National Referral Mechanisms/Systems for Protection and Assistance of Victims of Human Trafficking, 2011.

<sup>44</sup> Interviews with public officials and NGOs during the assessment mission, October 2016.

The proper functioning of the NRS requires steady communication, coordination, cooperation and sharing of information among the various partners involved at national, district and community level. Given the multiplicity and variety of sectors involved in the NRS, the degree of coordination and collaboration among them varies. The NCU cooperates with the TMDTs in coordinating victim referral for assistance at local level, however, this is not easy given the significant number of teams and the frequent changes in staff of local public administration. For example, some TMDTs are very active and regularly cooperate with the NCU; other TMDTs have more limited resources and face challenges in providing social assistance, psychological, medical and legal services for victims. The role of the NRS Coordination Unit is hence of key importance, yet challenging in fostering sharing of information, action, coordination and cooperation among all the actors involved in the NRS.<sup>45</sup>

It is also worth noting that there seem to be some overlapping in the membership composition of TMDT at district level with that of the Territorial Commissions established under the National Committee at district level. Such overlapping may generate confusion among members of these bodies and this should be addressed by ensuring that tasks and mandates are clear and distinct so to improve the overall effectiveness of these mechanisms. In particular, it is important to distinguish between bodies that have decision-making and policy tasks and bodies that have responsibility for case management.

Year by year, Government authorities - particularly the MLSPF in partnership with local NGOs and IOs - have developed and adopted a number of secondary legal regulations and procedures to establish the system of protection and support for victims and potential victims, and to clarify the role and tasks of the various actors involved. These regulations include: the Guidelines for the identification of victims and potential victims of THB<sup>46</sup>, the Framework Regulation on the organisation and functioning of the service for assistance and protection of victims of THB and the minimum quality standards for assistance and protection services,<sup>47</sup> the Regulation on the procedure for repatriation of children and adults - victims of THB, persons in difficult situation and unaccompanied children<sup>48</sup> and Regulation on TMDTs' activity in the NRS framework.<sup>49</sup> Furthermore, a specific mechanism has been devised to deal with identification, assessment, referral and assistance of child victims of violence, neglect, exploitation and THB.<sup>50</sup> These measures are discussed in the next chapters that examine in details the various components of the NRS, starting with victim identification and assistance.

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<sup>45</sup> MLSPF (2016), p. 19 See also OSCE (2015).

<sup>46</sup> Ministry of Labour, Social Protection and Family, Decree No. 33 of 20 February 2012.

<sup>47</sup> Government of the Republic of Moldova, Decision No. 898 of 30 December 2015 approving the Framework Regulation on the organisation and functioning of the Service for assistance and protection of victims of THB and minimum quality standards, Official Gazette no Nr. 2-12, 15 January 2016.

<sup>48</sup> Government of the Republic of Moldova, Decision No. 948 of 7 August 2008 on Approval of the regulation on the procedure for repatriation of child and adult victims of human trafficking, of illegal smuggling of migrants and unaccompanied children, Official Gazette No. 152-153, 12 August 2008, as amended on 22 March 2017.

<http://www.mmssf.gov.md/ro/content/introducerea-unei-noi-categorii-de-beneficiari-cadrul-procedurii-de-repatriere>

<sup>49</sup> Government of the Republic of Moldova, Decision No. 228 of 28 March 2014 approving the Regulation on the Activity of Territorial Multidisciplinary Teams in the NRS, Official Gazette No. 80-85/251, 04 April 2014.

<sup>50</sup> Government of Moldova, Decision No. 270 of 08 April 2014 Guidelines on Intersectoral Cooperation Mechanism for Identification, Assessment, Referral, Assistance and Monitoring of Child Victims and Potential Victims of Violence, Neglect, Exploitation and Trafficking, Official Gazette no.92-98, 18 April 2014.

## Identification

Victim identification is central to the functioning of the NRM. The process of recognition of a person as a victim of trafficking is essential to protect the rights of that individual as a victim of crime and human rights violations and to ensure the appropriate criminal justice response. When victims of trafficking are not recognised as such, the crime goes undetected, the traffickers go unpunished and trafficked persons are denied access to justice.

Moldova's Anti-Trafficking Law adopts a multidisciplinary and human rights approach to victim identification. Both competent public authorities and NGOs - individually or in cooperation with each other - are entrusted with the identification of victims of trafficking (Article 15). The Anti-Trafficking Law further establishes the threshold for victim identification in line with international standards, i.e. when there is a reasonable suspicion that a person may be trafficked.<sup>51</sup>

In 2012 with a view to enhance and enable the consistent recognition of THB situations and the identification of victims, the MLSPF adopted the Guidelines on victim identification that were elaborated in partnership with the NGO La Strada Moldova and IOM.<sup>52</sup> In 2014 the Government endorsed these Guidelines by integrating the model questionnaires for identification in the decision regulating the activity of TMDTs.<sup>53</sup>

The Guidelines for victim identification are a practical tool to guide the work of the various public and civil society actors engaged in victim identification at central and local level. They are targeted in particular towards members of the multidisciplinary teams. The Guidelines include a list of THB indicators that are tailored to the Moldovan context and explained, guidance on how to proceed in the process of identification and two model questionnaires, one for victims and another for potential victims. The questionnaire for victim identification (Annex A of the Guidelines) is an operational tool to inform the process of identification by gathering immediate evidence and documenting the person's situation, the acts of trafficking, the means used to achieve control of the person and the exploitative circumstances or the purpose of exploitation.

There are also specific guidelines for cases involving children. In 2014 the Government adopted the Guidelines on the Intersectoral Cooperation Mechanism for Identification, Assessment, Referral, Assistance and Monitoring of Child Victims and Potential Victims of Violence, Neglect, Exploitation and Trafficking.<sup>54</sup> The Guidelines establish detailed procedures and tasks for the Ministry of Labour, Social Protection and Family, Ministry of Internal Affairs, Ministry of Education and Ministry of Health and

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<sup>51</sup> Republic of Moldova, Law on Preventing and Combating Trafficking in Human Beings N. 241-XVI of 20 October 2005, Article 15.

<sup>52</sup> MLSPF of Moldova, Decree N. 33/2012 Guidelines on the Identification of Victims and Potential Victims of Trafficking in Human Beings, 20 February 2012.

<sup>53</sup> Government of the Republic of Moldova, Decision No. 228 of 28 March 2014 approving the Regulation on the Activity of Territorial Multidisciplinary Teams in the NRS, Official Gazette No. 80-85/251, 04 April 2014.

<sup>54</sup> Government of Moldova, Decision No. 270 of 08.04.2014 Guidelines on Intersectoral Cooperation Mechanism for Identification, Assessment, Referral, Assistance and Monitoring of Child Victims and Potential Victims of Violence, Neglect, Exploitation and Trafficking, Official Gazette no.92-98 art No : 297, 18.04.2014

corresponding competent local authorities to ensure proper and timely case-management in concrete cases involving children.

The victim identification procedure is therefore formally established and regulated as a multidisciplinary process; it reflects a proactive, advanced and human rights approach. This promising practice is also recognised internationally.<sup>55</sup>

During the field assessment, several interviews with stakeholders were directed at understanding how victim identification works in practice, which leads to the following findings.

The first finding is that currently the Centre for Combating Trafficking in Persons and local police identify the overwhelming majority of victims of trafficking. CCTP in particular proactively seeks to detect trafficking offences and identify victims e.g. through monitoring flag crimes, developing analysis on crime patterns, perpetrators' and victims' profiles, gathering and analysing intelligence etc.<sup>56</sup>

At regional and local level, TMDTs also identify victims and potential victims and refer them to the NRS, but there is a significant decreasing trend. For example, over the last couple of years there are districts in which there have been almost no cases identified.<sup>57</sup> This situation marks a change with the initial phase of the NRS establishment, when actors in TMDTs, especially social workers and local NGOs, identified a great number of victims at local level. Stakeholders attribute this situation to very high staff turnover in public administration.<sup>58</sup> In practice, despite the efforts to arrange trainings, TMDTs members are not always familiar with the guidelines on victim identification and do not always recognise THB indications, nor initiate referrals to support.<sup>59</sup>

*"In many instances the approach of local multidisciplinary teams and local centres for assistance is to wait for victims to come to them referred from the national level. This is due probably to lack of skills in identification at local level, especially with regard to trafficking for forced labour and internal trafficking. There is still little knowledge and appreciation of these issues." A public official*

Some victims are also identified through the La Strada help-lines, referral from NGOs in destination countries, embassies of Moldova abroad and IOM Missions abroad, but these are few cases. Self-identification rarely occurs.

The second finding is that the official victim status can be granted only by law enforcement, while victim identification by a TMTD is considered "a type of informal victim status".<sup>60</sup> Law enforcement has its own

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<sup>55</sup> Council of Europe, Compendium of Good Practices on the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, 2016.

<sup>56</sup> Fieldwork Interviews with MLSP NRS Coordination Unit, CCTP and GPO, October 2016. See also MLSPF (2016).

<sup>57</sup> The MLSPF for example reports that in 2016 out of 309 victims identified, only about one third i.e. 104 were identified at local level. See MLSPF (2016) p. 23

<sup>58</sup> Staff turnover in public administrations seems to be due to a variety of reasons, and especially to the low level of salaries of public employees.

<sup>59</sup> Fieldwork interviews with NGOs, public officials and international organisations, October 2016.

<sup>60</sup> La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights, 2013, p. 15.

internal regulations and methods to identify victims and do not use the victim identification guidelines adopted by the MLSPF.<sup>61</sup> This suggests that there are challenges in implementing a multidisciplinary approach. Stakeholders reported that law enforcement collaborates with social services and NGOs in victim identification for example by referring the case to NRS for support or by requesting information about the situation of the person.<sup>62</sup> The victim identification guidelines are designed to enable the competent first responder to collect very detailed information about the presumed victim and the circumstances of her/his trafficking (i.e. acts, means and purpose) in the course of the identification interview, and this information is treated as confidential and transmitted only to the NCU for the purpose of arranging assistance and protection.<sup>63</sup> The Guidelines further specify that once the identification has been completed, other specialists in the NRS should not conduct similar and/or repeated interviews with the victim for the same purpose.<sup>64</sup> It is hence not completely clear how cooperation is arranged with law enforcement to prevent repeated questioning of the victim and whether any information is shared for the purpose of investigation in those cases when the victim is willing to cooperate. For example, the victim identification questionnaire contains information about abuse of the victim 's vulnerabilities, this evidence may be quite useful in the investigation process since abuse of a position of vulnerability is currently the most common means used to traffic people. Yet, it seems that the exchanges of information between law enforcement and social actors are at time somewhat limited; the reasons may be various, they may relate to the legislation on data protection or on investigation, or to the quality of the evidence itself or it may be that the questionnaires for victim identification are not always used and accurately filled in. This suggests that while it is laudable that social services and NGOs can identify victims and refer them to NRS assistance, it would be important to further harmonising the granting of the victim status between social services and law enforcement authorities in such a way to better guarantee the rights of victims of trafficking. Furthermore, enhanced cooperation between social services and law enforcement should also be strengthened to prevent re-traumatization including by avoiding multiple interviews of the victim for the purpose of identification.

The third finding is that there are challenges in victim identification, particularly with regard to identification of internal trafficking. More specifically, there are no outreach services to address internal trafficking i.e. there are no mobile social services by NGOs or public authorities seeking to outreach to children and adults at risks in streets and other locations within the country where they may be exploited for forced begging, sexual exploitation or other purpose. Outreach social services are particularly important in working with street children, it takes time and efforts to monitor and assess their situation and needs, establish contact and trust with them, refer them to support services to help them out of the abusive situation. This type of outreach services can help improving the identification and referral to assistance of child victims trafficking and of children at risk of trafficking and other forms of violence.

***Case example - Challenges in victim identification and non-punishment***

<sup>61</sup> Fieldwork interviews with NGOs and public officials from social sector, October 2016.

<sup>62</sup> Fieldwork interviews with NGOs, public officials from the MLSPF and Ministry of Interior.

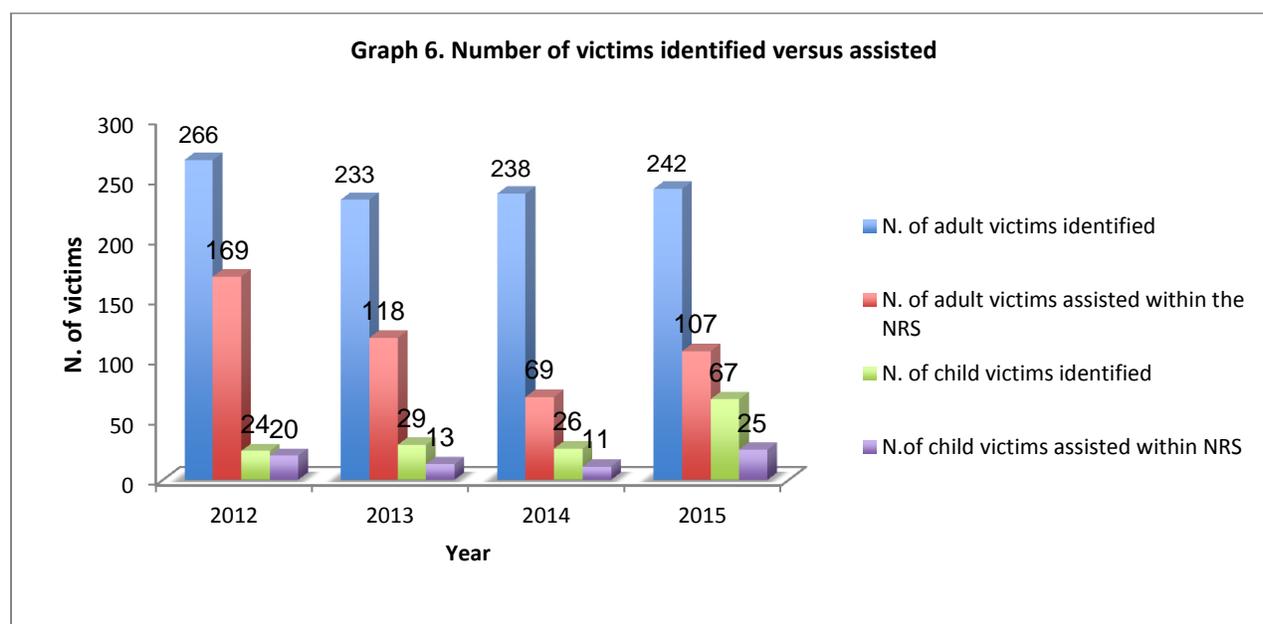
<sup>63</sup> MLSPF of Moldova, Decree N. 33/2012 Guidelines on the Identification of Victims and Potential Victims of Trafficking in Human Beings, 20 February 2012, para 42 and 43.

