

Law on Preventing and Combating Trafficking in Human Beings

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The Parliament hereby adopts the present organic law.

CHAPTER I

General Provisions

Article 1. Scope of the Law

The present Law regulates legal relationships concerning:

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

Article 2. Main Terms

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

1) trafficking in human beings – recruitment, transportation, transfer, harbouring or receipt of a person, by means of threat of force or use of force or other forms of coercion, of abduction, fraud, deception, of abuse of authority or a situation of vulnerability, or by means of offering or receiving payments or benefits of any kind in order to obtain the consent of a person who has control over another person for the purpose of exploitation of the latter;

2) trafficking in children – recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation, even if these actions were not accomplished through any of the means provided in sub-paragraph 1);

3) exploitation of a person – abuse of a person in order to obtain profit, namely:

a) compelling to perform work or services, by use of force, threats or other forms of coercion, in violation of the legal provisions connected to labour conditions, remuneration, health and security;

b) slavery, use of certain practices similar to slavery, or resorting to other ways of deprivation of liberty;

c) compelling to engage in prostitution, to participate in pornographic performances, with a view to the production, distribution and any introduction into circulation of such performances, the acquisition, sale or possession of pornographic material, or practicing other forms of sexual exploitation;

d) compelling harvesting of organs or tissues for transplantation or collection of other component parts of the human body;

e) using a woman as a surrogate mother or for reproductive purposes;

f) abuse of child's rights with a view to illegal adoption;

g) use in armed conflicts or in illegal military formations;

h) use in criminal activities;

i) compelling to engage in begging;

j) sale to another person;

k) compelling to engage in other activities that violate fundamental human rights and freedoms.

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

4) child – any person under 18 years of age;

5) document – passport or identity card or any kind of travel documents of the person subject to exploitation;

6) seizure of documents – depriving by any means the person subject to exploitation of the documents mentioned in sub-paragraph 5);

7) debt bondage – the state of a person deprived of freedom, including the freedom of movement or holding hostage until he/she or a third party reimburses a legally or illegally established debt;

8) slavery – state or condition of a person over whom one or all entitlements flowing from a right of ownership are exercised;

9) slavery-like practices – state of a person who is kept or forced in a situation in which another person exercises mastery over him/her or forces him/her through deception or threats of violence, violence or other means of coercion to offer certain services, including to enter into or to remain as a concubine or in a marital relationship;

10) state of vulnerability – special state in which a person is found such that he/she is inclined to be abused or exploited, especially due to:

a) his/her precarious situation from the standpoint of social survival;

b) situation conditioned upon age, pregnancy, illness, infirmity, physical or mental deficiency;

c) his/her precarious situation due to illegal entry or stay in a country of transit or destination;

11) victim of trafficking in human beings – a natural person presumed or found to be subjected to acts of trafficking as provided for in sub-paragraphs 1) and 2).

12) trafficker in human beings – a person who participates in the organizing and carrying out of activities of trafficking in human beings;

13) identification of victims of trafficking in human beings – the process of verification of persons presumed to be victims of trafficking in human beings.

Article 3. Legal Framework

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

Article 4. Basic Principles of Combating Trafficking in Human Beings

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

- a) observance of human rights and fundamental freedoms;
- b) acknowledgment of trafficking in human beings as a crime affecting the fundamental human rights, dignity, liberty and integrity of human beings;
- c) inevitability of punishment for traffickers in human beings;
- d) legality;
- e) free access to justice;
- f) ensuring security and a fair attitude towards victims of trafficking in human beings;
- g) holistic use of preventive measures: legal, political, socio-economic and informational;
- h) social partnership, collaboration of public administration authorities with international organizations, non-governmental organizations, and other representatives of civil society;
- i) proportionality between the observance of fundamental rights of victims of trafficking in human beings and the conditions of criminal prosecution, in a manner that is not harmful to the rights of the defendant;
- j) equal treatment of all forms and types of national and transnational trafficking in human beings, whether or not related to organized crime, *etc.*;
- k) collaboration of competent public administration authorities and organizations of other states with international organizations in order to achieve the objectives of combating trafficking in human beings.

Article 5. Non-Discrimination

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

CHAPTER II

Institutional Framework.

Preventing and Combating Trafficking in Human Beings

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

(1) In order to increase the efficiency of activities to prevent and combat trafficking in human beings, especially in women and children, public administration authorities listed in the

present chapter, non-governmental organizations and other representatives of civil society shall engage, separately or in combination, in such activity.

(2) While performing activities to prevent and combat trafficking in human beings, public administration authorities listed in the present chapter shall collaborate among themselves through exchange of information, sharing experts, carrying out joint activities of victim examination and identification, personnel training, conducting socio-economic initiatives, as well as through other activities in the field.

(3) Non-governmental organizations and international organizations with activities in the field and represented in the Republic of Moldova shall be provided free rein when contributing to shaping the institutional framework and to activity to prevent and combat trafficking in human beings.

