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A few words about this issue

This issue is dedicated to formation of the National Referral Mechanism for assistance and protection of trafficked persons in our country. This is the first of thematic issues, planned by the International Center “La Strada” (Moldova) and targeted to spotlight one of the most difficult problems of modern international community – trafficking in persons – and to search for ways out of this situation. We plan to dedicate each issue to a separate topic within this range of problems. Our edition is designed, first of all, for specialists whose work is related to counteracting trafficking in persons, including prevention of this phenomenon, prosecution of those guilty, and provision of assistance and protection to victims. We do hope our edition will become a useful source of information not only for professional groups, but also for representatives of authorities, and for all those who are not indifferent to prosperity and sustainable development of civil society in our country in line with generally recognized democratic values.

We also hope that our experience and point of view will be of interest to readers not only in our country, but also to our foreign colleagues, and that our edition will always describe the experience and standpoints of representatives of state authorities and non-governmental organizations from the Republic of Moldova, international inter-governmental organizations, and organizations from other countries. This is because trafficking in persons is a fundamentally transnational problem, and international cooperation, including exchange of information between representatives of various countries, is needed to solve this problem.

We did not incidentally select the National Referral Mechanism – the new European strategy of combating trafficking in persons – as the topic of our first edition. This topic is interesting, first of all because the progressive European community has finally recognized the need in a new conceptual approach to organization of combat against trafficking in persons, based on respect of human rights and humane treatment of victims. This fact requires widespread publicity, despite the range of measures already adopted by the international community in Moldova and other European countries. Secondly, this topic touches upon the activity of very many structures (national, international, and foreign), involved in counteracting trafficking in persons; it requires apprehension and discussion of the role played by each institution, and consideration of particularities of our country.

The topic of this edition is dedicated to the issue of observance of human rights – our primary concern by employees of non-governmental human rights organizations. This topic profits from practical experiences already made in other countries to start the implementation of this strategy, taking such experiences into account in our activity. We hope this edition will become our contribution to the creation of the National Referral Mechanism in Moldova and will contribute to the protection of human rights of trafficking victims who are our fellow citizens to have experienced the aggregate of cruelty and nightmare of modern slavery, those people for the sake of whom we work.

Authors’ Note

What is trafficking in persons?

“Trafficking in persons” shall mean ‘the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

According to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, art. 3 (a)).
I. DEFINITION AND KEY ELEMENTS OF NRM

I.1. National Referral Mechanism for Assistance and Protection of Trafficked Persons – New European Strategy of Counteracting Trafficking in Persons

**Brief introduction to the referral mechanism**

The concept of National Referral Mechanism for assistance and protection of trafficked persons (hereinafter referred to as NRM) is an innovative strategy of counteracting trafficking in human beings, which co-opted the best theoretical and practical achievements of different European countries in this field. According to the opinion of experts from various European and international organizations, including OSCE, implementation of the NRM in the countries of traffic destination, transit, and origin will allow to significantly increase the efficiency of counteracting trafficking in human beings, to raise this work to a brand new level.

In 2003, OSCE country members, including the Republic of Moldova, approved the OSCE Action Plan to Combat Trafficking in Human Beings which envisages creation of NRM in each country.1

A year later, a Practical Handbook to Create NRM, developed by OSCE/ODIHR, came off the press. According to this Handbook, the NRM “… is a cooperative framework, through which the state actors fulfill their obligations to protect and promote the human rights of trafficked persons, coordinating their efforts in a strategic partnership with civil society and other subjects, which deal with trafficked persons”.2

Given the complex nature of theoretical postulates that ground the concept of the NRM, we will try to analyze its core on the pages of this publication by answering consecutively a number of key questions for each aspect of this concept.

**What are the premises of NRM creation in European countries?**

In response to this question it is essential to point out, first of all, that the approach to assistance and protection of trafficked persons presently in place in Europe is far from being perfect. These days, all countries easily recognize fundamental human rights and freedoms, including the right to leave the country of residence, at the level of international law. But at the level of national law (both in theory and practice), the issues of observance of the human rights are submerged. Each country primarily strives to protect its national interests, often with a negative impact upon the observance of human rights. That is why in countries of destination, where trafficked people were exploited as slaves, they are first of all regarded as criminals, who violated the procedure of entering

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and/or staying in the country. They are subject to deportation from the given country without investigation of facts in the case, without being rendered assistance and support.

Even in the most developed democratic countries the victim can count on recognition, protection of rights and assistance only under the condition of collaborating with police authorities and testifying. Meanwhile, the trafficked person is, as a rule, traumatized, and cannot make well-thought decisions. Besides that, trafficked persons do not trust the police and do not immediately accept collaboration with the police officers. They are apt to believe that police are corrupt and afraid of criminals’ (traffickers’) revenge. Sometimes it takes weeks or even months before the trafficked person overcomes the post-traumatic syndrome and is again able to think and talk normally. If a trafficked person nevertheless agrees to testify, public institutions and governmental organizations use approaches divergent to the victim’s interests. Law-enforcement authorities of countries of destination are above all interested in the successful criminal prosecution of traffickers. Tending to the psychological and physical state of the victim, as well as the protection of the victim’s interests is the lot of non-governmental organizations. This attitude does not contribute to stabilize the psychological state of the victim and can even drive the latter into withholding the original testimony.