<sup>64</sup> MLSPF of Moldova, Decree N. 33/2012 Guidelines on the Identification of Victims and Potential Victims of Trafficking in Human Beings, 20 February 2012, para 59.

A 14 years old girl from Moldova was trafficked for sexual exploitation; she was identified and referred to assistance and support in the shelter. She was first assisted in the shelter and then she was referred to another centre at regional level for further support. However, after some time the girl declined assistance and left; she started practicing prostitution again. One day she went to a bar and the bodyguard offered to arrange for her to have a foreign client, she was promised that she could keep half of what he was going to pay for her services. The girl met the client but she did not like him, she anyway managed to get the money and run away. The client was upset and called the police to denounce that the girl had cheated him. The police started an investigation against the girl for fraud/ deception.

Source: Interview with a lawyer

The fourth finding is a challenge mentioned by several stakeholders from the public and NGO sector. There is a gap between the number of victims identified by the law enforcement and the number of victims assisted in the NRS.<sup>65</sup> The graph below illustrates the extent of such gap, especially in cases involving adult victims of THB.



Source: Elaboration of data from MIA CCTP (2016) and MLSPF (2016)

Interviewed public officials and NGOs mentioned several reasons to explain why so many victims remain unassisted. These reasons include the following:

- Victims decline assistance because they do not trust the authorities and do not wish to become known to them.
- Victims are afraid of breaches in confidentiality and risks of stigmatisation etc.
- Assistance services do not match victims' needs fully, especially in terms of long-term sustainable options of reintegration in the labour market.

<sup>65</sup> Fieldwork interviews with NGOs, Permanent Secretariat, NRS Coordination Unit, IOM.

- Compensation from traffickers is rarely paid to victims.
- Police is the first contact point with victims in most cases and there may be challenges in the way they inform victims about assistance options.

Further inquiries should be made to understand better this situation from the victims' perspective. Also consideration should be given to ensuring that immediately upon first contact with a presumed victim a social worker or a lawyer from the main shelter is involved and informs victims about assistance options, rights and entitlements. This would be in line with the requirements under the Framework Regulation on the organisation and functioning of the service for assistance and protection of victims of THB and the minimum quality standards for assistance and protection services; the Framework Regulation foresees *inter alia* that any service provider -including of course competent specialists for victim identification -has to inform the beneficiary about their rights and obligations.<sup>66</sup>

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<sup>66</sup> Government of the Republic of Moldova, Decision No. 898 of 30 December 2015 approving the Framework Regulation on the organisation and functioning of the Service for assistance and protection of victims of THB and minimum quality standards, Official Gazette no Nr. 2-12, 15 January 2016. See Chapter III and particular Article 13.

## Reflection Period and Residence Permit

Moldova's legislation includes a provision establishing a recovery and reflection period, which goes beyond the international standard foreseen in the Council of Europe Anti-Trafficking Convention. The law provides that all victims regardless of their nationality and/or status (i.e. nationals and not, with regular and irregular migration status) are entitled to a recovery and reflection period of 30 days. This period is meant to provide the person with an opportunity to escape the trafficker's influence, receive assistance, recover and take an informed decision about cooperation with law enforcement authorities.<sup>67</sup> Child victims are also entitled to such a 30-day period to decide personally, or through their legal representative, about testifying against their trafficker(s).<sup>68</sup>

However, despite the spirit of the law in practice the recovery and reflection period is not effectively implemented. There are reports indicating that law enforcement – particularly non-specialised police services at local level - do not systematically inform victims about this right, they rather first get a victim statement and then inform the person about the options and entitlements to assistance.<sup>69</sup> There are also instances in which trafficked persons are willing to collaborate immediately with law enforcement and do not opt for a reflection period.

*"Police often tells the victim that she needs to make a statement immediately and then tells her about assistance if she wishes to go to the shelter. Nobody properly informs the victim about her rights, including to a reflection period". A social worker*

The Anti-trafficking Law establishes that foreign victims of trafficking are entitled to receive a residence permit on the grounds either of their situation as victims or for reasons of participation in criminal proceedings against their trafficker(s).<sup>70</sup> The legal framework on foreigners further establishes more detailed criteria for the granting of a six-months renewable permit i.e. willingness to cooperate with the authorities in the prosecution of perpetrators, necessity of victim's presence for criminal proceedings, no contacts with perpetrators, no threat to public order and/or national security.<sup>71</sup> Hitherto, no residence permit has been granted to foreign victims since Moldova is essentially a country of origin for trafficking.

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<sup>67</sup> Law on Preventing and Combating Trafficking in Human Beings No. 241-Xvi, 20 October 2005, Monitorul Oficial No. 164-167/812 of 9 December 2005, Chapter III Protection and Assistance to Victims of Trafficking and Chapter IV (herein after Anti-trafficking Law), Articles 14, 20(3), and 24(4).

<sup>68</sup> Anti-trafficking Law, Article 29(5).

<sup>69</sup> Fieldwork interviews with social and legal professionals in NGOs and public institutions, October 2016. See also GRETA (2016) para. 130.

<sup>70</sup> Anti-trafficking Law, Articles 10(8) and 24 (6).

<sup>71</sup> Law on the Regime for Foreigners in the Republic of Moldova, Monitorul Oficial Nr. 179-181, art Nr : 610, 24 September 2010 as amended 28 July 2016, Article 31 (2.e<sup>1</sup>) and Article 42<sup>1</sup>.

## Victim Assistance

In accordance with international standards, and in particular with the requirements under the Council of Europe Convention, Moldova's Anti-trafficking Law and supplementing regulations establish a number of rights and entitlements for trafficked persons including the right to assistance in physical, psychological, and social recovery through specialised medical, psychological, legal, and social measures.<sup>72</sup> Notably, the Anti-trafficking Law establishes that the provision of assistance and support services shall not be conditioned upon the willingness of victims to make statements and to participate in the prosecution of traffickers.<sup>73</sup> Furthermore, in 2014 the Government adopted minimum standards for victim protection and assistance that aim at guaranteeing quality of services throughout the country.<sup>74</sup> These standards are mostly geared to assist adult beneficiaries and are not child-specific. They provide the basis also for the development of an accreditation system for service providers.

The National Referral System for victim assistance and protection is the overall tool to organise support for victims and potential victims of trafficking.

*"The NRS is the tool to implement the Anti-Trafficking Law. Through the NRS establishment we have institutionalised social services that before were only project-based or donor funded." A public official*

Beneficiaries of the NRS include a wide range of categories, namely: victims of trafficking and potential victims i.e. victims of domestic violence, children living in institutions, children without parental care as result of parents' migration, unaccompanied children identified abroad, migrant returnees in need, stranded migrants abroad etc. Access to services is based on informed consent of the individual and it is not dependant on the person's cooperation with the authorities in criminal proceedings. The main service providers within the NRS are public institutions and include:

- one specialised crisis service: the Centre for Assistance and Protection of victims and potential victims of trafficking in Chisinau (CAP)
- six regional centres for victims assistance at district level
- social protection services at local level

In addition, IOM makes a crucial contribution through the provision of direct assistance and through significant funding and capacity building for public service providers. Remarkably, there are also NGOs that provide victim assistance; yet the number of NGOs working in this field has been decreasing over past few years as a result of declining donor funding.

The system of victim support is arranged into two main stages: emergency assistance and medium term assistance. Beneficiaries may enjoy access also to more general social protection services.

*"There are beneficiaries who are not willing to cooperate with the police, but this notwithstanding we want them to receive assistance and protection and they enter the NRS and receive support." (A public official)*

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<sup>72</sup> Anti-trafficking Law, Chapter III Protection and Assistance to Victims of Trafficking and Chapter IV

<sup>73</sup> Anti-trafficking Law, Article 20(4).

<sup>74</sup> Government of Moldova, Decision no. 898/2015 on the Framework regulation and minimum quality standards for assistance and protection services provided to victims of trafficking in human beings, 30 December 2015. See also MLSPF (2016), p.12-13.

## Emergency assistance

At the core of the NRS there is the Centre for Assistance and Protection of victims and potential victims of human trafficking (hereinafter the CAP). This is a crisis shelter that was established in 2001 on the basis of an IOM project and was handed over to the Ministry of Labour, Social Protection and Family in 2008 becoming a public institution.<sup>75</sup> Since then the State has progressively assumed responsibility for its operation, including staff salaries and building maintenance. Today, state budgetary resources cover about 40% of the CAP's operation and IOM continues being the main agency contributing significant resources to the CAP to complement public funds and enable the proper functioning of a wide range of key victim support services.<sup>76</sup> Other donors also occasionally provide additional support either directly or through the IOM.

The CAP is an open door placement facility that can accommodate up to 24 adult beneficiaries and up to 10 child beneficiaries, with a total of 34 places.<sup>77</sup> At the time of the field assessment, the CAP was about to open a child wing with funding from the state (through the MLSPF), as well as from IOM, UNICEF and other donors. The CAP provides emergency assistance for a period of one month, which can be extended up to six months or more, depending on the circumstances of the individual case.<sup>78</sup> Beneficiaries can come back to access specialised services in the CAP for about one year following their departure from the Centre.<sup>79</sup> CAP's services are also available on a day-care basis when beneficiaries opt for non-residential care. However, the costs for transportation may pose challenges for beneficiaries and prevent their access to services, unless there is *ad hoc* donor funding. For example, many trafficked persons are single mothers and sometimes decline assistance as they lack financial resources for transportation and have no one to take care of their children in their absence.<sup>80</sup>

Upon reception of a beneficiary, the team works with the person to assess his/her needs, and develop a tailored plan of assistance.<sup>81</sup> The CAP provides a variety of support services including accommodation, social assistance, health care services, psychological counselling, legal assistance and representation. Specialised medical services are also available through cooperation and referral to public health care

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<sup>75</sup> Government of Moldova, Decision No. 847/2008 on the creation of the Centre for Assistance and Protection of Victims and Potential Victims of Trafficking in Human Beings, 11 July 2008.

<sup>76</sup> MLSPF (2016), p.16. In 2015 the State contributed approx. Euro 92,600 i.e. 40% of the CAP operation. The number and type of victim support services that are funded by IOM is significant and wide-ranging; it includes: legal assistance and representation, facilitating and supporting identity documentation, medical assistance, medical insurance, accompaniment and support of beneficiaries to place of residence, field visits for case monitoring, humanitarian aid to support victim reintegration, purchase of equipment for vocational training and other support to foster integration in job market.

<sup>77</sup> The CAP is situated in a protected location in order to ensure a safe environment for victims and potential victims of trafficking. Beneficiaries are free to leave the facility anytime and are requested to inform their case manager about their movements outside the centre. Fieldwork visit to and interview with CAP management.

<sup>78</sup> For example, when victims of trafficking are pregnant women then accommodation is provided for a period up to 12 months, or in case of risks to health or life of the beneficiary then the assistance is provided as long as it is deemed necessary. Email correspondence with the CAP, April 2017.

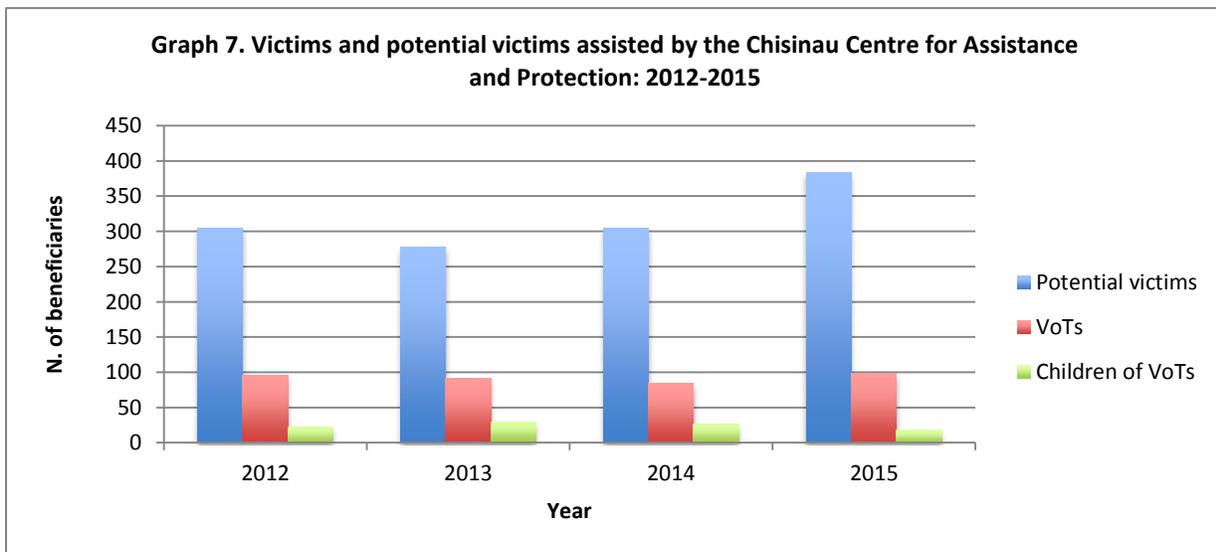
<sup>79</sup> Fieldwork interviews and follow-up communication with the CAP and the NRS Coordination Unit, October – November 2016. See also MLSP (2016), p.29-30.

<sup>80</sup> Fieldwork interviews with Chisinau CAP and a regional centre for victim assistance.