Article 7. National Plan for Preventing and Combating Trafficking in Human Beings

(1) For the purpose of preventing and combating trafficking in human beings, as well as for the protection of victims of such trafficking, the Government shall approve the National Plan for Preventing and Combating Trafficking in Human Beings (hereinafter referred to as the National Plan).

(2) The National Plan shall be approved periodically for a two-year term. It shall regulate the implementation of holistic measures and the realization of socio-economic initiatives aimed at preventing and combating trafficking in human beings as well as at protecting victims of such trafficking, including collaboration with international organizations, non-governmental organizations, other institutions and representatives of civil society.

(3) Central and local public administration authorities empowered in the field of preventing and combating trafficking in human beings shall adopt their own action plans for realization of the National Plan in their fields of activity.

Article 8. National Committee for Combating Trafficking in Human Beings

(1) Coordination of activity to prevent and combat trafficking in human beings and cooperation of public administration authorities with international organizations, non-governmental organizations, other institutions and representatives of civil society [in such activities], shall be carried out by the National Committee for Combating Trafficking in Human Beings (hereinafter referred to as the National Committee).

(2) The National Committee is a consultative body of the Government.

(3) The nominal composition of the National Committee and its Regulation shall be approved by the Government. The procedure for appointment and revocation of the members of the National Committee shall be regulated by the Regulation of the National Committee.

(4) The National Committee shall have the following powers:

a) to submit to the Government proposals on the fundamental elements of state policy in the field of preventing and combating trafficking in human beings and recommendations aimed at improving the activity of detection and elimination of the causes and conditions facilitating the appearance of trafficking in human beings and activities of trafficking in human beings;

b) to regulate implementation of the National Plan and observance of legislation on preventing and combating trafficking in human beings by state institutions and organizations, and to report to the Government on the means of implementation of the National Plan;

c) to collect and analyse information about the scope, conditions and trends of trafficking in human beings at the national level;

d) to submit proposals for legislative improvements in the field of preventing and combating trafficking in human beings and protection of victims of such trafficking;

e) to organize public awareness raising campaigns on issues of trafficking in human beings and social dangers of this phenomenon;

f) to coordinate the activity of territorial commissions for combating trafficking in human beings and specialized institutions with respect to realization of the National Plan and performance of actions to prevent and combat trafficking in human beings;

g) periodically to assess and monitor the process of realization of the National Plan and to inform the Government and civil society about the results obtained.

(5) The National Committee is comprised by representatives of public administration authorities, including law enforcement bodies, and organizations carrying out activities to prevent and combat trafficking in human beings.

(6) Representatives of non-governmental organizations and international organizations that have their representation offices in the Republic of Moldova and are involved in activities to combat trafficking in human beings and grant assistance to victims of such trafficking, may attend the meetings of the National Committee, with the right to a consultative vote, and they shall be included in the composition of the National Committee and the territorial commissions for combating trafficking in human beings.

(7) Organizational matters of the National Committee are ensured by a secretary, appointed by its Chairman.

(8) The National Committee shall submit to the Government periodically, but not less frequently than once per year, by February 1st, as well as upon request, a report on its activity. At any other time central public administration authorities may request information from the National Committee on the state of observance of legislation on preventing and combating trafficking in human beings.

Article 9. Territorial Commissions for Combating Trafficking in Human Beings

(1) For the purpose of coordination of activities to prevent and combat trafficking in human beings in districts, municipalities, and the autonomous territorial unit of Gagauzia, territorial commissions for combating trafficking in human beings shall be created within the executive bodies of the respective representative authorities. In the Chisinau Municipality, such commissions shall also be created within sectors.

(2) The territorial commissions for combating trafficking in human beings shall have the following functions:

a) to organize and coordinate activity to prevent and combat trafficking in human beings, protection and assistance to victims of such trafficking, and collaboration between local public administration authorities, law enforcement authorities, non-governmental organizations, institutions and other representatives of civil society working in this field;

b) to implement the measures set out in the National Plan at the local level;

c) periodically to assess and monitor on-site activities to prevent and combat trafficking in human beings carried out by state bodies and to inform and submit proposals regarding improvement of the effectiveness of these activities to the respective representative authorities and the National Committee;

d) to grant assistance in drafting research programs and assessments and collecting statistical data regarding trafficking in human beings;

e) to implement training programmes regarding preventing and combating trafficking in human beings for vulnerable persons and civil servants involved in such activities.

(3) The Regulation of the territorial commissions for combating trafficking in human beings shall be approved, respectively, by district councils, municipal councils, and the General Assembly of the autonomous territorial unit of Gagauzia on the basis of the Framework Regulation approved by Government decision.

(4) The territorial commission shall submit to the respective representative authority and the National Committee a periodic activity report not less frequently than once per year, by the 15th of January.

