

National Legal Framework- Republic of Moldova

1. Ratification of International Acts

The Republic of Moldova has signed and ratified the most important international acts in the field of counteracting trafficking in human beings:

- In February 2005, the Parliament of the Republic of Moldova ratified the United Nations Convention against Transnational Organized Crime¹, as well as the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplemented the mentioned United Nations Convention²;
- In March 2006, the Parliament of the Republic of Moldova ratified the Council of Europe Convention on Action against Trafficking in Human Beings, signed in Warsaw on May 16, 2005³.

Moreover, the Republic of Moldova has ratified the main conventions of the International Labour Organization related to issues of child labour exploitation:

- Convention 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour was ratified on February 14, 2002⁴;
- Convention 138 concerning Minimum Age for Admission to Employment was ratified by the Parliament of the Republic of Moldova on July 29, 1999⁵.

2. Legislative Acts, adopted by the Parliament of the Republic of Moldova

The Parliament of the Republic of Moldova adopted a number of special national legislative acts in counteracting trafficking in human beings:

- On October 20, 2005, the Parliament of the Republic of Moldova adopted the Law on Preventing and Combating Trafficking in Human Beings⁶. This law has been drafted with active participation of the civil society and with the support of the international community. International experts of the Council of Europe assisted in carrying out the legal expertise of the draft in order to ensure its compliance with the provisions of international agreements. The law determined the institutional structure of the counteraction of trafficking in human beings in the country, the obligations of participants to counteraction, the main counteraction directions, the right of victims etc.;
- The Parliament of the Republic of Moldova has established strict punishment for trafficking in human beings. Article 165 of the Criminal Code of the Republic of Moldova “Trafficking in Human Beings” stipulates punishment by imprisonment for up

¹ Law of the Republic of Moldova No. 15-XV of February 17, 2005 “On Ratifying the United Nations Convention against Transnational Organized Crime” (Official Monitor of the Republic of Moldova, 2005, No. 36-38, art.122).

² Law of the Republic of Moldova No.17-XV of February 17, 2005 “On Ratifying the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children, supplemented the United Nations Convention against Transnational Organized Crime” (Official Monitor of the Republic of Moldova, 2005, No.36-38, art.126).

³ Law of the Republic of Moldova No.67-XVI of March 30, 2006 “On Ratifying the Council of Europe Convention on Action against Trafficking in Human Beings” (Official Monitoring of the Republic of Moldova, 2006, No.66-69, art.277).

⁴ Law of the Republic of Moldova No.849-XV of February 14, 2002 “On Ratifying the Convention of the International Labour Organization No.182/1999 concerning the Prohibition and Immediate Actions for the Elimination of the Worst Forms of Child Labour” (Official Monitor of the Republic of Moldova, 2002, No.33-35, art.192).

⁵ Decision of the Parliament of the Republic of Moldova “On Ratification of the Convention of the International Labour Organization No.138” No.519-XIV of July 15, 1999 (Official Monitor of the Republic of Moldova, 1999, No.80- 82, art.392).

⁶ Law of the Republic of Moldova on Preventing and Combating Trafficking in Human Beings No.241-XVI of 20 October 2005 (Official Monitor of the Republic of Moldova, 2005, No.164 -167, art.812)

to 25 years for this crime⁷. The Criminal Code of the Republic of Moldova also includes a number of norms that stipulate punishment for similar crimes, such as forced labour (Art.168 Criminal Code), slavery and conditions similar to slavery (Art. 167 Criminal Code), illegal taking of children out of the country (Art.207 Criminal Code), etc.

- On December 2008 the Parliament adopted the Strategy of the National Referral System to Protect and Assist Victims and Potential Victims of Trafficking in Human Beings (NRS)⁸. This legislative act is aimed at creation of the NRS - a framework of collaboration through which the state structures fulfil their responsibilities regarding protection and promotion of the human/victims' rights and coordinate their efforts in strategic partnership with civil society, as well as with other active actors in this field (a mechanism of protection of the human rights). Creation of NRS in Moldova will contribute to the development of state democratic institutions based on the rule of law, and ensures the protection of fundamental human rights and freedoms through a system of political and legal guarantees. The structure and the organization of the NRS is designed to involve all levels of society: private persons, nongovernmental organizations and governmental structures at the local, national and transnational levels. The Strategy is accompanied by the Action Plan for its implementation in 2009-2011, what will serve an adequate solution for diminishing of trafficking in human beings phenomenon.