<sup>81</sup> Fieldwork interviews and follow-up communication with Chisinau CAP and NRS Coordination Unit, October – November 2016. See also MLSP 2016, p.29-30.

institutions. Most of these support services are provided thanks to IOM projects that have established them and contributed financial, human and technical resources for more than a decade.<sup>82</sup>

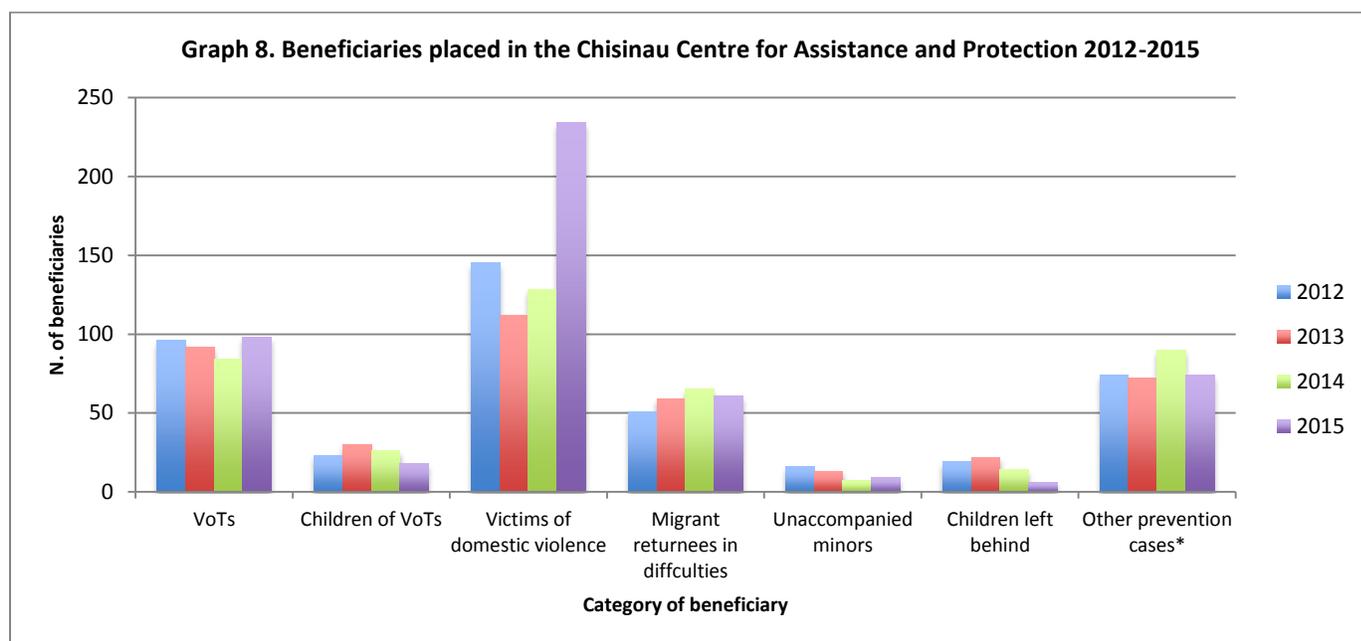
The following graphs (Graph 7 and 8) show the multitude and variety of beneficiaries that the CAP has assisted. In the period 2012-2015 the CAP assisted a total of 1396 beneficiaries of which victims of trafficking and victims of domestic violence were about 20% and 37%, respectively. It is important to note that beneficiaries often return to the CAP for additional services during a year, and this is particularly the case for victims of trafficking and victims of domestic violence. In 2012-2015 on average about 21 victims of trafficking (VoT) and 25 victims of domestic violence respectively were accommodated again in the CAP and received various forms of assistance. Among potential victims, migrant returnees in difficulties represent another significant group of beneficiaries (third group assisted).



Source: Elaboration of data from CAP<sup>83</sup>

<sup>82</sup> See footnote 76 above.

<sup>83</sup> The number of beneficiaries includes also instances of repeated placement in the CAP.



Source: Elaboration of data from the CAP<sup>84</sup>

\* Other prevention cases include: people at risk of trafficking such as single mothers, orphans, children from boarding schools or persons with low education and/or from poor rural areas with minimal opportunities, families in extreme economic hardship, persons with disabilities, children whose parents are working abroad.<sup>85</sup>

With regard to the gender composition of beneficiaries, women and girls are the majority of beneficiaries. However, it is interesting to note that while in the period 2012-2014 women represented the overwhelming majority of adult beneficiaries, in 2015 there was a sharp increase in the number of adult male beneficiaries (see Graph 9). With regard to child beneficiaries, the CAP has sheltered significant numbers of girls and boys over the years; a sharp decrease in the number of girls assisted was registered in 2015 (see Graph 10). During the field assessment the CAP management clarified that male and female beneficiaries are accommodated in separate floors and services are arranged to avoid men and women sharing the same facilities.<sup>86</sup> Further, male beneficiaries often decline accommodation but are interested in other services such as legal aid, social aid, health care etc.<sup>87</sup> Since 2015 some male beneficiaries have been referred for assistance to the Crisis Centre for migrants in the capital; this is a new service that has been established through an IOM project in partnership with the MLSPF and provides returned migrants in a vulnerable situation with temporary accommodation, medical, social and psychological assistance, and legal counselling.<sup>88</sup>

Overall, the data confirm that the CAP is a crucial element of the NRS. At the beginning the CAP was established as a very specialised service exclusively dedicated to attend to the needs of trafficked

<sup>84</sup> The number of beneficiaries includes also instances of repeated placement in the CAP.

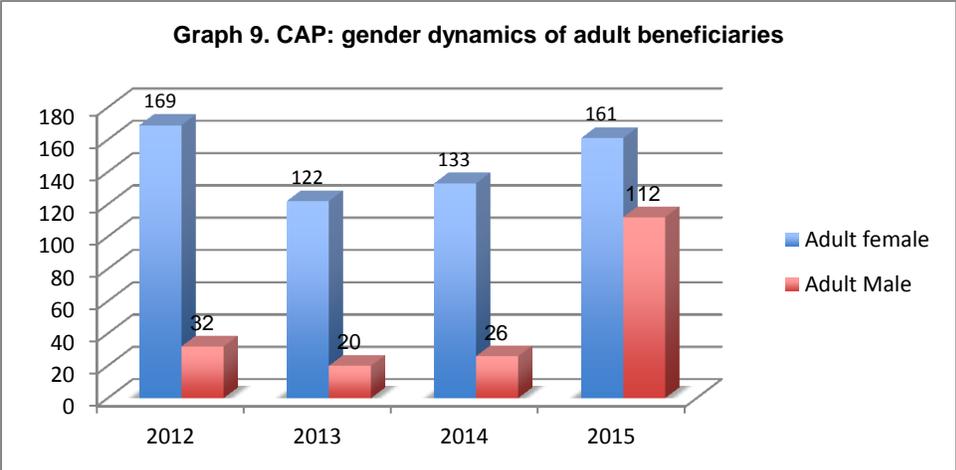
<sup>85</sup> E-mail correspondence with CAP, February 2017.

<sup>86</sup> Interview with the Chisinau CAP.

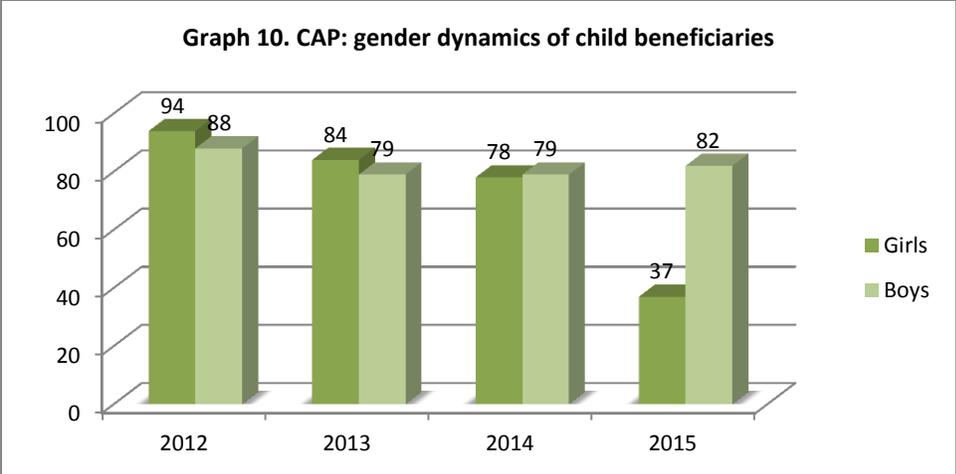
<sup>87</sup> Fieldwork interviews and follow-up communication with Chisinau CAP and NRS Coordination Unit, October – November 2016.

<sup>88</sup> See above. The Crisis Centre is based in Chisinau and can accommodate up to ten beneficiaries

persons; over the years the CAP has developed and extended its operation to provide also placement and more general social protection services not only to victims but also to potential victims that include very different categories of vulnerable individuals as established in the NRS Strategy. On the one hand this strategy has integrated the CAP into the wider system of social protection and enabled the CAP to reach and assist more people, and possibly become more sustainable. On the other hand, attending to the needs of such a variety of vulnerable beneficiaries may also be problematic. The CAP management and its employed social workers, psychologists and lawyers are very experienced and specialised on human trafficking, they are very committed and professional, yet they do encounter challenges in providing specialised services to beneficiaries in need. Consideration should be given to organising social services in a more tailored way through the use of separate and distinct facilities for women and men and for children, and to the progressive development of additional specialised services that pay more attention to gender and age differences.



Source: Elaboration of data from CAP



Source: Elaboration of data from CAP

## Medium-term assistance

The NRS infrastructure is geared towards decentralising medium-term assistance at district and community levels. Therefore, following the one-month emergency assistance in the CAP, most victims are referred to the district and/or community level for further support.

In practice, the CAP Team in Chisinau collaborates with the NRS Coordination Unit and the relevant service at district or community level to prepare the re-integration plan for the person. Then the CAP case manager accompanies the beneficiary to the new service (e.g. regional CAP or territorial multidisciplinary team, local NGO) and monitors the case, liaising with the new service provider and the beneficiary for a period of about one year.<sup>89</sup>

While it is understandable that victims and potential victims cannot be assisted for long time in the CAP in Chisinau, it is also important to note that many trafficked persons are reluctant to return to their communities of origin for fear of stigmatization and because of lack of social inclusion and employment opportunities. In the current context of decentralization of social services, it seems necessary to develop a mechanism of referral that would enable victims to access support services in a different location than that of their residence to reduce risks of stigmatization and to escape the traffickers' influence.

At district level there are six regional centres for medium-term assistance with a shelter capacity of about 112 places; they are located in Drochia, Hincesti, Cahul, Balti and Causeni (two centres). These regional centres were established on the basis of the existing Maternal Centres and serve women and girls as primary beneficiaries. They provide services such as accommodation, material assistance for subsistence, health care, legal assistance, psychological counselling, employment counselling and orientation.<sup>90</sup> Beneficiaries enjoy access to services for a medium-term period e.g. about 4-6 months. The centres are funded through state budgetary funds, while budgetary contributions from local administrations at district or municipality levels are quite limited.<sup>91</sup> Some centres have established partnerships with local NGOs that raise funds to sustain their operation and activities. It seems that these regional centres are about to be transferred to local administrations as a result of the decentralisation reform.

The establishment of this network of social services at district level is one of the outputs of establishing the NRS and marks an important positive change over the past decade. It is a basic infrastructure for social protection. Yet, the scope and range of services varies significantly from one regional centre to another.

*“There is a minimum network of services not only in the capital but also at regional level and sometimes at community level which before the NRS was not in place. It is still weak but progress has been made.”*  
An NGO representative

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<sup>89</sup> Fieldwork interviews and follow-up communication with Chisinau CAP and NRS Coordination Unit, October – November 2016. See also MLSPF 2016, p.29-30.

<sup>90</sup> MLSPF 2016, p. 32.

<sup>91</sup> The NRS Coordination Unit reports that budgetary contributions to the operation of the regional centres are quite limited. See MLSPF (2016), p.16-18.

## Social Welfare and Long Term Assistance for Reintegration

The Anti-Trafficking Law provides that “social rehabilitation of victims of trafficking in human beings shall be carried out in order to reintegrate them back into a normal way of life and shall include the provision of legal and material assistance, psychological, medical and professional rehabilitation, employment, and a dwelling space” (Article 16). It further establishes that measures and services should be in place to support the professional integration of victims, such as professional counselling, and orientation, support to start up a business. In addition, victims have the right to attend a vocational training course financed through the unemployment fund.<sup>92</sup>

Trafficked persons need long term re-integration support, including psychosocial health and mental care services, legal aid, as well as continued support and accompaniment to apply for welfare benefits, and to access economic empowerment programs etc. Such needs are even more acute when trafficked persons are individuals with disabilities.

The NRS has progressively facilitated victims’ and potential victims’ access to social services and benefits for vulnerable persons that are provided within the wider state social protection system. Such services include for example social services and counselling from local community workers, temporary placement services, indemnities for families with children, material aid, unemployment benefits, pensions for people with disabilities, and medical insurance.<sup>93</sup>

Victims of trafficking are recognized as a socially vulnerable category but this does not translate into automatic eligibility for social assistance. In other words, victims’ vulnerability is assessed on a case-by-case basis to verify whether the individual meets the established criteria for social protection e.g. for unemployment allowance, medical insurance, access to vocational training etc. These criteria are quite restrictive and only very few extremely vulnerable trafficked persons meet the eligibility requirements.

Many trafficked persons face tremendous challenges in finding accommodation, they have very limited or no family/community safety network on which they can rely upon return.

### Case example - Challenges with long term assistance

A young woman was trafficked for the purpose of forced begging; she was identified by police and referred for emergency assistance to the CAP in Chisinau. She received medical care, psychological counselling and social assistance; the social work assistant helped her applying for medical insurance and social allowance as unemployed. She was then referred for assistance to a district centre for assistance for a few months. Since then she has been looking for a job but it is challenging, she has no one else supporting her as she lived in an orphanage all her life. She has also some intellectual disabilities and this makes it even more difficult for her to look for employment and/or apply for vocational training or employment programs. Given her difficult situation she has been referred to a local religious community for further support. She can be accommodated in this community for about six months and attend a vocational training.

*Source: Interview with a lawyer from the Centre for Assistance and Protection*

Already in the early 2000s Moldova had started pioneering income-generation activities and other employment support services to foster victims’ social inclusion through employment. Those services

<sup>92</sup> Anti-Trafficking Law (2005), Article 18

<sup>93</sup> MLSFP (2016), p. 27.

were developed as NGO projects and mostly funded by IOM and other donors.<sup>94</sup> However, with the passing of time those services have not been institutionalized or rendered sustainable through public-private partnerships. A number of stakeholders indicated that at present services geared to support the person's social inclusion through employment, income generation and micro-credit schemes are missing and underdeveloped. Only IOM has been supporting a number of trafficked persons (about 30 per year) with access to vocational training.<sup>95</sup> Furthermore, the National Employment Agency and its territorial offices are not very actively contributing to the NRS in terms of orientation and employment services for victims and potential victims.<sup>96</sup>

Despite the progress made in developing victim assistance, supporting effectively a person in the process of social inclusion remains complex, costly and challenging. It requires that multiple services are combined and geared to this goal. In other words, the person usually needs not only support in finding employment and means for living but also social, psychological, legal support, and often mediation with family and community members over a long-term period.