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

(1) In conformity with their functions:

1) The Ministry of Interior, Ministry of Foreign Affairs and European Integration, Intelligence and Security Service, and National Migration Bureau shall develop a list of states that pose an increased risk of trafficking in human beings and shall bring such list to the attention of interested bodies;

2) The Ministry of Foreign Affairs and European Integration, Intelligence and Security Service, Ministry of Interior, Frontier Guard Service, and National Migration Bureau shall take necessary actions to forbid [presence] on the territory of the Republic of Moldova by foreign citizens and stateless persons, where there is accurate information that they are traffickers in human beings;

3) The Frontier Guard Service shall undertake measures to prevent and combat trafficking in human beings through prevention, detection, and deterrence of attempted border crossings of the state border by traffickers in human beings, as well as illegal border crossings of the state border by victims of trafficking in human beings;

4) The Ministry of Health and Social Protection:

a) shall, with the assistance of the National Employment Agency, implement information activities on topics related to the situation in the labour market, vocational training programmes, or incentives for employment, by offering labour mediation services, professional information and counselling, vocational orientation and training, as well as consultations and assistance in starting a business activity;

b) shall, through social assistance bodies, ensure to victims of trafficking in human beings information and counselling and extend to them the facilities provided by law for socially marginalised persons;

c) shall develop medical assistance programs, including psychiatric assistance, and designate the medical institutions that will offer such assistance to victims of trafficking in human beings;

5) The Ministry of Education, Youth and Sports shall, in cooperation with other interested ministries, local public administration authorities, and non-governmental organizations working in this field, develop educational and training programmes for teachers, parents, children, and at-risk groups aimed at eliminating all the causes and conditions that encourage trafficking in human beings, especially in women and children;

6) The National Migration Bureau shall issue, as provided by law, immigrant certificates valid for a certain period to foreign citizens and stateless persons who are victims of trafficking in human beings;

7) The Ministry of Foreign Affairs and European Integration shall contribute to preventing and combating trafficking in human beings, especially through organizing and participating in negotiations in order to conclude international treaties with other states and international organizations in the field of trafficking in human beings, as well as through granting assistance and protection to trafficked persons abroad, within the limits of international legal provisions;

8) The Ministry of Information Development shall ensure the identification of victims of trafficking in human beings and shall issue residence permits or, as the case may be, identity cards to victims of trafficking in human beings who are foreign citizens or stateless persons, where their stay [in Moldova] is necessary due to their personal circumstances or due to their participation in criminal proceedings against the trafficker, under the conditions stipulated in paragraph (6) of Article 24;

9) The Ministry of Economy and Commerce, together with other interested ministries and departments, shall develop and implement socio-economic programmes aimed at the removal of the economic causes and conditions encouraging illegal migration, including trafficking in human beings;

10) The Ministry of Justice shall submit every 6 months the list of non-governmental organizations engaged in activities to prevent and combat the trafficking phenomenon and to assist and protect victims of trafficking. The Ministry of Justice, jointly with other central public administration authorities specified in this Article, shall prepare draft normative acts to regulate relations in the sphere of preventing and combating trafficking in human beings, as well as granting protection and assistance to victims;

11) The centres for assistance and protection of victims of trafficking in human beings shall issue provisional identity documents for the period of accommodation, with the possibility of extension as provided in Article 17.

(2) The central public administration authorities competent in preventing and combating trafficking in human beings, the local public administration authorities, and the territorial commissions for combating trafficking in human beings shall systematically organize informational awareness-raising campaigns for the population and shall develop and distribute publicity materials on the risks that potential victims of trafficking in human beings can be exposed to, in active collaboration with mass-media.

(3) The public administration authorities mentioned in the present Article shall periodically inform the National Committee about the actions undertaken to prevent and combat trafficking in human beings, by presenting proposals to increase the efficacy of these activities.

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

(1) The Ministry of Interior and its central and territorial subdivisions shall:

a) carry out activities to prevent and combat trafficking in human beings through prevention, detection, and deterrence of crimes related to trafficking in human beings in accordance with effective legislation by conducting criminal prosecution in criminal cases of trafficking and other related actions;

b) ensure, upon request, the physical protection of victims of trafficking in human beings throughout criminal proceedings and grant other assistance and protection according to this Law and other normative acts in this field.

(2) The Ministry of Interior, through its organizations specialized in preventing and combating trafficking in human beings, shall carry out operative investigative activities, criminal prosecution, international cooperation for the identification and protection of victims of trafficking in human beings, analysis and intelligence and shall facilitate the creation of regional centres for preventing and combating trafficking in human beings.

(3) The Ministry of Interior, supported by other ministries and departments, shall develop, administer and maintain an updated database regarding the phenomenon of trafficking in human beings, whilst respecting the confidentiality of the personal data of victims of trafficking in accordance with Article 21 of the present Law.

(4) The Ministry of Interior, jointly with the General Prosecutor's Office, shall carry out studies aimed at detecting and eliminating the causes and conditions encouraging trafficking in human beings and shall publish each semester in the mass media the statistical information and analytical reports on preventing and combating trafficking in human beings and protecting victims.