3. Court Practice Generalization

Taking into consideration the particular danger of trafficking in human beings, as well as to ensure correct and uniform application of the legislation on trafficking in human beings, in November 2004, the Plenum of the Supreme Court of Justice of the Republic of Moldova generalized the court practice according to Articles 165 and 206 of the Criminal Code, and on the basis of the norms of the international law in this field adopted the Decision "On Application of Legislative Provisions in Cases of Trafficking in Human Beings and Trafficking in Children"⁹. The Plenum explained the meaning of all the terms included in articles 165 and 206 of the Criminal Code of the Republic of Moldova, the combination of which constitutes the crime of trafficking in human beings (e.g. "recruitment", "harboring", "mental violence", "taking advantage of vulnerability condition", "commercial sexual exploitation", etc.).

4. Governmental Acts of the Republic of Moldova

The Government of the Republic of Moldova also adopted a number of normative acts in counteracting trafficking in human beings:

- In 2005 was approved the Regulations of the National Committee to Combat Trafficking in Human Beings¹⁰ - a permanent consultative body of the Government, created with the aim of coordinating the activity in anti-trafficking domain. This document determined the nominal structure, functions, and status of the Committee, functions of the Chairman and the Secretary, frequency of meetings, etc. According to the Regulations, representatives of non-governmental and intergovernmental organizations, which actively participate in counteraction to trafficking in human beings, may participate in the committee meetings with a consultative vote;

⁷ Criminal Code of the Republic of Moldova No.985-XV of April 18, 2002 (Official Monitor of the Republic of Moldova, 2002, No.128-129, art. 1012)

⁸ Decision of the Parliament of the Republic of Moldova No257-XVI from 05 December.2008 (Official Monitor of the Republic of Moldova, 2009, No.27-29, art. 66)

⁹ Decision of the Plenum of the Supreme Court of Justice of the Republic of Moldova "On Application of Legislative provisions in Cases of Trafficking in Human Beings and Trafficking in Children" No.37 of 22.11.2004r. Bulletin of the Supreme Court of Justice of the Republic of Moldova, 2005, No.8 p.4.

¹⁰ Decision of the Government of the Republic of Moldova No.775 from 1 August 2005 (Official Monitor of the Republic of Moldova, 2005, No.107-109, art.865)

- In 2006 has been adopted the Framework-Regulation on the Organization and Functioning of Centers for Assisting and Protecting Victims of Human Trafficking¹¹;
- In February 2008 was adopted the Regulation of the Territorial Commissions to Combat Trafficking in Persons¹², created to organize and coordinate anti-trafficking activity at the rayons' level;
- In March 2008, the Government approved the third National Plan to Prevent and Combat Trafficking in Human Beings¹³ developed in compliance with European standards on counteraction trafficking in human beings and taking into account the best practices in this field. The Plan provides for implementation of a great number of events in this field for 2008 – 2009;
- In August 2008 has been approved the Regulation on Procedure for Repatriation of Children and Adults – Victims of Human Trafficking, Illegal Migrants' Trafficking, as well as Unaccompanied Children¹⁴. The Regulation established the standard operating procedures for repatriation into the country of mentioned categories of persons, covering related expenses, identification of parents and other legal representatives of children, of human trafficking victims unable or with limited ability to take care of themselves; emergency protection of persons stipulated in this Regulation by provision of competent protection services.

It has to be mentioned that a number of legal initiatives of the Government have been carried out with direct participation of NGOs which proves that the Government recognises more and more the role of NGOs in anti-trafficking efforts.

At present, we can say that the normative and legal base of counteraction trafficking in human beings in the Republic of Moldova is generally created. Moldova has ratified the most important international conventions in this field. In Moldova there is a special law that regulates relations between the participants in counteraction trafficking in human beings, norms of the Criminal Code that stipulate strict punishment for traffickers in human beings, as well as normative acts of the Government that ensure implementation of the above-mentioned legislative acts.

The further development of the normative base should take place to implement new strategic approaches as provided by the Strategy of the National Referral System to Protect and Assist Victims and Potential Victims of Trafficking in Human Being, recently approved by the Parliament of Moldova:

- *standard operating procedures for identification, protection and assistance of victims of trafficking in human beings, including the protection of victims-witnesses;*
- *minimum quality standards for services to assist victims of trafficking in human beings;*
- *mechanism for accreditation of services providers;*
- *mechanism of monitoring and evaluation of the system to protect and assist victims and potential victims of trafficking in human beings at all level;*
- *other.*

¹¹ Decision of the Government of the Republic of Moldova No.1362 from 29 November 2006 (Official Monitor of the Republic of Moldova, 2006, No.186-188, art.1457)

¹² Decision of the Government of the Republic of Moldova No.234 from 29 February 2008 (Official Monitor of the Republic of Moldova, 2008, No.47-48, art.298)

¹³ Decision of the Government of the Republic of Moldova No.472 from 26 March 2008 (Official Monitor of the Republic of Moldova, 2008, No.69-71, art.453)

¹⁴ Decision of the Government of the Republic of Moldova No.948 from 07 August 2008 (Official Monitor of the Republic of Moldova, 2008, No.152-153, art.949)