*"There is too little support to help trafficked persons finding employment and it is hard to find job opportunities. We also witness re-trafficking; some trafficked persons migrate again hoping to have better luck even if they are aware of risks. They have no other option to support their families." A social worker*

*"Social inclusion is particularly challenging for people with disabilities, and there are significant numbers of people with disabilities, particularly mental disabilities, that are trafficked for forced labour. For example, we assisted some male victims who were exploited in sheep farms in Moldova; we provided them with medical care, clothes and food, social support and counselling. When they left the shelter, they returned to their community and had no job. So after a while they went back to their exploiter and asked to work again despite the exploitative and abusive working conditions. They know no other way of living." A psychologist*

## Assistance to children

In 2014 the Government adopted the Guidelines on the Intersectoral Cooperation Mechanism for Identification, Assessment, Referral, Assistance and Monitoring of Child Victims and Potential Victims of Violence, Neglect, Exploitation and Trafficking.<sup>97</sup> The Guidelines have a mandatory character and describe the actions to be taken by the guardianship authority, police, health and child labour inspector authorities to ensure the immediate protection of the child (i.e. within 24 hours). They include a specific procedure to follow in cases when there is an imminent danger to the health and life of the child, including steps to conduct the forensic and psychological examination of the child, the emergency hearing of the child with special arrangements to prevent re-victimization, as well as to request a psychological assessment report or a psychiatric examination -where necessary- about the child's

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<sup>94</sup> UNICEF, UNOHCHR, OSCE ODIHR, Trafficking in Human Beings in South Eastern Europe, 2004.

<sup>95</sup> Fieldwork interview with IOM, October 2016.

<sup>96</sup> Fieldwork interview with representatives of public institutions and NGOs, October 2016.

<sup>97</sup> Government of Moldova, Decision No. 270, 4 August 2014. These guidelines are meant to foster the implementation of the 2013 Law on the Special Protection of Children at Risk.

condition. The Guidelines provide step-by-step instructions for responsible authorities in designing and implementing an individual support plan for the child within established timeframes.

The NRS is designed to be a system for the protection of both adult and child victims and potential victims. The NRS mechanisms for identification and referral of children should therefore formally recognize and integrate these guidelines to respond to cases involving children, and should also ensure access to specialised services where needed. The actors involved in the implementation of the Guidelines for children are often almost the same as those involved in the multidisciplinary teams established under the NRS with the addition in some instances of a few child protection specialists; these actors should be trained together and should be encouraged to work together whenever they have a case involving a child.

Currently, in Moldova there are only very few specialised services for children victims of violence, abuse and trafficking. Such services are dependent on donor grants, are available mainly in the capital, and are provided essentially by the NGO National Centre for Prevention of Child Abuse, the NGO La Strada, and by the CAP in Chisinau. The NGO National Centre for Child Abuse Prevention operates the multidisciplinary service Amicul that provides the following specialized services for child victims and children at risk of abuse: social and legal assistance, protection in crisis situations, psychosocial assistance and specialised support during legal proceedings and interviewing.<sup>98</sup> The NGO La Strada also provides specialized services for children, namely psychological counselling, legal assistance, mediation services and child-friendly interviewing.<sup>99</sup>

The CAP is mandated to assist child victims and potential victims. They include child victims of trafficking for various forms of exploitation, child victims of violence or neglect, unaccompanied children repatriated from abroad, and children without parental care etc. In October 2016 the CAP opened a dedicated wing for child beneficiaries with up to 10 places on its premises. It is challenging for the CAP to deliver specialised, age and gender appropriate support services tailored to the needs of these children. Despite the commitment and professionalism of the staff employed at the CAP, attending to the rights, needs and vulnerabilities of these children requires significant additional financial and human resources, specialised services and completely separate facilities. Furthermore, particular attention needs to be paid to the fact that the CAP accommodates also adult beneficiaries with very different conditions and situations and it is essential to protect children from exposure to these situations and to possible risky behaviours.

*“At present there are almost no facilities to assist street children and some of them are referred to the shelter as potential or presumed victims of trafficking. However, it is not so easy to assist them, nor it seems appropriate to have them in the shelter together with victims of abuse and sexual exploitation. Yet, there is a problem with lack of resources, facilities and services to take appropriate care of these children” A social worker*

*“We have some very difficult cases of girls trafficked for sexual exploitation, often they are very young and have been living in institutions. They have been so long and so early in such exploitative situations that they got used to that situation, and it became sort of “normalised”. These girls are referred to us and we work with them and provide support and care for the emergency phase 1-1,5 months or exceptionally longer. However, it is very hard to find a long-term sustainable solution. These girls do not know what to do; they have nothing, no house, no*

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<sup>98</sup> Fieldwork interview with the NGO, October 2016. See also <http://cnpac.org.md/rom/assistance>

<sup>99</sup> Fieldwork interview with the NGO, October 2016. See also <http://sigurantacopii.lastrada.md/en/>

*family, and no relatives. We do not have much to offer to help them building another opportunity. These are extreme cases, and sometimes girls have been re-trafficked.” A psychologist*

## Health Care

The Anti-Trafficking law recognises the right of identified victims to free medical care provided by the institutions of the Ministry of Health. Presumed victims are entitled to the minimum package of medical assistance provided by the Ministry of Health.<sup>100</sup>

Currently, beneficiaries of the CAP in Chisinau are offered the possibility to have a general medical screening, certain specific medical examinations (e.g. gynaecological exams, STD screening, HIV/AIDS testing) as well as psychological and psychiatric counselling. Victims’ access to specialised services is arranged on ad-hoc basis through referral and cooperation that the CAP has established with certain public medical institutions in the capital.<sup>101</sup> These efforts are extremely important, as the provision of general and specialised medical services is crucial in the process of rehabilitation of trafficked persons and other vulnerable beneficiaries of the NRS. However, it is important to note that the provision of medical services is in practice dependent on funding from IOM.

Apart from assistance in the CAP, victims have free access to primary health care - free consultations with family doctors, generic lab tests and emergency treatment. Only those victims that meet the eligibility requirements of the Ministry of Health for vulnerable persons are entitled to medical insurance. In many cases victims lack necessary documentation and/or do not fit the eligibility criteria.<sup>102</sup> In cases where victims have no medical insurance, medical services for chronic diseases and access to hospital-specialised services is dependent on donor funding to the CAP. Access to medical services is challenging also because access to health care services is linked to residence, and so when victims are sheltered in a place different from that of their residence, their access to health care is not guaranteed. Additional challenges in victims’ access to health care stem from systemic issues related to the respect of confidentiality of the individual and to informal complementary payments to access medical services.<sup>103</sup> In its 2016 Report, GRETA has also noted the challenges in victims’ access to public health care and has recommended the authorities to urgently address the issue.<sup>104</sup>

There are a number of relevant services that operate under the Ministry of Health at local level; these include reproductive health rooms, centres for mental health and youth friendly medical centres. However, these services are not well connected with the NRS, i.e. protocols for cooperation and referral of victims and potential victims seem to be missing.<sup>105</sup>

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<sup>100</sup> Anti-trafficking Law, Article 20(2)

<sup>101</sup> Fieldwork interviews and follow-up communication with Chisinau CAP, October – December 2016.

<sup>102</sup> La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons’ Rights, 2013, p.32

<sup>103</sup> Medecins du Monde - Moldova, Raport privind Accesul la Serviciile Medicale pentru Victimele Traficului de Fiinte Umane si Familiile acestora in Republica Moldova, 2012.

<sup>104</sup> GRETA (2016), para. 113.

<sup>105</sup> Fieldwork interviews with public officials from the social and health sector, October 2016.

## Challenges with regard to the NRS for victim protection and assistance

### *NRS sustainability*

With the development of the NRS, State authorities have gradually assumed responsibility and taken the leading role in the delivery of social services to trafficked persons and to people at risk of trafficking. The NRS has been designed and developed to integrate victim assistance within the overall system of social protection.<sup>106</sup> While initially international organisations, particularly IOM, and NGOs, were the sole service providers for trafficked persons, over time they have reduced and adjusted their role and contributions. Yet, donor funding of support services remains critical to the operation of all components of the NRS at national and local level. All stakeholders from both the public and civil society sector reported a critical dependency of the NRS on donor funds, particularly from and through the IOM. Data from the NRS Coordination Unit indicate that a significant proportion of victim support services operate with donor funding; these include: the CAP and the regional centres, psychological counselling, legal assistance, medical care, and the very functioning of the NRS Unit.<sup>107</sup>

### *The decentralisation reform*

The on-going decentralisation reform is translating into a decentralisation of social and other public services, including victim support services, which are to be funded and administered under local authorities' budget. There is a risk that important support services established through the NRS be discontinued or significantly cut. Local authorities have varying degrees of understanding and appreciation of the trafficking phenomenon and have to consider and weigh up funding for victim support services against a number of competing priorities (e.g. social protection, education, health for multiple categories).<sup>108</sup> Therefore, a lot will depend not only on capacity building of local authorities, especially the anti-trafficking Territorial Commissions, but also on the work of the Territorial Multidisciplinary Teams and their capacity to identify, refer and assist victims and produce empirical evidence of the relevance of the THB phenomenon in the local context.

### *Assistance to a wide range of beneficiaries*

One of the main challenges for the NRS operation is attending to the needs of very different beneficiaries. The population of beneficiaries varies significantly not only in terms of age and gender but also in terms of specific needs for specialised services related to the forms of exploitation and trauma they suffered, the type of vulnerabilities they have and their individual conditions. For example, people trafficked for forced begging and sometimes forced labour are often persons with disabilities and with specific related needs. Health care needs for victims of trafficking for sexual exploitation are also quite specific and different than those trafficked for labour exploitation. It is also true that for instance victims of domestic violence and victims of trafficking may have overlapping medical needs and may benefit from similar approaches of psychological and psychiatric assistance.<sup>109</sup> This context poses challenges to the organization of support services both with regard to the space/facilities available, as well as to the type of services (e.g. counselling, individual psychotherapy, group psychotherapy etc.). It requires

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<sup>106</sup> This is in line with objectives of the NRS Strategy, see Objective 12.

<sup>107</sup> MLSPF (2016), p.26.

<sup>108</sup> OSCE (2015).

<sup>109</sup> USAID, Methods and Models for Mixing Services for Victims of Domestic Violence and Trafficking in Persons in Europe and Eurasia, 2008.

sufficient resources to meet demand, the employment of more specialists to attend appropriately to the varied needs of a larger population of beneficiaries, the establishment of a wide range of accessible services and suitable settings. These challenges appear more acute in the operation of the CAP and of the regional centres.

*“A challenge for NRS is the capacity to respond in a tailored manner to the rights and needs of so many different beneficiaries, not only women, men and children trafficked for different forms of exploitation but also other vulnerable persons at risk of trafficking or victims of other violent crimes such as rape and abuse.” A social worker*

#### *Assistance to children*

Stakeholders reported challenges in ensuring tailored, age appropriate assistance to child victims of abuse and violence, as well as to the various groups of children included as potential victims.<sup>110</sup> Currently NRS services are mixed and different groups of vulnerable children are hosted in the same residential care facility with adults. However, there is attention to avoid contacts of child beneficiaries with adult victims and potential victims. Yet important concerns remain, as there are risks of providing inadequate and inappropriate care and there maybe also risks for the safety and security of children. It is important to note that staff employed in care services are well aware of such safety and security risks and expressed concern about mixing for example children victims of abuse and street children or unaccompanied children who may have also been in conflict with the law, yet the state framework of service provision is so arranged.<sup>111</sup> This is not in line with the UN alternative care standards that require inter alia that particular attention be paid to the age, maturity and degree of vulnerability of each child in determining his/her living arrangements, and that a child solely in need of protection may be accommodated separately from one subject to the criminal justice system where appropriate.<sup>112</sup>

There is a shortage of specialised services to address the needs of boys and girls victims of abuse and sexual exploitation, particularly psychological and legal services. Existing services are mainly provided by NGOs and dependent on donor funding.

In the case of children of trafficked persons, there are merits in the approach to host together an adult with his/her child in the shelter, and to provide appropriate attention and adequate care to meet the child specific needs too.

It is instead critical to develop separate, specialised and tailored programs and services for children victims of abuse and other services for other categories of vulnerable children (street children, unaccompanied children etc.) to meet the individual and specific needs of these children in terms of age, gender, stage of development, experience and vulnerabilities, and to ensure their well-being and the

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<sup>110</sup> Fieldwork interviews and follow-up communication with public officials and NGOs, October – December 2016.

<sup>111</sup> These concerns are very real and concrete. For example, an ICMPD study based on interviews with trafficked persons in South Eastern Europe reported instances of poor treatment and abuse in care of child victims of trafficking, and in particular a case of violence against a girl at the hands of the other minors in the shelter. See ICMPD, *Listening to Victims: Experiences of identification, return and assistance in South-Eastern Europe to victims*, 2007, p. 225.

<sup>112</sup> UN General Assembly, Resolution 64/142 Guidelines for the Alternative Care of Children, 24 February 2010. See in particular Section C on Residential care, para. 123-127 and Section 2 General conditions applying to all forms of formal alternative care arrangements, para 80-100.

protection of their rights.

Some stakeholders reported challenges in conducting risk assessment prior to a child's repatriation and also in following up with appropriate support and monitoring of the child individual re-integration plan.<sup>113</sup> These challenges reflect the complexities of identifying and implementing a durable solution for each child.

#### *Assistance to male victims*

The CAP was initially established to attend female victims of trafficking for sexual exploitation and then the scope of its activities has been broadened to attend also the needs of male victims for various purposes of exploitation. For example, in the period 2012-2015 the CAP assisted on average about 30 beneficiaries with a maximum of 40 adult men per year. Some male beneficiaries were sheltered, others received support services on a day-care basis without being accommodated in the Centre; a few others were referred to the Crisis Centre for Migrants. At district level, services available in CAPs seem to be oriented mostly to female victims and potential victims both adult and children. Stakeholders indicated that it is not easy to adapt and/or tailor existing services to meet the needs of male victims and potential victims.

#### *Shortage of support services at local level*

At district and local level, although today there is a better social protection infrastructure than a decade ago, there is still a general lack of social services due to shortage of adequate financial and human resources. Reportedly, legal services and psychological or counselling services are rarely available outside Chisinau.<sup>114</sup>

Local multidisciplinary teams operating at district and community level need to respond to a variety of vulnerable situations and often lack human and financial resources, as a result the local social worker - the coordinator of the NRS multidisciplinary team - frequently faces an overload of vulnerable cases and situations to handle. Trafficking cases are usually very complex and demanding and may be too much for a single social worker.

*"Multidisciplinary teams have progressively become responsible for all cases of vulnerability and tend to avoid dealing with trafficking cases as they are very difficult." A social worker*

With regard to NGOs support services there are only few NGOs that provide direct assistance to victims and operate at local level. More specifically, legal aid, psychological counselling and some specialised health care services are often available only in the capital city.

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<sup>113</sup> Fieldwork interviews and follow-up communication with NGOs, October – December 2016.

<sup>114</sup> Fieldwork interviews with NGO representatives and social workers from public institutions, October 2016.