(5) The General Prosecutor's Office, within the scope of its competence, shall carry out activities to prevent and combat trafficking in human beings in compliance with effective legislation, shall coordinate, conduct, and perform criminal prosecution in cases related to such trafficking, shall represent the state prosecution in courts, shall supervise the observance of human rights, including of victims of trafficking, and shall take other necessary measures in this field. Within the General Prosecutor's Office, a specialized subdivision for preventing and combating trafficking in human beings shall be established.

(6) The Intelligence and Security Service and its territorial bodies shall carry out activities to prevent and combat trafficking in human beings through detection of connections of international

organizations and organized criminal groups with traffickers in human beings, as well as through other activities carried out within its terms of reference.

(7) A coordinating council of law enforcement bodies with functions in the field of combating of trafficking in human beings shall be created by the General Prosecutor.

(8) The law enforcement bodies shall submit annually, not later than the 10th of January, to the coordinating council of the General Prosecutor, reports on the observance within the country of legislation on preventing and combating trafficking in human beings; also the General Prosecutor shall submit these respective reports to the National Committee by the 20th of January.

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

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

(2) Non-governmental organizations may establish centres for the protection and assistance of victims of trafficking in human beings.

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

Article 13. Special Provisions in the Field of International Transportation

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

Article 14. Vocational Training and Education of Personnel

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

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

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

CHAPTER III

Protection and Assistance of Victims of Trafficking in Human Beings

Article 15. Identification of Victims of Trafficking in Human Beings

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

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

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

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

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

(2) The centres may be established by:

- a) the Government, on the proposal of the National Committee;
- b) local public administration authorities, on the proposal of the territorial commission mentioned in Article 9;
- c) international and non-governmental organizations, with notification to the National Committee;
- d) public administration authorities and non-governmental or private organizations, on the basis of an agreement on joint activities.

(3) The centres shall provide accommodation to victims of trafficking in human beings upon their personal request for a period of up to thirty days.

(4) The duration of accommodation specified in paragraph (3) may be prolonged:

- a) upon the recommendation of the physician during the period of treatment, but not longer than 6 months;
- b) upon the request of the criminal prosecution bodies or courts during the period of criminal proceedings, and when the life and health of the victim are threatened by real danger, the duration of accommodation may be prolonged even after the termination of criminal proceedings for a period deemed necessary for the protection of the victim, based upon the prosecutor's request;
- c) upon the request of the victim of trafficking in human beings, with an indication of the reasoned justification, for a maximum period of 30 days.

(5) Pregnant women, who are victims of trafficking in human beings, shall be entitled to accommodation in the centre for a period of up to one year.

(6) The regulation of organization and operation of the centres shall be approved by the founders, based upon the Framework Regulation approved by Government decision.

(7) The costs related to the centres' activity shall be covered from the founders' joint budgets.

(8) The organization and operation of the centres may be supported materially and financially by economic agents and entrepreneurs, according to the Law of Philanthropy and Sponsorship;

(9) In order to ensure the security of the premises where victims of trafficking in human beings are accommodated, the centres may seek free of charge assistance from the police.

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

(1) Professional integration of victims of trafficking in human beings shall be carried out with the support of employment agencies under the terms of the legislation in force.

(2) Employment agencies shall offer victims of trafficking in human beings priority free of charge services in the field of labour mediation, information and professional counselling, professional orientation and vocational training, as well as consultancy and assistance in starting up a business.

(3) Victims of trafficking in human beings are entitled to undergo a vocational training course financed from the unemployment fund.

(4) Beneficiaries of the services provided in paragraphs (2) and (3) shall be victims over the age of 16 years.

Article 19. Repatriation of Victims of Trafficking in Human Beings

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

(2) Upon request of a country of destination, the competent authorities of the Republic of Moldova shall verify, without undue delay, whether a victim of trafficking in human beings is a citizen of the Republic of Moldova or whether he/she was entitled to permanent residence in its territory upon entry into the country of destination, and shall so inform the soliciting state and simultaneously undertake measures for the victim's repatriation.

(3) For the purpose of facilitating repatriation of a victim of trafficking in human beings who is a citizen of the Republic of Moldova or who was entitled to permanent residence in the Republic of Moldova upon entry into the country of destination and who does not possess the necessary documents, the competent authorities of the Republic of Moldova, upon request of the country of destination, shall issue travel documents or any other authorization needed for the repatriation.

(4) The provisions of this Article shall apply without prejudice to any right granted to the victim of trafficking in human beings by any law of the country of destination.

(5) The regulation on the procedure of repatriation of victims of trafficking in human beings who are citizens of the Republic of Moldova or who were entitled to permanent residence in the Republic of Moldova upon entry into the country of destination, shall be approved by the Ministry of Foreign Affairs and European Integration, together with the Ministry of Interior and the Ministry of Information Development.