## Access to Justice

### Right to information and to legal aid

As court and administrative procedures are often very complex, trafficked persons need specialised legal assistance and legal representation to effectively claim their rights during administrative, civil, criminal and other legal proceedings in which they are involved. The Council of Europe Anti-Trafficking Convention recognises this and establishes that victims have a right to information and are entitled to legal assistance to ensure the protection of their rights and interests, including their right to compensation.<sup>115</sup>

The Moldovan Anti-Trafficking Law provides that victims are entitled to information about their rights and assistance including assistance by NGOs to protect their interests in a criminal or civil suit. The Criminal Procedure Code provides the right for victims of a particularly serious or exceptionally serious crime to be assisted by a pro-bono lawyer in case they cannot afford a private lawyer (Article 58 (4) 2)). However, it is important to note that not all victims of trafficking qualify to be considered victims of a particularly serious crime.<sup>116</sup> The recently adopted Law on Rehabilitation of Victims of Crime establishes inter alia that victims of crime shall receive information on their rights and state guaranteed legal aid.<sup>117</sup> Child victims of crime are specifically entitled to free legal aid in accordance with the Law on State Guaranteed Legal Aid.<sup>118</sup>

In a survey of Moldovan trafficked persons conducted by the NGO La Strada, many victims stated that they did not know their rights even in cases when they had signed a formal document stating that they read and were informed about their rights.<sup>119</sup> In most cases it is the police who identify victims, therefore police are the first point of contact with victims and are the first to inform them about their rights and assistance options. This is a very important routine practice. The way this information is provided has a very significant impact on whether victims accept or decline assistance and also on whether they understand their rights. Victims are to receive information about their rights also upon entry into the NRS and then they are briefed about their rights in criminal proceedings at the time of their interview with the prosecutor. It seems that when specialised law enforcement and prosecutorial authorities are involved, they know better how to communicate with trafficking victims and they tend to understand better information about their rights. However, what really makes the difference is for victims to access early legal aid, i.e. victims need to have a lawyer who informs them about their rights, options and relevant proceedings from their very first contact with the authorities. This is key to ensure

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<sup>115</sup> Article 12 and 15 Council of Europe, Convention on Action against Trafficking in Human Beings, 2005.

<sup>116</sup> Article 165 (2) of the CC includes the aggravating circumstances, which render the crime particularly serious.

<sup>117</sup> Law No. 137 on Rehabilitation of Victims of Crimes, 29 July 2016.

<sup>118</sup> Law No 196 of 12.07.2013 on amending Law No 198-XVI of 26 July 2007 on state guaranteed legal aid. See also Rusanovski S., Assessment of Regulatory Framework and Practice in Criminal Proceedings involving Children in the Republic of Moldova, UNICEF 2014, p. 43.

<sup>119</sup> La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights, 2013, p. 54.

that their rights and interests are protected.

*"If a lawyer assists a victim, the right to information is respected because the lawyer explains their rights in an easier and more comprehensible manner. When there is no lawyer for the victim, the investigator provides the victim a written list of rights and asks the person to sign that s/he was informed. However, victims do not necessarily understand their rights when they read and sign that document." A NGO representative*

Both adult and child victims may access specialised legal assistance that is provided in the capital and in very few other locations through the CAP/IOM and specialised NGOs.<sup>120</sup> Such legal assistance is often dependent on donor funding, so only a few victims can actually benefit from it; for example the NGO La Strada can offer specialised legal assistance and representation to about 30 child victims of trafficking, abuse and sexual exploitation annually.<sup>121</sup> At the CAP two qualified lawyers are employed by IOM to provide legal assistance and representation for victims and potential victims; services include legal representation in civil and criminal proceedings to protect victims' rights and seek compensation, legal assistance in relation to issuance of identity documents, child custody etc.

In addition to specialised donor funded legal aid, a free legal aid system has been established. However, in practice pro-bono lawyers are not always effectively accessible for victims. In many instances victims are not aware of their right to free legal aid under the conditions provided in the law, and are not systematically informed about this right. Free legal aid is guaranteed only to child victims in all circumstances, while for adult victims of THB access to free legal aid is dependent on the qualification of the crime as particularly serious and on the victim's capacity to prove that s/he lacks financial resources to pay a lawyer or it must be proven that the provision of legal aid to the victim is in the interest of justice. In addition, pro-bono lawyers usually are not specialised in human trafficking or in cases involving children; they are often appointed only when the case is in court, and this impacts on the quality of assistance provided and on the protection of victims' rights. The quality of free legal assistance suffers also from the fact that free pro-bono lawyers are paid very little and are not motivated to engage in such complex cases and sometimes discontinue the assistance to move on to a better remunerated private case. Furthermore, in cases involving child victims of crime, a free legal representative is not always appointed and there is shortage of specialised lawyers to handle child cases.<sup>122</sup> There is a need to strengthen and further professionalise the provision of free legal aid to child victims.

*"The NRS doesn't provide all victims with free legal aid. Therefore not all victims are assisted in court. There are only two-three specialised lawyers and they usually take the most difficult cases." A public official*

## Right to privacy

The Anti-Trafficking Law establishes a number of measures to protect the private life and identify of trafficked persons and to prevent disclosure of confidential information.<sup>123</sup> In practice, several stakeholders reported challenges with the respect of victims' right to privacy and suggested that this is

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<sup>120</sup> IOM employs two lawyers who cooperate with the CAP and provide legal assistance to CAP beneficiaries.

<sup>121</sup> See La Strada Moldova website <http://sigurantacopii.lastrada.md/en/legal-assistance/>

<sup>122</sup> Rusanovski S. Assessment of Regulatory Framework and Practice in Criminal Proceedings Involving Children in the Republic Of Moldova, UNICEF, 2014 p. 41-43.

<sup>123</sup> Article 21, Anti-Trafficking Law.

one of the reasons why victims decline assistance.<sup>124</sup> The risk of stigmatisation when trafficked persons return to their communities is quite high, especially when they go back to small rural localities. There have been instances in which victims cooperated in criminal prosecution against their traffickers and it was not possible to protect the confidentiality of their private life and identity. Sometimes media publish so many details about victims that it is very easy to identify them in their local community.

*“One of the victims of sexual exploitation was leaving the village early in the morning, so that no one could see or know that she was going to a court hearing. Still the villagers became aware of it, and the neighbours forbade her to use the common well. Overcoming the pain of shame, the victim was forced to show a certificate stating that she is not suffering of any sexually transmitted diseases and does not pose threat to the neighbours. Only then the neighbours allowed the victim to use the well.” La Strada Moldova<sup>125</sup>*

## Non-Punishment of Victims

In line with the requirements under Article 26 of the Council of Europe Anti-Trafficking Convention, Moldovan legislation establishes a victim’s right to non-punishment for acts committed in relation to his/her status as a victim with specific provisions in the Anti-Trafficking Law and in the Criminal Code.

The application of the non-punishment provision is strictly related to the knowledge and understanding of its importance and scope by law enforcement, prosecutorial and judicial authorities, as well as by lawyers. Stakeholders interviewed during the field assessment were quite familiar with the non-punishment provision. Both public institutions and NGOs reported that generally this provision is effectively applied when specialised police (CCTP) and specialised prosecutors are involved in the case. For example, the non-punishment clause was applied in a few cases in which victims were compelled to act as recruiters to escape their trafficking situation.<sup>126</sup>

### **Case example - Application of the non-punishment provision in the case of a trafficked girl involved in the recruitment of another girl**

A young Moldovan girl was trafficked to the Russian Federation. A man seduced her under promise of marriage and a rosy future abroad, so called lover-boy recruitment method. Once abroad she was forced into sexual exploitation and begging. She had a huge debt to pay and at a certain point the trafficker promised her to cancel the debt, if she helped him to bring another girl to Rostov. The case was examined in the Court of Balti and the prosecutor requested the application of the non-punishment provision to the young victim. The Court found that the victim had acted under compulsion as a result of her trafficking situation and exempted her from criminal liability; traffickers were sentenced to 6-7 years imprisonment. The sentences were upheld in appeal by superior courts.

*Source: Interview with a lawyer from the Centre for Assistance and Protection (CAP)*

<sup>124</sup> Fieldwork interviews with NGO representatives.

<sup>125</sup> La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons’ Rights, 2013, p. 54.

<sup>126</sup> Fieldwork interviews with the General Prosecutor’s Office, NGO representatives and victims’ lawyers, October 2016.

There seem to have been also a few cases in which victims were instead held liable for offences related to their status; these were cases in which victims were misidentified and not recognised as such in Moldova or in destination countries.<sup>127</sup> When trafficking cases are prosecuted under related offences (e.g. forced labour, pimping) for evidentiary or other reasons victims no longer benefit from the application of the non-punishment provision, and may be penalised for administrative and criminal offences (e.g. prostitution offences). This latter scenario seems not uncommon because Moldova is mostly a country of origin for trafficking hence in most criminal cases it is usually challenging gathering evidence of the purpose of exploitation or exploitation itself. In such cases prosecutors may be unable or unwilling to charge the crime as trafficking and qualify the acts under other offences with lower evidentiary requirements and milder punishment. In other instances, once the case is in court, it is the court that orders to reclassify the criminal actions into other offences. In such instances the non-punishment provision is no longer applied despite the person being identified as a victim of trafficking.<sup>128</sup>

There are other cases to further examine in which victims modified their testimony in court and were penalised for false testimonies. This may have occurred because of traffickers' intimidation and/or bribes, as well as a result of the trauma suffered by victims.<sup>129</sup>

In the future, additional challenges in the effective and systematic application of the non-punishment provision may appear given the recent emergence of trafficking for the purpose of forced criminality.<sup>130</sup> In cases of THB for forced criminality it is not immediate nor easy for law enforcement and prosecutors to promptly recognise the victim behind the apparent offender. Furthermore, challenges in the application of the non-punishment provision may emerge in the context of the reform of the General Prosecutor's Office and the restructuring of the specialized prosecutors section on THB that used to work within the Centre for Combating Trafficking in Persons.

## Protection of Victims' Rights in Criminal Proceedings

In 2004 the Interpretative Decision of the Supreme Council of Magistrates on the application of the law in THB cases called on courts to ensure the protection of victims' rights and to be aware of victims' rights to recovery, assistance, safety and protection from intimidation.<sup>131</sup>

The Criminal Procedure Code foresees a number of measures for protection of vulnerable

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<sup>127</sup> US Department of State, Trafficking in Persons 2016, Country narrative Moldova.

<sup>128</sup> Fieldwork interviews with the General Prosecutor's Office, October 2016.

<sup>129</sup> Fieldwork interviews with the General Prosecutor's Office, NGO representatives and victims' lawyers, October 2016.

<sup>130</sup> Since 2014, the first cases of trafficking for forced criminality have also been detected, and in 2016 CCTP detected a large case involving men trafficked to the Russian Federation to be used as drug-couriers. See Ministry of Internal Affairs -CCTP (2016).

<sup>131</sup> Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova "On the application of legislation with respect to Trafficking in Human Beings and Trafficking in Children" no. 37 of 22 November 2004.

victims/witnesses.<sup>132</sup> These measures include for example:

- the right to state protection immediately upon being identified as a victim of trafficking in human beings (Art. 58.5),
- the right for victims of trafficking to be exempted from the obligation to appear when summoned by the criminal investigative body or the court and to provide explanations at the request of these bodies (CPC Article 58.8.1),
- the right for victims of particularly serious or exceptionally serious crimes, regardless of the fact whether they were recognised as injured or civil party, to be accompanied by a reliable person besides their lawyer during all examinations also when the public is excluded (CPC Article 58.4);
- the possibility to be examined via the use of teleconferences as special means of hearing to protect victims and witnesses if there exists sound evidence that his/her or a close relative's life, physical integrity or liberty is at risk in connection with his/her statements in a criminal case and if such technical means are available. In such cases the witness is heard without being physically present in the court location or at the venue of the criminal investigating body (CPC Article 110);
- the possibility of a pre-trial evidentiary hearing before the instructing judge in cases when the presence of the victim in the country is not possible or due to other grounded reasons e.g. impossibility to ensure his/her safety (CPC Article 109). The wording of Article 109 is such that the application of this measure is left to the discretion of the prosecutor to request it and then to the decision of the judge to accord it;
- special measures are foreseen for interviewing children as per Article 110/1; these are discussed in the next section.

In addition, victims of trafficking as victims of serious crime may be entitled to protection measures envisaged in the Law on the Protection of Witnesses and Other Participants in the Criminal Process (hereinafter Witness Protection Law).<sup>133</sup> This Law includes a broad range of protection measures, such as use of special means of hearing, protection and/or of identity, physical protection, change of domicile, installation of panic alarms, body-guarding, temporary placement in a safe place etc.

The effective application of the protection measures envisaged in the Criminal Procedure Code and in the Witness Protection Law is very important in all criminal proceedings involving victims of trafficking who by definition should be deemed vulnerable and at risk of secondary victimisation. This is even more so in the context of Moldova, where, a recent analysis of criminal proceedings related to THB has shown that investigations and prosecutions are overly dependent on the victim's testimony.<sup>134</sup>

Lawyers and victim advocates in the public and NGO sector signalled that legal provisions directed at the protection of vulnerable victims/witnesses are often not effectively applied. Trafficked persons are frequently exposed to risks of re-traumatization by having to confront trafficker(s) directly or by being requested to repeat their story again and again to different persons at different stages of the criminal proceedings (e.g. repeated interviews in pre-trial investigation and at trial). Furthermore, a survey among victims of trafficking also confirmed challenges in ensuring protection and respect of their rights

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<sup>132</sup> Criminal Procedure Code – English translation available at

[http://www.seepag.info/download/rep\\_moldova/Criminal%20Procedure%20Code%20RM.pdf](http://www.seepag.info/download/rep_moldova/Criminal%20Procedure%20Code%20RM.pdf)

<sup>133</sup> Law on witness protection and other participants of criminal procedure, 16 May 2008 No. 105-XVI.

<sup>134</sup> IOM (2013).

during criminal proceedings and at court.<sup>135</sup> Victims often did not fully understand their rights and entitlements. In some instances, trafficked persons participating in criminal proceedings felt disrespected and blamed by the court for what had happened to them.

Furthermore, the court infrastructure itself often does not allow the application of certain protection measures. For example, there are no separate waiting rooms or separate entrances, and victims testifying in court often encounter the alleged trafficker in the hallway and are intimidated or in some cases also threatened.<sup>136</sup>

In many instances victims were intimidated by traffickers when they went back to their villages, yet even in these cases security measures and witness protection measures were rarely used.<sup>137</sup> During the field assessment law enforcement stakeholders indicated that full-fledged witness protection measures are rarely applied in THB cases because measures such as change of identity and relocation are usually not necessary, and in addition victims are often reluctant to enter witness protection programs with their strict rules. This is common to many THB situations in other countries, yet there are other witness protection measures that are easier to implement and often more important for victims such as panic alarms, police escort to court, and preventing that a victim meets the perpetrator.<sup>138</sup> However, there are many challenges that prevent the implementation of these protective measures starting with the evidentiary requirements to prove that the person's life and health is at real risk and continuing with the lack of necessary financial resources.<sup>139</sup>

Specialised prosecutors reported about some promising practices that they have introduced with regard to limiting the number of a victim's interviews.<sup>140</sup> For example, in some instances a trained prosecutor conducts the interview with the victim together with the police investigator to better establish the circumstances of the case, and to get an account of what happened that can be used as evidence in court proceedings. This practice of joint interviews helps to avoid repetitions of the victim interview first by the police and then by the prosecutor, thus reducing the risks of secondary victimisation through multiple interviews on different occasions. It also helps to avoid multiple interviews on record with conflicting and/or incomplete information. Another example of a good practice mentioned is the arrangement of a pre-trial evidentiary hearing before the instructing judge during the criminal prosecution - this is done with a view to securing evidence at an early stage and preventing re-traumatization of the victim. However, this practice of a pre-trial hearing before an instructing judge is reportedly rarely used.<sup>141</sup> It remains to be seen whether these promising approaches implemented by some prosecutors will be promoted to the level of guidelines/guidance for all prosecutors handling THB

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<sup>135</sup> La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights, 2013.

<sup>136</sup> Fieldwork interviews with representatives of the General Prosecutor's Office, victims' lawyers and NGOs, October 2016.

<sup>137</sup> IOM (2013); La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights, 2013.

<sup>138</sup> In its 4<sup>th</sup> General Report GRETA urged 13 countries to improve protection of victims and witnesses and in 19 countries considered that the authorities should make full use of the measures available for victim-witness protection (e.g. . GRETA, 4<sup>th</sup> General Report on GRETA's Activities, 2015, p. 57.

<sup>139</sup> La Strada Moldova, The Impact of the Republic of Moldova Anti-Trafficking Policy on the Trafficked Persons' Rights, 2013, p. 61; GRETA (2016) para 182.

<sup>140</sup> Fieldwork interviews with representatives of the General Prosecutor's Office and law enforcement, October 2016.

<sup>141</sup> Fieldwork interviews with NGOs and victims' lawyers, October 2016.

cases.

*"I had only one trafficking case in which the victim was heard only once. As prosecutors, we are often afraid that the victim may change her/his testimony because of threats or intimidation by trafficker/s. In one case, we had identified the suspect, we requested that the victim is not present in court to prevent re-victimization but the defendant's lawyer insisted on requesting to interview the victim. I asked the defendant's lawyer to provide the questions to be posed to the victim in court. Then I could demonstrate that those questions had already been answered in the pre-trial evidentiary hearing and hence it was not necessary to interview the victim again. The judge decided to accept my argument." A public official*

Another important finding emerging from the interviews with lawyers and NGOs is that there is a clear correlation between the application of protective measures and the provision of specialized legal assistance. This is even more evident in cases involving child victims that are not systematically assigned a lawyer to act as their legal representative in addition to their legal guardian. When trafficked persons have a specialised lawyer assisting them, then their lawyer can request the application of the special measures of protection:

*"The prosecutor represents the rights of victims but he is focused on the investigation and so it is usually the victim's lawyer to request the application of special measures of protection to prevent re-traumatization." A lawyer*

## Cases involving children

In 2014 amendments to the CPC introduced a detailed special procedure for the hearing of a child witness or injured party aged up to 14 in criminal cases concerning sexual offences, trafficking in children or domestic violence, as well as in other cases where the interests of justice or of the child so require (Article 110<sup>1</sup>). In such cases the investigating judge will interview the child witness via a trained specialist with legal or psychological background (i.e. the interviewer) in special rooms, equipped with audio/video recording. The interviewer's role is to mediate or translate the questions into a language that is child-friendly and appropriate to the age and maturity of the child victim/witness to avoid re-traumatization of the child.

With regard to the infrastructure to implement these child-friendly interview procedures, currently there are eight or more child-friendly interviewing rooms, including some within police institutions, prosecutors' offices and courts, and NGOs premises. Some progress has been made in relation to establishing qualifications for interviewers of child victims, and a few lawyers and psychologists have undergone specialised training in accordance with the curriculum approved by the National Institute of Justice.<sup>142</sup> However, important detailed regulations are still to be developed on practical matters such as necessary technical standards for these facilities, appointment of professionals responsible for the technical equipment, etc.

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<sup>142</sup> CNPAC Newsletter Intervievarea structurată a copiilor victime/martori ai infracțiunilor din R. Moldova, 2016. [http://cnpac.org.md/uploaded/Publicatii/PDF/BuletinCNPAC\\_2016\\_14.pdf](http://cnpac.org.md/uploaded/Publicatii/PDF/BuletinCNPAC_2016_14.pdf)

Since the introduction of the amendments to the CPC, progress has been made in preventing re-victimization of young child victims/witnesses, including through provision of psychological counselling to the child, mediation services by a person with legal or psychological background, and use of specially equipped interview facilities and special interview techniques. However, it is not completely clear whether the number of child victims' interviews has been effectively reduced. Some stakeholders reported a maximum of two interviews; other stakeholders indicated that in some instances the child victim was interviewed repeatedly in the criminal investigation stage and in more rare instances the child was also heard again at the time of the court examination of the case.<sup>143</sup> A recent NGO study on the application of child-friendly justice provisions also reaches similar findings and highlights the need for continued training of justice professionals on the new CPC provisions.<sup>144</sup> Moreover, even though interviews are arranged under special conditions, repeated interviews of child victims are not recommended, as they are usually quite stressful, intimidating and re-victimizing for the child.

When the child is older than 14 years of age, the interview is conducted in accordance with the general procedure for adults, unless the prosecutor or the judge deem necessary to implement specific protective measures such as for example interviewing the child in the presence of a psychologist to prevent secondary victimization.<sup>145</sup> Some stakeholders reported instances in which child victims above the age of 14 were exposed to direct confrontation with the accused either during the investigation or at the time of testifying in court against their exploiters.<sup>146</sup> These practices are not in line with standards for child-friendly justice;<sup>147</sup> special protection measures and child friendly interviews in child-friendly settings should be used also for these vulnerable child victims.

It is important to ensure continued training of all justice professionals involved in the interview of child victims/witnesses (judges, prosecutors, lawyers, interviewers, psychologists, child protection specialists etc.) to ensure effective application of measures for child-friendly justice. Specialised psychological assistance and specialised services for children victims/witnesses of crime also need to continue to be developed to assist the child both before the interview and after.

#### **Case example - Challenges in preventing re-victimization of a child victim**

A 15 years old girl was trafficked for the purpose of sexual exploitation; she became pregnant during the time she was exploited. Police detected this case and identified the girl as victim of trafficking; she was referred to a local NGO for assistance. Police initiated criminal proceedings for child trafficking. Sometime later the victim - aged 15 and pregnant, was called in court to testify. She did not want to testify in front of her trafficker, and her lawyer requested the application of Art. 369 of the Criminal Procedure Code that provides that child victims are not exposed to direct confrontation with the offender. However, the judge refused to accord such protection to the

<sup>143</sup> Fieldwork interviews with social workers and legal professionals in NGOs and public institutions, October 2016.

<sup>144</sup> See also National Centre for Child Abuse Prevention, Raport de cercetare "Atitudinile, cunoștințele și practicile specialiștilor cu referire la aplicarea procedurilor prietenoase în investigarea cazurilor cu implicarea copiilor sub 14 ani, victime/martori ai infracțiunilor, 2016.

<sup>145</sup> Rusanovski S. Assessment of Regulatory Framework and Practice in Criminal Proceedings Involving Children in the Republic of Moldova, UNICEF, 2014 p. 41-42.

<sup>146</sup> Fieldwork interviews with social and legal professionals in NGOs and public institutions, October 2016.

<sup>147</sup> UN, Guidelines on Justice in matters involving child victims and witnesses of crime, 2005; Council of Europe, Guidelines of the Committee of Ministers of the Council of Europe on Child Friendly Justice, 27 November 2010.

child victim. The judge considered that this measure of protection i.e. avoiding direct confrontation with the offender would constitute obstruction to justice. The NGO lawyer assisting the girl submitted a formal complaint to the judge. The NGO further convened a press conference to raise attention to such situations of re-victimization of trafficked persons at the hands of the state.

*Source: Interview with a victim's lawyer from the NGO La Strada*

#### **Case example - Challenging cases for the protection of victims' rights**

A girl from Moldova was trafficked for the purpose of forced begging. Police identified her as a victim of THB and referred her to the CAP. She received temporary shelter, medical care, counselling, social assistance and legal aid. She decided to cooperate with the authorities in the criminal proceedings against her trafficker. Her grandmother acted as her legal guardian and supported her through the proceedings and a specialized lawyer also assisted her as legal representative in the proceedings. She was called to testify in court against the offender and she was ready to do so. However, the trafficker intimidated her. One day the victim's lawyer appeared in court for the hearing and found out that the girl had just appointed a new lawyer because she thought that her lawyer was allegedly not representing her best interests. The victim's lawyer was very concerned and feared that such decision might have been orchestrated by the trafficker, thus the lawyer approached the legal guardian of the girl to discuss the situation. The girl's legal guardian confirmed conferring power of attorney to the first lawyer as the victim's representative. The Court accepted both the initial lawyer and the newly appointed one; the latter disappeared later on. Criminal proceedings lasted for some time and the girl turned 18 during this period. As soon as she turned 18, she withdrew again the power of attorney from her lawyer. The lawyer advised the young woman not to do so and warned her that changing her testimony would constitute an offence and that she might be prosecuted for that. The victim insisted on refusing the services of the lawyer and appointed a new lawyer. The victim was so much under the influence of the trafficker to trust his promise to pay the fine in case she would be sanctioned for false testimony. The victim did change her testimony and was sentenced for false testimony to the payment of a fine. Nevertheless, the Court found the accused to be guilty of trafficking.

*Source: Interview with a victim's lawyer from CAP*

## **Compensation**

Victims of trafficking have a right to compensation for material and non-material damages from the perpetrator. The Council of Europe Anti-Trafficking Convention establishes that States Parties are to take steps to guarantee compensation of victims, for example through the establishment of a State compensation fund or scheme.<sup>148</sup> Victim compensation serves a number of important functions, not only because of its financial component that may enable the victim to enjoy a certain financial autonomy but also in terms of restorative justice, acknowledgement of the harm suffered by the victim and recognition of the injustice done to him/her. Further, it has a punitive function towards the perpetrator(s) depriving them of their illegal profits.

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<sup>148</sup> Council of Europe, Convention on Action against Trafficking in Human Beings (CETS No. 197) Explanatory Report, paras 191-199. See also EU Directive THB 2011/36/EU, Article 17.

In Moldova the Anti-Trafficking Law establishes a generic right of victims to compensation from the perpetrator. According to the CPC victims of crime are entitled to compensation from the perpetrator either through a joint plaintiff in criminal proceedings or in separate civil proceedings.<sup>149</sup> Further, the 2016 Law on rehabilitation of victims of crime foresees the establishment of a State compensation fund with a subsidiary function. The Law entered into force as of 9 March 2017 while the State Compensation scheme will be established on January 1, 2018.<sup>150</sup>

In practice victims are not routinely informed about their right to compensation, and even when they are informed and claim it, it is rare that they have effectively access to compensation i.e. that it is awarded and actually paid to them.<sup>151</sup> There are a number of factors hindering effective victim's access to compensation, including the following.

In many cases, victims do not have access to specialized legal aid and it is up to the prosecutor to request that victim be qualified as injured party and inform him/her about the possibility of filing a claim for compensation of material and non-material damages during criminal proceedings. Where specialized legal aid and representation is available to victims, claims for compensation are usually put forward in criminal and civil proceedings.

Prosecutorial and judicial practices vary throughout the country. Criminal courts reportedly rarely award compensation in criminal proceedings. Civil proceedings for compensation usually start after the end of criminal proceedings, and by that time perpetrators have usually managed to hide their criminal assets.<sup>152</sup>

Loss categories for the calculation of material damages are undefined and left to the discretion of the judge, for example with regard to estimating lost income. Interviewed lawyers indicated that in some instances judges interpreted lost incomes with reference to the income the person had prior to being trafficked which is often non-existent as victims were usually unemployed. There is not enough clarity in judicial practice with regard to including unpaid salaries as a loss category under material damages.<sup>153</sup>

There are no developed criteria for estimating moral damages. In addition, forensic psychological expert examinations are rarely used to establish the severity of moral damages inflicted to a victim of trafficking and substantiate the claim for compensation of moral damages. Interviewed lawyers indicated that the evidentiary requirements for the provision of such psychological evidence on the victim condition are very restrictive. Moreover, only very few if not just one professional in the whole country are qualified to provide psychiatric expertise on the victim condition.<sup>154</sup> According to some lawyers it may be possible to invite a psychologist from the shelter in the capacity of expert/specialist to make a conclusion on the victim condition, yet it seems that their expert assessment is easily

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<sup>149</sup> CPC Article 219

<sup>150</sup> Law No. 137 on Rehabilitation of Victims of Crimes, 29 July 2016, Chapter 4 a and Article 22.

<sup>151</sup> Stepnitz A., *Rights, Restoration and Recovery: Compensation for Trafficked Persons In the Republic of Moldova*, 2013, p. 33; GRETA (2016), para 137-138.

<sup>152</sup> *La Strada Moldova, Rights, Restoration and Recovery: Compensation for Trafficked Persons In the Republic of Moldova*, 2013, p. 38.

<sup>153</sup> Fieldwork interviews with lawyers, October 2016.

<sup>154</sup> Fieldwork interviews with lawyers and psychologists, October 2016.

undermined by traffickers' lawyers and not a viable option for calculating damages.<sup>155</sup>

Civil claims for compensation in labour trafficking cases are particularly challenging according to interviewed lawyers. In some instances courts have not recognised that there was an employment relationship between the trafficked person and the exploiter because there was no employment contract, and that is quite the norm in labour trafficking cases.<sup>156</sup>

*"We ask compensation for lost income and the judge interprets this as if the victim should have had this income before being exploited. Once, we attempted to invoke a direct application of the Forced Labour Convention and its recent Protocol. We calculated the income that the victim should have been paid counting the number of working days, working hours per day and number of services provided per day etc. but the court rejected our calculation." A lawyer from the CAP*

Traffickers also attempt to persuade or intimidate victims not to file any claims for compensation.

*"There was a case involving a person who was trafficked for forced labour for six months. We estimated the moral and material damages and filed a claim for compensation. During the judicial proceedings, the trafficker offered the victim to pay her some money not to testify. The prosecutor had established a relationship of trust with the victim and so when she received this offer, she informed the prosecutor and he explained to her that it is an offence to make false statements and he would press charges against the trafficker for intimidating the victim." A public official*

Even if awarded compensation is often not paid by the offender. Most criminal prosecutions deal with recruiters and transporters and these offenders often result not to have assets or to have very few. Traffickers' assets are usually well hidden and stakeholders indicated there is no effective legislation enabling freezing, seizure and confiscation of criminal assets.<sup>157</sup>

Finally, as in other countries, there are many challenges in initiating and pursuing compensation claims cross-border in the countries of destination where the exploitation has taken place and significant illegal profits are made.