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

(1) Victims of trafficking in human beings shall be offered assistance in physical, psychological, and social recovery through specialized medical, psychological, legal, and social measures.

(2) A person who is presumed to be a victim of trafficking in human beings shall be deemed a vulnerable person and shall benefit from the minimum package of social and medical assistance provided by the institutions of the Ministry of Health and Social Protection. Persons who are recognized as victims of trafficking must be provided free assistance in the medical institutions defined by the Ministry of Health and Social Protection.

(3) The state, through its competent bodies and organizations, shall take prompt adequate measures for the identification and referral of victims of trafficking in human beings to protection and assistance services, offering them a reflection period of 30 days. During this period of time, the implementation of any expulsion order issued against this person shall be prohibited.

(4) Providing protection and assistance services shall not be conditioned upon the willingness of victims to make statements and to participate in the prosecution of traffickers.

(5) The competent public administration authorities shall inform victims of trafficking in human beings of their rights and about the authorities, institutions, and organizations that are competent in the field of preventing and combating trafficking in human beings and protecting and assisting victims of trafficking.

(6) Victims of trafficking in human beings shall be provided protection and assistance by the public administration authorities, the National Committee, and the territorial commissions for combating trafficking in human beings, within the scope of their competencies and in accordance with this Law and other normative acts.

(7) Non-governmental organizations active in the field are entitled to grant protection and assistance to victims of trafficking in human beings, including the protection of their interests in a criminal or civil suit.

(8) Each time when a competent authority or an international or non-governmental organization active in the field has reasonable grounds to believe that a person is a victim of trafficking in human beings, such person shall be offered all the protection and assistance measures provided for in the present Law.

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

(1) The private life and identity of a victim of trafficking in human beings shall be protected. The registration, maintenance, and use of personal information regarding a victim of trafficking shall be done by taking into account the special rules of confidentiality, with the aim of administration of justice and protection of victims only during criminal proceedings.

(2) Disclosure of information on the private life and identity of victims of trafficking in human beings and the conditions of these persons' trafficking is prohibited.

(3) It shall be prohibited to disclose information about state protection measures for victims of trafficking in human beings, about the persons who provide such protection, as well as about the persons who provide assistance in combating trafficking in human beings.

(4) Observance of the confidentiality of the information provided in paragraphs (1) to (3) shall be the duty of all persons, including those involved in activities to prevent and combat trafficking in human beings and to protect and assist victims, law enforcement bodies, courts, centres provided for in Article 17, as well as social workers.

(5) In case the life and health of a victim of trafficking in human beings are threatened by real danger, then she is offered, upon her request, based upon a court ruling, at the request of the prosecutor, of the criminal investigation body, the possibility to change his/her name, surname, date and place of birth, under the terms of the Law on Civil Status Acts and the Law on State Protection of an Injured Party, Witnesses and Other Persons Providing Assistance in Criminal Proceedings.

(6) The disclosure of information about safety measures and confidential data regarding victims of trafficking in human beings, as well as disclosure of information about criminal prosecution and measures provided to ensure the safety of the participants at criminal proceedings, shall be punished in compliance with legislation on criminal and administrative offences.

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

(1) The diplomatic missions and consular offices of the Republic of Moldova shall have the following duties:

a) to carry out activities to protect the rights and interests of citizens of the Republic of Moldova who have become victims of trafficking in human beings in the country of residence or, in countries where they have accredited missions, to contribute to their repatriation in

compliance with the legislation of the Republic of Moldova and the legislation of the country of residence;

b) in case of loss or impossibility of recovery of identity documents from the traffickers in human beings, to issue free of charge and in a prompt manner, jointly with the subdivisions of the Ministry of Information Development, documents or any other acts needed for repatriation in the Republic of Moldova by citizens of the Republic of Moldova who have become victims of trafficking in human beings;

c) to distribute to those interested informative materials regarding the rights of victims of trafficking in human beings, according to the legislation of the Republic of Moldova and the legislation of the state of residence;

d) to provide to public administration authorities and judicial bodies of the state of residence or in countries where they have accredited missions information regarding the legislation of the Republic of Moldova in the field of preventing and combating trafficking in human beings, regarding the rights of victims and their protection and assistance, including addresses for the Centres for the Protection and Assistance of Victims of Trafficking in Human Beings.

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

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

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

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

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

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

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

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

(4) Foreign citizens and stateless persons who are victims of trafficking in human beings mentioned in paragraph (1) are entitled to a reflection period of 30 days, to psychiatric and psychological counselling, and to medical and social assistance. These persons may also enjoy free of charge legal assistance for the exercise of their rights at all stages of the criminal

proceedings and to pursue their civil claims and lawsuits against the persons who perpetrated the crimes connected to trafficking in human beings, as provided by the Criminal Code. In this period of time, the implementation of any expulsion order issued against these persons is forbidden.