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<sup>155</sup> CPC Article 87.

<sup>156</sup> Fieldwork interviews with lawyers, October 2016.

<sup>157</sup> Fieldwork interviews with law enforcement, October 2016.

## Return, repatriation and transnational referral mechanisms

Ensuring the safe return of trafficked persons and preventing their re-victimization is a key component of a national/transnational referral mechanism. A number of international and regional standards are relevant to ensure the safe and dignified return of trafficked persons.<sup>158</sup> International standards require that trafficked persons shall be returned with due regard for their rights, safety, dignity and for the status of any legal proceedings related to their status, and preferably voluntarily.<sup>159</sup> In the repatriation of a child, the best interests of the child must be the primary consideration. States are also to provide trafficked persons with information on the services and organisations that could assist them upon their return.<sup>160</sup>

The Anti-Trafficking Law establishes that the authorities shall facilitate without delay the repatriation of a victim who is a citizen of the country or a permanent resident including through the provision of necessary identity and travel documents (Article 19). In the case of children Article 28 establishes that child victims shall be returned provided that: parents or legal guardian have consented, necessary and appropriate individual care arrangements are made, and there are no risks to safety of the child and that of the family.

A Government decision regulates the repatriation procedure of adult and child victims of trafficking, as well as persons in difficult situation and unaccompanied children.<sup>161</sup> The repatriation procedure is based on a number of principles including the voluntary participation and consultation of the person, the best interests of the child, and the right to information. The Ministry of Labour, Social Protection and Family in partnership with the Ministries of Foreign Affairs and Internal Affairs and others coordinates the repatriation of trafficked persons - both adults and children - to Moldova.

In the past IOM and some NGOs such as Terre des Hommes and La Strada managed the assisted return of trafficked persons, and in particular of children in most instances. Then, following cooperation and capacity building of government authorities, these activities have been gradually passed on to the Ministry of Labour, Social Protection and Family that has now assumed responsibility and has a dedicated annual budget to implement the assisted return. However, the MLSPF still faces challenges in the practical implementation of this responsibility and IOM continues to provide repatriation assistance, although to a lesser extent.

In 2014 the Ministry of Labour, Social Protection and Family endorsed a handbook for case management of unaccompanied children repatriated to Moldova that was developed in partnership with the NGO

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<sup>158</sup> For a detailed analysis of relevant international standards and for guidance in their implementation see OSCE ODIHR, Guiding Principles on Human Rights in the Return of Trafficked Persons, 2014.

<sup>159</sup> Council of Europe, Convention on Action against Trafficking in Human Beings (CETS No. 197), 2005, Article 16.

<sup>160</sup> See Council of Europe, Convention on Action against Trafficking in Human Beings (CETS No. 197) Explanatory Report, 2005, para. 200-207.

<sup>161</sup> Government of the Republic of Moldova, Decision No. 948 of 7 August 2008 on Approval of the regulation on the procedure for repatriation of child and adult victims of human trafficking, of illegal smuggling of migrants and unaccompanied children, Official Gazette No. 152-153, 12 August 2008, as amended on 22 March 2017.

<http://www.mmmpsf.gov.md/ro/content/introducerea-unei-noi-categorii-de-beneficiari-cadrul-procedurii-de-repatriere>

Terre des Hommes.<sup>162</sup> The handbook provides detailed guidance for child protection specialists in the implementation of the repatriation procedure.<sup>163</sup> It is meant to help child protection specialists in fulfilling their duties and tasks in evaluating the situation of the child, assessing risks and needs, making proper care arrangements for the child and the family, and in assisting the child repatriation where this is in his/her best interests.

Stakeholders' views regarding the repatriation procedure vary. Some consider necessary to detail further and separately the procedure for the return of victims of trafficking.<sup>164</sup> Other stakeholders recognise in particular the progress made in managing the assisted return of unaccompanied and trafficked children, in particular with regard to establishing a mechanism for risk assessment, best interests determination and developing individual care arrangements.<sup>165</sup> However, while many challenges have been overcome, determining a sustainable solution in the best interests of the child is still complex and often problematic. Also supporting and monitoring child returnees in the long-term process of rehabilitation and social inclusion continues to be challenging given the limitations of the social protection system.

Interviewed public officials in the Ministry of Labour, Social Protection and Family and in other public institutions mentioned that despite having resources for repatriation, in practice the Ministry uses only a small percentage of the earmarked state budgetary funds and recurs to IOM assistance. The reasons for this situation relate to the rigidity of public procurement regulations that do not allow to respond to the urgent and varied situations that occur when arranging the repatriation of a victim of trafficking, an unaccompanied child or a stranded migrant (e.g. in relation to the purchase of travel tickets, accommodation services and other expenses, food, clothes, shoes etc.).<sup>166</sup> In order to address these practical challenges the repatriation procedure has been recently amended and hopefully will enable public institutions to carry out assisted voluntary returns more smoothly.<sup>167</sup>

As discussed at the beginning of this assessment, Moldova is mainly a country of origin for human trafficking and international cooperation in the identification, referral to support and eventual assisted return of trafficked persons as well as in the investigation and prosecution of perpetrators is vital. In the area of assisted return, the Government has initiated negotiations with two main countries of destination for human trafficking from Moldova, namely with Ukraine in 2013 and with the Russian

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<sup>162</sup> MLSPF Decision N. 52 of 25 April 2014 on the adoption of the Professional's Handbook "Case management for children who are identified without legal representatives on the territories of other states".

<sup>163</sup> Government of Moldova Decision N. 948/2008 "On approving the Regulation regarding the procedure of repatriation of children and adults – victims of human trafficking, smuggling of migrants, and unaccompanied children".

<sup>164</sup> Fieldwork interviews with public officials and NGOs, October 2016

<sup>165</sup> Fieldwork interviews with public officials, October 2016. See also Terre des Hommes, Professional's Handbook "Case management for children who are identified without legal representatives on the territories of other states", 2014, p.5.

<sup>166</sup> Fieldwork interviews with public officials from the MLSPF and other institutions, October 2016. See also MLSPF (2016) op. cit. p. 24; National Committee for Combating Trafficking in Human Beings, National Report on preventing and combating trafficking in human beings 2014, 2015, p.35.

<sup>167</sup> Government of the Republic of Moldova, Decision No. 948 of 7 August 2008 on Approval of the regulation on the procedure for repatriation of child and adult victims of human trafficking, of illegal smuggling of migrants and unaccompanied children, Official Gazette No. 152-153, 12 August 2008, as amended on 22 March 2017. For example the new procedure foresees the possibility of compensating expenses for food, clothes, shoes and medicines for repatriated adults.

Federation in 2009. Negotiations have not been finalised yet.<sup>168</sup>

Interviewed specialised law enforcement and prosecutors highlighted a number of significant challenges in international cooperation in THB cases with countries of destination. In some instances for example there were no or too slow reactions from destination countries to the sharing of intelligence related to the operation of traffickers' ring. In other instances, law enforcement authorities had operative information related to their citizens being trafficked abroad and attempted to cooperate with law enforcement authorities in destination countries to rescue them, however not all attempts have been successful. In some instances, the authorities in countries of destination do not recognise the person as a victim of trafficking but as an irregular migrant or as an offender, as in recent cases of trafficking for forced criminality in Russia.<sup>169</sup> Citizens of Moldova are also trafficked to countries where Moldova lacks contacts and consular authorities to establish cooperation and rescue them.

The case below is illustrative of the challenges in international cooperation and transnational referral of victims of trafficking. It is a labour trafficking case involving more than 60 Moldovan workers exploited in Ukraine.

**Case example – Challenges with a labour trafficking group case**

In January 2012, the Hotline of the NGO La Strada Moldova received a call from a Moldovan woman asking to help her daughter Irina<sup>170</sup> to get free and return from Kherson (Ukraine) where she was exploited in a tobacco factory.

Irina was 32 years old. A Moldovan citizen from her village had recruited her with the promise of a well-paid job in Ukraine. The recruiter advanced money to pay for her travel and so in March 2011 she left with a neighbour for Ukraine. When they arrived, their passports were confiscated and they were made to work from sunrise to sunset, they received very little food, lived in miserable conditions, slept in an isolated area of the tobacco factory and received no pay for their work for about one year. There were about 60 other Moldovan workers living and working in the factory in similar conditions.

The NGO La Strada Moldova referred immediately the case to their NGO partner La Strada Ukraine, and they cooperated with police to intervene and rescue Irina and the other workers. Ukrainian police opened a criminal case against the employer. Irina and the other workers were offered NGOs and IOM assistance, including temporary accommodation, medical care, legal aid and support to arrange for their assisted return to Moldova. Two lawyers assisted the workers to submit civil claims in the criminal courts in Ukraine. Some victims accepted IOM repatriation assistance and returned to Moldova, others declined it hoping to find a way to get their salaries back.

In Moldova the CCTP recognized the exploited workers as victims of trafficking and opened a criminal case for THB for forced labour. The trafficked workers who returned were referred for assistance through the NRS. A lawyer from Moldova assisted 25 returned workers with their pending compensation claims in Ukraine and accompanied them to attend court sessions in Ukraine. This specialised legal assistance was supported by IOM that also funded victims' travel to Ukraine to participate in judicial proceedings. The first instance court in Ukraine recognized part of their civil claims and awarded the victims small amounts of compensation. The Court of Appeal cancelled the first instance decision and returned the case for re-examination. The court that re-examined the case established a number of violations of labour law e.g. in relation to employment without contract, no payment of social security, excessive number of working hours, non-payment of salaries, employment of minors etc. It also further concluded that the prescribed time limits for the offences had expired. Trafficked workers would still have the possibility to claim their unpaid salaries in a separate civil lawsuit in Ukraine. Yet, this would have resulted in long and expensive court proceedings and most victims could not afford related legal, administrative, travel and other expenses. The lawyer from Moldova continues to support several trafficked workers in a claim with the Ukrainian National Commission on THB for the recognition of their status as victims of trafficking; such recognition would entitle them to

<sup>168</sup> MLSPF 2016 p. 13-14

<sup>169</sup> Fieldwork interviews with law enforcement authorities, October 2016.

<sup>170</sup> Fictitious name.

receive a minimum compensation from the State fund. In Moldova, the related criminal proceedings for trafficking for forced labour are on-going.

*Source: Interview with an IOM lawyer from CAP and with La Strada Moldova.*

The case shows that authorities in the two countries made different determinations about the situation of the exploited workers. In Ukraine, NGOs and IOM recognised that this was a case of trafficking and assisted the trafficked workers, however an official status determination by the competent Ukrainian authorities has been missing; further criminal proceedings were pursued for violations of labour law and not for THB. In Moldova, NGOs, IOM and specialised police recognised that they were victims of trafficking, assisted their repatriation and referral to support through the NRS and initiated criminal proceedings for THB. This case illustrates also how complex, demanding and expensive can it be to provide assistance to a large group of victims, particularly with regard to their claims for compensation of unpaid salaries and other damages. Pursuing claims for compensation after return is very expensive and demands availability of legal representation and legal assistance for victims in both origin and destination countries. It also requires that victims have some financial resources to travel and attend court hearings, which is often not the case.

## Conclusions

Since the 2008 adoption of the NRS strategy, significant and laudable progress has been made in developing a national referral system in Moldova. On the one hand, a countrywide institutional system for identification, referral, and assistance of victims of trafficking and potential victims i.e. the NRS has been established. On the other hand, the multidisciplinary and preventive approach embedded in the NRS has nurtured the development of the country's infrastructure for social protection.

*"The NRS has been developed with a long term perspective and in a context and at a time in which the social protection system was very weak and had hardly established any services. It has had the big plus of introducing the multidisciplinary approach to working on THB and other social issues. The work started to respond to the needs of trafficking victims returning to their communities, then it gradually generated several spinoffs and fostered the development of specialised multidisciplinary responses to other complex and pressing social issues, such as domestic violence and child abuse". An NGO representative*

A number of achievements result from the establishment of the National Referral System, yet there are still challenges lying ahead.

### *A basic infrastructure of social services for victims and potential victims*

Moldova's Anti-trafficking Law clearly articulates victims' rights and provides that victims are entitled to access a wide range of rehabilitation, social and legal services. Not all rights and entitlements foreseen in the Anti-trafficking Law are effectively guaranteed in practice; however, there has been significant progress. When the Anti-Trafficking Law was adopted in 2005, victim support services were only provided through ad-hoc projects by NGOs and international organizations. Today, state social protection structures provide and partially fund support services for both victims and potential victims in cooperation with NGOs and IOs and with considerable co-funding from foreign donors.

The NRS has also fostered the establishment of a network of basic social services at district and community level that were not available before and that are very necessary to support vulnerable populations and prevent trafficking. Victims and potential victims, particularly women and children, may benefit from social assistance at local level for a period of about 4-6 months. Long-term programs for employment and social inclusion remain instead underdeveloped and the country socio-economic context remains challenging.

To ensure sustainability of the NRS, the state has taken institutional responsibility, has integrated NRS services into the national system of social protection and has progressively provided some public financing of such services.<sup>171</sup> Yet, dependency on donor funding, and in particular on IOM funding and support, remains substantial, especially to ensure the availability of specialised victim support services. Sustained political will and state increasing budgetary commitment to the NRS will be critical for the future development and sustainability of the system.

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<sup>171</sup> This was one of the main objectives of the NRS strategy. See also MLSPF (2016), p.16.

#### *A specialised Centre at national level: the CAP*

Within the NRS, the Centre for Assistance and Protection is now a public social service provider that assists hundreds of victims and potential victims every year (about 350 persons per year in the period 2012-2015, of which about 20% are victims of trafficking). In addition to providing a variety of medical, social, psychological and humanitarian services, the Centre plays a crucial role in managing the practical coordination of beneficiaries' referral to assistance. In practice, the Centre acts as a point of contact and coordination for all parties within the NRS. The Centre is challenged by having to attend to the needs of multiple categories of vulnerable beneficiaries with specific individual needs related not only to their age and gender but also to the forms of abuse, exploitation and trauma they suffered and to the type of social and economic vulnerabilities they experience. Additional human and financial resources from state budget should be allocated to support the Centre's work. At the same time, it recommended to analyse the assistance needs of the CAP beneficiaries and review whether the current articulation of services in one facility is appropriate and adequate to meet the needs of different categories of beneficiaries and address their various conditions and specific situations. Such analysis should consider as a priority the opportunity to develop and diversify referral to enable more tailored services for children in line with their rights and needs.

#### *Multidisciplinary cooperation and coordination and a new quality of State-NGO partnership*

The NRS has fostered a democratic process of cooperation and dialogue between public institutions at central and local level and civil society. It has also introduced and built a structured multidisciplinary and intra-sector mechanism of cooperation and coordination among a wide range of stakeholders operating at national, regional and community level.

The development of the NRS has brought about a significant change in the quality of cooperation between law enforcement and NGOs. Compared to some years ago, today police and prosecutors recognise the importance of working in partnership with NGOs and appreciate the importance of protecting victims' rights. Law enforcement now recognises that providing victims with assistance and support contributes not only to encouraging them to cooperate in criminal proceedings but makes them also stronger witnesses.

*"The establishment of the NRS has brought about a revolution in way of thinking of police. Police now recognise the importance of NRS, they need NRS services to be able to deal with trafficking. It is a very good sign of the work done and progress achieved compared to the past. It required a change in mentality to appreciate the importance of protecting victims' rights; this is a long process and surely still needs to continue. "An NGO representative*

The multidisciplinary and intersectoral approach to identification and referral of trafficked persons that is embedded in the NRS is internationally recognized as a promising practice.<sup>172</sup>

Despite this important progress, there are still many challenges to improve victims' assistance and access to justice, as well as prevention of trafficking.

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<sup>172</sup> Council of Europe GRETA, Compendium of good practices on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, 2016, p. 14.

There is a need for continuous capacity building of the actors involved in the NRS, particularly at the local level. Capacity building and training are very necessary for members of territorial multidisciplinary teams as well more broadly for local public authorities, especially mayors, that need to be sensitised to the issue of THB and to their responsibilities within the NRS.

There is also a need for continued capacity building of all criminal justice actors to foster a culture of protection of victims' rights and the understanding of current forms of control and exploitation of victims. There are also systemic problems to tackle, such as widespread corruption among public officials, including judiciary. Public social services also need to further strengthen their culture of protection of rights and become fully aware of the legal consequences of recognising an individual as a victim of crime and not only as a vulnerable person.

Finally, an important note of caution, the broad approach embedded in the NRS notion of proactive prevention (i.e. including potential victims among NRS beneficiaries) has come also with some risks and limitations as very many different social problems such as domestic violence, abuse, children left behind by migrating parents and children or living/working in the streets have been tackled under the label of potential trafficking situations.

*"There is a need to reflect on the need to name problems for what they are - domestic violence, sexual abuse and violence, neglect, trafficking etc. This recognition is fundamental to properly address them." An NGO representative*

Legislative and institutional reforms have been recently passed or are on-going in areas such as domestic violence, child protection and juvenile justice and their impact on the NRS needs to be considered to ensure consistency and coherence of laws and policies. While a broad and inclusive social protection approach has been necessary at the beginning of establishing the NRS, it seems that now it is time to assess whether a more advanced range of specialised social protection services can be developed. More specifically, there is a need to evaluate whether it is still opportune to have mixed services for victims and potential victims, or whether they should be distinct, or when and which services should be distinct to ensure appropriate and adequate care. Surely, it seems critical to foster the development of additional, more targeted and tailored responses and services for child beneficiaries of the NRS to ensure that care is age and gender appropriate and adequate to protect the rights and meet the specific needs and situations of these children. It is also important to ensure that any efforts to reform the current NRS do not jeopardise access to social protection services for those vulnerable persons that currently benefit as potential victims.

## Recommendations

These recommendations were discussed and validated at the National Workshop: Assessment of the National Referral System in Moldova that took place on 27-28 June 2017 in Chisinau. The workshop was jointly organized by ICMPD, the IOM Mission in Moldova and the Ministry of Labour Social Protection and Family. Participants at the workshop included about 100 representatives of public institutions participating in the NRS at national and district level, representatives of NGOs and international organizations. National stakeholders comprised multiple professionals such as policy and law-makers,

social and health officials, lawyers, police, prosecutors, advocates, social workers, psychologists, etc. National stakeholders confirmed the validity of the report findings, commented and contributed to these recommendations.

The recommendations are grouped thematically according to the main components of the NRS i.e. institutional framework and coordination, victim identification, assistance and support, access to justice, return and repatriation.

### **Institutional framework and coordination**

1. Clarify function, tasks and responsibilities of the NRS Coordination Unit and allocate adequate resources to ensure more regular field visits and exchanges with centres for assistance at district levels, territorial multidisciplinary teams (TMDT) and other services.
2. Consider establishing a network of TMDT coordinators and provide training and professional growth opportunities to encourage more continuity in service (e.g. training opportunities in the capital or abroad; quarterly meetings and exchanges of experience with specialists in the CAP in Chisinau).
3. Support joint trainings of TMDT members with national law enforcement and NGO experts. Focus training particularly on: identification of internal trafficking and trafficking for forced labour, identification guidelines and use of related questionnaires, and protection of victims' rights. Also analyse questionnaires for victim identification filled by TMDT coordinators to inform the training.
4. Develop training for local public administrations (including mayors) on THB and their role and responsibilities in the functioning of the NRS.
5. Establish a common, consolidated and comprehensive data collection system that complies with data protection regulations, enables intra-sector data exchange and cooperation and fosters better informed policy- making and program development.
6. Assess the impact and implications for the future development of the NRS that stem from recent legislative reform in the areas of domestic violence, juvenile justice, human rights, and victims of crime.
7. Analyse the reasons behind the gap between the number of victims identified by law enforcement and the number of victims assisted within the NRS.
8. Establish/strengthen protocols for cooperation and referral of victims and potential victims (regardless of medical insurance) to available services by the Ministry of Health such as Youth Friendly Medical Centres, Reproductive Health Rooms and Centres for Mental Health.

### **Victim Identification, Assistance and Support**

9. Strengthen State budgetary contributions to victim support services to progressively reduce dependency on donor funding while guaranteeing that victims have access to the minimum package of free support services – as established under the Council of Europe Anti-Trafficking Convention- regardless of their residence status and their cooperation with the authorities.
10. Establish a mechanism to ensure that with the decentralization reform the minimum package of free

support services for victims of trafficking— as established under the Council of Europe Anti-Trafficking Convention – is guaranteed under state or local budget to avoid risk of lack of services at local level.

11. Establish a mechanism of referral to victim support in a different location than that of victim residence to handle cases where victims' safety is at risk; this would in turn help victims to escape the traffickers' influence and would reduce risks of stigmatization.
12. Strengthen human and financial resources available at the CAP in Chisinau to ensure that they have sufficient personnel, capacity (knowledge, skills, experience) and resources to serve the individual and specific needs of such a variegated target of beneficiaries.
13. Ensure that as long as mixed populations are assisted in the same care facility, necessary safety precautions and arrangements are taken to address possible concerns and prevent risks that most vulnerable beneficiaries - children and women - may have.
14. Initiate a process of reflection, review and analysis of the advantages and disadvantages of mixing beneficiary populations with very different and specific needs, situations and vulnerabilities in one specialised residential care service at national level, taking into account the context of limited and even diminishing resources. Such analysis should consider inter alia: the assistance needs of target beneficiaries, the range of services needed, staff capacities (knowledge, skills experiences required), security and safety of beneficiaries, suitability of the facilities, length of residential stay and duration of assistance program, relations between the various categories of beneficiaries, the opportunity to mix children and adults, funding and resources etc.<sup>173</sup>
15. Develop/support victim support programs for male victims of THB or at least develop minimum set of tailored services e.g. non-residential services.
16. Establish/strengthen mechanisms to systematically consult trafficked persons (adult and children) and other beneficiaries (potential victims) about their experience with services provided within the NRS. Use data to better inform policy-making and to improve provision of services.
17. Allocate state budgetary resources for contracting NGOs at national and local level to deliver social protection services to NRS beneficiaries.
18. Establish outreach services to work with socially vulnerable families and to proactively identify, refer and assist child victims and potential victims of trafficking especially among children at-risk, street children, children in sexual exploitation etc. Build necessary human and professional capacities to run these services.
19. Develop/support specialised services tailored to the needs of child victims/witnesses of crime (e.g. placement, psycho-social and rehabilitation services, legal aid in judicial proceedings etc.) and consider the possibility of public tender to contract specialised NGOs for delivery of such services.
20. Develop specific quality standards of care for cases involving children, and specifically child victims/witnesses building inter alia on the UN Guidelines for the Alternative Care of Children<sup>174</sup>.

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<sup>173</sup> See for example USAID, Methods and Models for Mixing Services for Victims of Domestic Violence and Trafficking in Persons in Europe and Eurasia, 2008.

<sup>174</sup> UN General Assembly, Resolution 64/142 Guidelines for the Alternative Care of Children, 24 February 2010.

21. Support joint trainings of TMDT members with child protection specialists, national law enforcement and NGO experts in identification and referral of child victims of abuse, exploitation, trafficking, in line with the Intersectoral Protocol and in cooperation with the National Social Assistance Agency.
22. Develop and fund income generating, microcredit and employment schemes for NRS beneficiaries and other social groups for the purpose of prevention and social inclusion.
23. Review current mechanisms and procedures to ensure victims effective access to public health care in accordance with the provisions of the Anti-Trafficking Law, and GRETA's recommendations.
24. Foster access to victim support services for single parents by providing options for childcare during their absence.

### **Access to Justice**

25. Raise victims' awareness and understanding of their rights, and in particular the right to compensation through audio-visual and other innovative information tools.
26. Ensure that victims have access to legal assistance from the first contact with the competent authorities to ensure adequate protection of their rights e.g. right to information, right to assistance, right to privacy, and right to compensation, right to be accompanied by a trustworthy person in court, etc. To this end, include victims of trafficking among the categories of beneficiaries for pro-bono legal aid and establish that they are not subject to an economic means test to be provided with such pro-bono legal aid.
27. Ensure that in addition to their social guardian child victims be provided with a legal representative specialised in children's rights that will assist the child for the whole duration of judicial proceedings. To this end revise relevant legislation on child protection and criminal procedure and foster continuity in the legal representation of the child.
28. Appoint a social worker with legal background from the CAP with the responsibility to provide information about rights and options for assistance to trafficked persons as soon as they enter in contact with law enforcement as presumed victims of THB.
29. Consider granting CCTP with exclusive competence for the investigation of THB offences.
30. Given the complexity of the tasks of fighting THB, ensure the involvement of trained and specialised prosecutors with expertise on leading THB investigations within the Prosecution Office for Combating Organized Crime and Special Cases, and secure necessary operational resources for leading THB prosecutions.
31. Strengthen measures to ensure protection of victim's right to privacy e.g. through capacity building of all competent authorities, review of the procedures for handling confidential information about victims etc.
32. Develop capacity building programs for lawyers (including pro-bono lawyers and human rights defendants) on protecting victims' rights and claiming compensation.
33. Ensure that victims are provided social assistance and psychological counselling before, during and after the completion of judicial proceedings.
34. Foster further cooperation between NRS social service providers (in particular social workers and psychologists involved in direct assistance) and law enforcement and prosecutorial authorities to

ensure that evidence regarding the victim condition and situation of vulnerability is properly gathered and systematically used to corroborate the abuse of a victim's position of vulnerability (i.e. means of trafficking) and other circumstances contributing to establishing the offence of THB.

35. Develop joint capacity building programs for prosecutors and judges to avoid repeated questioning of victims and to foster the use of special means of hearing victims to prevent secondary victimization. Ensure that the issue of trauma is part of such training.
36. Develop instructions and/or guidelines for law enforcement and prosecutors on the use of special hearing measures to prevent secondary victimization of trafficked persons.
37. Without prejudice to the rights of the defence, review Article 109 CPC and other relevant provisions to prevent secondary victimisation in the course of judicial proceedings and ensure that special means of hearing victims/witnesses are routinely used including by avoiding visual contact between victims and defendants.
38. Extend the use of special child-friendly hearing methods to all cases involving child victims, i.e. also to child victims above the age of 14.
39. Develop further complementary regulation for conducting child friendly interviews e.g. in relation to equipment standards of interview rooms, qualifications of interviewer etc.
40. Ensure continued training of all professionals (judges, prosecutors, lawyers, psychologists, interviewers etc.) involved in the interview of child victims/witnesses to ensure effective application of the new child-friendly interviewing procedure.
41. Develop/strengthen instructions and/or guidelines to be available for prosecutors and law enforcement on the application of the non-punishment provision, including in cases of THB for forced criminality, forced labour and slavery.
42. Promote through legislative changes and training the use of psychologist expert examination to provide evidence on the victim condition and to estimate the severity of moral damages.
43. Encourage and support with technical assistance the judiciary in the development of criteria for determining the amount of moral and material damages (e.g. through judiciary exchanges of practices with other countries with regard to the definition of categories for moral and material damages).
44. Revise the legal and procedural requirements for the execution of court decisions on compensation to ensure that they are accessible to trafficked persons and that they are not obliged to advance payments for execution and to pay fees to private executors.
45. Ensure that criteria for accessing the compensation fund for victims of crime render it accessible to victims of THB including by taking into account the specific conditions of victims of THB (e.g. a victim may have an administrative or criminal record for THB-related offenses in which authorities failed to apply the non-punishment; victims who were trafficked by abuse of a position of vulnerability and/or who were controlled through debt bondage and/or psychological coercion may not qualify as victims of violent crime etc.).
46. Support the development of a regularly updated case-law database on THB and related offences to assist legal practitioners.

**Return and Repatriation**

47. Ensure effective implementation of the new Government procedure on assisted return, and improve MLSPF management of assisted repatriation of adult and child victims.
48. Establish a monitoring mechanism to document that assisted return is done in a dignified manner and following proper risk assessment.
49. Strengthen mechanism for supporting and monitoring the child in the long-term process of rehabilitation and social inclusion after assisted return.

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## ANNEX I. List of interviewed agencies and organisations

- Ministry of Labour, Social Protection and Family
- Permanent Secretariat to the National Committee on Combating Trafficking in Human Beings, State Chancellery
- Ministry of Health
- Centre for Combating Trafficking in Persons, Ministry of Internal Affairs
- Centre for Assistance and Protection to Victims and Potential Victims of Human Trafficking (Chisinau)
- General Prosecutor's Office
- Social Assistance Unit of the Ministry of Labour, Social Protection and Family (Causeni),  
Representatives of the Territorial Multidisciplinary Team in Causeni
- Lawyers, legal representative of victims of trafficking
- NGO La Strada
- NGO National Centre for Prevention of Child Abuse „AMICUL”
- NGO Maternal Centre for protection and assistance Pro Familia, Causeni
- NGO Law Centre of human rights, Causeni
- NGO Terre des Hommes
- IOM Moldova
- OSCE Mission to Moldova