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

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

CHAPTER IV
Preventing and Combating Trafficking in Children.
Assistance and Protection of Child Victims of Trafficking in Human Beings

Article 25. Preventing and Combating Trafficking in Children

(1) Preventing and combating trafficking in children and assisting and protecting child victims of trafficking in human beings constitute a political, social, and economic concern of primary importance in the Republic of Moldova.

(2) The activity of public administration authorities, bodies, and organizations with duties in the field of preventing and combating trafficking in human beings shall focus on the best interests of the child.

(3) Public administration authorities, social agencies for healthcare and education, as well as non-governmental organizations, other institutions, and representatives of civil society shall, without delay, contact law enforcement bodies when it is known or suspected that a child has been exploited or trafficked or has been exposed to the risk of being exploited or trafficked.

Article 26. Special Principles for Combating Trafficking in Children

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

a) strict observance of the rights of the child provided in the UN Convention on the Rights of the Child and the Law on the Rights of the Child of the Republic of Moldova;

b) undertaking special protection and assistance measures to a child victim of trafficking in human beings;

c) respecting the opinion of a child victim of trafficking in human beings over 10 years old regarding all actions affecting him/her, taking into account the age, degree of maturity, and his/her best interests;

d) informing the child victim of trafficking in human beings about his/her situation and rights, protection and assistance measures, available services, repatriation procedure, and family reunification process;

e) ensuring that both the identity, as well as any details that may allow for the identification of the child victim of trafficking in human beings, are not made public in any case.

Article 27. Presumption of Age

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

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

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

(2) Taking a statement regarding a situation of trafficking from children by the criminal prosecution body or the court shall not prevent or delay the family reunification or return of the child victim to his/her country of origin, provided this is in the best interests of the child.

(3) When it is not possible to return a child to his/her country of origin or to integrate him/her into the country of destination, or when these solutions are not in the best interests of the

child, the authorities of both countries shall secure the relocation of the child victim to a third country, with the approval of the latter.

(4) The opinion of the child victim of trafficking in human beings over the age of 10 years shall be taken into consideration when deciding on his/her repatriation or relocation to a third country.

(5) The child victim of trafficking in human beings cannot be returned to his/her country of origin or transferred to a third country, if, following the evaluation of the risks and security, there are reasons to believe that the security of the child or his/her family is in danger.

(6) Children victims of trafficking in human beings who are foreign citizens or stateless persons are entitled to a temporary visa that ensures their right to legal residence in the territory of the Republic of Moldova until finding a sustainable solution regarding their return to the country of origin.

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

(1) The state shall secure the protection and assistance of children victims of trafficking in human beings from the moment when grounds arise to believe that the child is a victim of trafficking until the child's identification, integration, and his/her complete recovery, irrespectively of their cooperation with the authorities, as provided by Article 20, paragraph (4).

(2) After identification as a victim of trafficking in human beings, the child shall be urgently referred to the competent services for child protection, assistance, and rehabilitation.

(3) The National Committee, public administration authorities including law enforcement bodies, territorial commissions for the combating of trafficking in human beings, centres, non-governmental organizations, and other competent organizations shall be obliged to inform the tutorship and guardianship bodies immediately if they have any information about a child victim of trafficking in human beings in order to secure the protection of the child's rights.

(4) Where the child victim of trafficking in human beings is deprived of parental care, the tutorship and guardianship bodies shall appoint, as provided by law, a legal guardian, who will ensure that all decisions are taken in the interests of the child, who will make statements on behalf of the child, and who shall participate with the child in all criminal procedure and judicial actions, until a solution is reached in accordance with the best interests of the child.

(5) A child identified as victim of trafficking in human beings shall be granted a reflection period of 30 days in order for him/her to decide personally, through his legal representative or guardian, if he/she will testify against the trafficker.

(6) In case of accommodating children victims of trafficking in human beings in centres, they must be accommodated separately from adults.

(7) Children victims of trafficking in human beings shall be entitled to accommodation within the centre for a period of up to 6 months or for the duration of the legal proceedings.

(8) All the agencies and institutions whose activity is related to children victims of trafficking in human beings shall establish special practices and programmes for their identification, referral, protection and assistance, while at the same time observing the confidentiality of the information regarding the personal data and the victim status of the child.

(9) Children victims of trafficking in human beings shall be ensured the right to attend state educational institutions under the terms of the Law on Education.

(10) When children victims of trafficking in human beings are left without parental care or do not know their parents' whereabouts, they shall be ensured the possibility of an emergency search for their family or of instituting tutorship or guardianship, as provided by law.

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

CHAPTER V

Liability for Trafficking in Human Beings

Article 30. Liability for Trafficking in Human Beings

(1) Persons participating in the organization and commission of trafficking in human beings activities shall be brought to criminal liability as provided for by the Criminal Code.

(2) Crimes of trafficking in human beings have both a national and transnational character. In the latter case, the forms and techniques of investigation and criminal prosecution provided for such crimes by international and national legislation shall be applied.

(3) If any of the methods specified in sub-paragraph 1) of Article 2 have been used, the consent of the victim of trafficking in human beings to the intentional exploitation shall be irrelevant to bring the traffickers to criminal liability,

(4) Foreign citizens or stateless persons involved in trafficking of human beings shall be refused entrance to the territory of the Republic of Moldova or their entry visas shall be revoked.

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

(1) If activities of trafficking in human beings are performed through a legal entity that has a license to conduct business activities, and it is established that these business activities served as a disguise for the commission of the above-mentioned illegal actions, then the license shall be withdrawn and the legal entity shall be liquidated based upon a court judgement.

(2) The legal entity bears civil liability to the victims of trafficking for the damage inflicted upon them as a result of the actions mentioned in paragraph (1).

(3) Bringing a legal entity to justice shall not exclude personal liability of the natural persons who committed the crime of trafficking in human beings.

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

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

CHAPTER VI

International Cooperation

Article 33. International Cooperation

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

Article 34. Liaison Officers

(1) The present Law establishes liaison officers within the Ministry of Interior, as well as liaison prosecutors within the Prosecutor's General Office, who shall ensure mutual consultations with liaison officers or, respectively, liaison prosecutors operating in other countries, in order to coordinate joint activities during the detection, discovery, and criminal prosecution of cases of trafficking in human beings, as well as during protection and assistance of victims of trafficking in the course of criminal prosecution.

(2) With respect to data exchange about investigation and criminal prosecution of crimes stipulated in this Law, liaison officers and liaison prosecutors shall be the contact persons of the respective bodies for their counterpart organizations and institutions abroad.

CHAPTER VII
Final and Transitory Provisions

Article 35

(1) The Government, within the period of three months, shall:
submit proposals to the Parliament regarding harmonizing current legislation with the provisions of this Law;

adopt normative acts for implementation of this Law;

bring its normative acts in accordance with the present Law;

ensure the revision and abrogation by ministries and other authorities of their normative acts that contradict the present Law.

(2) Upon the proposal of authorities responsible for implementing this Law, the budget law shall annually provide necessary funds.

SPEAKER OF THE PARLIAMENT

Marian LUPU

Chisinau, October 20, 2005.

No. 241-XVI.

Criminal Code

Article 165. Trafficking in human beings

(1) The recruitment, transportation, transfer, harboring or receipt of a person for the purpose of commercial or non-commercial sexual exploitation, forced labor or services, in slavery or similar conditions, or for the purpose of using the person in armed conflicts or criminal activities, or for removing human organs or bodily tissues for transplant, when committed:

- a) with the use or threat of use of physical or psychological violence, which does not endanger the person's life and health, including kidnapping, seizure of documents and servitude, for the purpose of paying off an unreasonable debt;
- b) by deception;
- c) by abuse of vulnerability or abuse of power, by giving or receiving of payments or benefits to achieve the consent of a person having control over another person,

shall be punished by imprisonment for a term of 7 to 15 years.

(2) The same actions, when committed:

- a) repeatedly;
- b) against two or more persons;
- c) against a pregnant woman;
- d) by two or more persons;
- e) with the use of force endangering a person's life or physical or psychological health;
- f) with the use of torture, inhuman or degrading treatment aimed at ensuring the person's subordination, or with the use of rape, physical dependence, the use of a weapon, or by threatening with a disclosure of confidential information to the victim's family or to other persons, as well as through other means,

shall be punished by imprisonment for a term of 10 to 20 years.

(3) The actions set forth in paragraph (1) or (2), when:

- a) committed by an organized criminal group or by a criminal organization;
- b) resulting in severe injuries to the victim's bodily integrity, or in a mental illness, or in victim's death,

shall be punished by imprisonment for a term of 15 to 25 years or by life imprisonment.

(4) The victim of trafficking shall be exempted from criminal responsibility for the actions committed by him/her in relation to this procedural status, if he/she accepts to collaborate with the criminal investigations body on that particular case.

Article 166. Unlawful confinement

(1) The unlawful confinement of a person, if unrelated to the kidnapping of that person,

shall be punished by imprisonment for a term of up to 2 years.

(2) The same action, when committed:

a) repeatedly;

b) against two or more persons;

c) knowingly against a juvenile;

d) by two or more persons;

e) with the use of force endangering the person's life or health;

f) with the use of a weapon, or other objects used as weapons,
shall be punished by imprisonment for a term of 3 to 8 years.

(3) The actions set forth in paragraph (1) or (2), accompanied by the infliction of severe injuries to the victim's bodily integrity or health, or resulting by imprudence in the victim's death,

shall be punished by imprisonment for a term of 5 to 10 years.

Article 167. Slavery and conditions similar to slavery

The placing or keeping of a person in conditions where another person exerts control over him/her, or determining a person, by use of deceit, coercion, violence or threat of use of violence, to enter or to remain in a relationship of concubinage or marriage,

shall be punished by a fine in the amount of 200 to 600 conventional units or by imprisonment for a term of 3 to 10 years, in both cases with (or without) a deprivation of the right to hold certain positions or practice a certain activity for a period of up to 5 years.

Article 168. Forced labor

Forcing a person to work against his/her will, or coercing to compulsory labor, keeping a person under servitude for paying off a debt, obtaining labor or services by means of deception, coercion, violence or threats of use of violence,

shall be punished by imprisonment for a term of up to 3 years with a fine in the amount of 200 to 500 conventional units.

Article 206. Trafficking in children

(1) The recruitment, transportation, transfer, harboring or receipt of a child, as well as the giving or receiving of payments or benefits to achieve the consent of the person who has control over the child, for the purpose of:

a) commercial or non-commercial sexual exploitation, by means of prostitution or use in the pornographic industry;

- b) exploitation by forced labor or services;
 - c) exploitation in slavery or in conditions similar to slavery, including in the case of illegal adoption;
 - d) being used in armed conflicts;
 - e) being used in criminal activities;
 - f) removing organs or bodily tissues for transplants;
 - g) abandonment abroad,
- shall be punished by imprisonment for 10 to 15 years.

(2) The same actions, when involving:

- a) the use of physical or psychical violence against the child;
 - b) the sexual abuse of the child, his/her commercial or non-commercial sexual exploitation;
 - c) the use of torture, inhuman or degrading treatment aimed at ensuring the subordination of the child, or involving rape, or with the taking advantage of the physical dependence of the child, or with the use of a weapon, or with a threat of disclosure of confidential information to the child's family or to other persons;
 - d) the exploitation in slavery or in conditions similar to slavery;
 - e) the use of the child in armed conflicts;
 - f) the removal of organs or bodily tissues for transplants,
- shall be punished by imprisonment for 15 to 20 years.

(3) The actions set forth in paragraph (1) or (2), when:

- a) committed repeatedly;
- b) committed against two or more children;
- c) committed by an organized criminal group or a criminal organization;
- d) resulting in severe injuries to the bodily integrity or in a mental illness of the child, or in his/her death,

shall be punished by imprisonment for 20 to 25 years or by life imprisonment.

(4) The victim of trafficking in children shall be exempted from criminal responsibility for the actions committed by him/her in relation to this procedural status, if he/she accepts to collaborate with the criminal investigations body on that particular case.

Article 207. Illegal taking of children out of the country

Taking a child out of the country on the basis of forged documents or by other illegal means, as well as his/her abandonment abroad, for purposes other than the ones indicated at art. 206, shall be punished by imprisonment for 7 to 12 years.

Article 360. The taking, misappropriation, concealment, damaging or destruction of documents, imprints, stamps or seals

(1) The taking, misappropriation, concealment, damaging or destruction of documents, imprints, stamps or seals belonging to enterprises, institutions or organizations, irrespective of their type of property or legal form of organization, if such acts were committed for profit purposes or from other ignoble motives,

shall be punished by a fine in the amount of up to 400 conventional units or by imprisonment for up to 3 years.

(2) The taking, misappropriation, concealment, damaging, destruction or possession of identity documents or other important documents of individuals, for the purpose of restricting or constraining an individual's freedom, including the freedom of movement,

shall be punished by a fine in the amount of up to 500 conventional units or by imprisonment for up to 5 years.

Article 361. Fabrication, possession, sale or use of false official documents, imprints, stamps or seals

(1) The fabrication, possession, sale or use of false official documents which confer rights or exempt from duties, the manufacture or sale of false imprints, stamps or seals of enterprises, institutions or organizations, irrespective of their type of property or legal form of organization,

shall be punished by a fine in the amount of up to 300 conventional units or by imprisonment for up to 2 years.

(2) The same actions, when:

- a) committed repeatedly;
- b) committed by two or more persons;
- c) committed with respect to an especially important document;
- d) resulting in large scale damages to public interests or to the legally protected rights and interests of individuals or legal entities,

shall be punished by a fine in the amount of 200 to 600 conventional units or by imprisonment for 1 to 5 years.

Article 362. Illegal crossing of the state border

(1) The illegal crossing of the state border of the Republic of Moldova,

shall be punished by a fine in the amount of up to 400 conventional units or by imprisonment for 1 to 3 years.

(2) The same action, when committed repeatedly,

shall be punished by a fine in the amount of 300 to 600 conventional units or by imprisonment for 2 to 5 years.

(3) The actions set forth in paragraphs (1) and (2), when:
a) involving the use of force;
b) committed with the use of a weapon,
shall be punished by imprisonment for 3 to 8 years.

(4) The action of the present article does not extend onto foreign citizens arrived in the Republic of Moldova without the necessary passport or without authorization, for the purpose of using the right to asylum granted by the Constitution of the Republic of Moldova, nor to persons who are victims of trafficking in human beings.