Often, repatriation leads the trafficked person into another stress situation. First of all, the victim returns to the same conditions of poverty, despair, and, quite frequently, violence, from which the victim tried to escape by going abroad. Besides that, the victim often faces public reprimand. Frequently, people who are ignorant of all aspects of the trafficking in human beings issue (and such people are the majority), make categorical statements: “She is the one to blame! She knew very well where she was going. She got what she was looking for!”. The victim’s repatriation also does not remain unobserved by those who involved her into the traffickers’ networks. Thus, for instance, research carried out in Moldova by the International Center for Women Rights Protection and Promotion “La Strada” shows that every second recruitment was performed by people known to the victim or even by relatives. Usually, such people, being afraid of criminal prosecution, try in every possible way to intimidate the victim by threatening bodily harm to the victim or victim’s family members. Therefore, both in the country of origin and in her own country, the trafficked person, fearing social isolation and the revenge of criminals, prefers to keep silent and not to turn to the state authorities or social organizations for help and protection.

As a result of the above-described attitude to trafficked people, both in countries of destination and in countries of origin, the majority of cases of trafficking in human beings remain undetected. According to international experts, up to 65% of trafficked persons are not identified, whereas criminals to have involved the victim into the “seven circles of hell” remain unpunished and continue their criminal business. In the upshot, not only rights and interests of victims are violated, but also the efficiency of combating trafficking in human beings is undermined. Even if the trafficked

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person gets assistance, very often this assistance is of short duration; it is insufficient for the person to fully re-integrate into the social life and independently maintain herself/himself. A desperate economic family situation sometimes leads to re-trafficking of the trafficked person, i.e. to repeated recruitment and sale.

All these issues dictate, in fact, creation of the NRM that, by its core, can be viewed as the optimal solution.

**Why is it necessary to create the NRM in Moldova?**

The research, carried out by the International Center "La Strada" (Moldova) in August-December 2003, showed the existence of some problems related to identification, assistance, and protection of trafficked persons.

<table>
<thead>
<tr>
<th>Problem</th>
<th>Reason</th>
</tr>
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<tbody>
<tr>
<td>The majority of trafficked persons do not have access to assistance and protection</td>
<td>Lack of flexible and operative system of identification of trafficked people, of common principles of victims identification.</td>
</tr>
</tbody>
</table>
| People, identified as victims of trafficking in human beings, do not always receive the package of services which ensures rehabilitation, social re-integration, and access to justice | 1. Lack of standard procedures of work with trafficked persons, established in compliance with international standards of human rights  
2. Lack of coordination in provision of assistance to trafficked persons, and lack of specialization in provision of services  
3. Lack of unified system of monitoring of victims’ fates  
4. Lack of special training for the majority of people involved with victims of trafficking in persons by virtue of their professional occupation  
5. Lack of financial means and specialists |
| Quality of work with victims does not correspond to international standards. Basic principles of work with victims (confidentiality of information about victims, principle of supremacy of victim’s human rights observance, etc.) are violated | 1. Lack of standard principles of work with trafficked persons, established in line with international standards  
2. Lack of liability for quality of work with victims  
3. Lack of special training for the majority of people involved with victims of trafficking in persons by virtue of their professional occupation  
4. Lack of free-for-all information database containing information necessary for the correct organization of identification, assistance, and protection of victims |
| The high-priority rights to provision of rehabilitation, information and protection, etc. are violated. | Different organizations have different approaches to this issue |

A solution of these issues is subject to the collaboration between the state structures (Ministry of Labor and Social Protection, Ministry of Internal Affairs, Ministry of Public Health, Department of Informational Technologies, etc.), public organizations of the Republic of Moldova, and international and intergovernmental organizations that render assistance to trafficked persons.

The strategy and principles of collaboration between the state and non-governmental institutions, envisaged in the concept of the NRM, can significantly improve the status quo in Moldova in terms of identification, protection, and assistance to trafficked persons.

**What should be undertaken on the European level as to intensify the combating of trafficking in persons?**

International experts in the field of trafficking in human beings came to the conclusion that to intensify the combating of trafficking, the approach on how to combat trafficking needs to be revised. It is necessary to reject repressive strategies against trafficked persons and to ensure a new conceptual approach, based on the respect of the human rights and humane treatment of victims. This approach is incorporated in the concept of the NRM – a special cooperative framework, which unites state actors and subjects of civil society (non-governmental or-
ganizations, spearheads, etc.), which by virtue of their activity interact with trafficked persons.

This cooperative framework should be based on unique guiding principles and on the respect of human rights, and should be coordinated by the unique center. The framework should ensure identification of trafficked persons and consecutive referral thereof to specialized structures for provision of assistance and protection.

The referral process should be transparent, responsibility and authorities of each participant should be strictly determined in such a way as to guarantee the protection of victims' interests and observance of human rights.

To enhance the collaboration within the NRM in a given country, it is necessary, when developing the framework of such collaboration, to take the real possibilities of this country, the political situation, economic and social policy, the infrastructure designed for combating trafficking in human beings, as well as other factors into account.

The most important task of collaboration between state- and civil society actors within the NRM is to harmonize the society’s interests in suppressing the criminal activity of traffickers and the personal interests of a trafficked person. Only by showing unconditional and sincere concern about the victim, by granting the victim comprehensive assistance and support, and really protecting the latter against testifying-related risks, it is possible to gain the victim’s confidence, ensure consecutive help to criminal prosecution of traffickers, make this prosecution successful, and prevent new crimes.

International Center “La Strada”
I.2. Structure of National Referral Mechanism for Assistance and Protection of Trafficked Persons

How can the NRM be made sustainable?

The structure of the National Referral Mechanism for assistance and protection of trafficked persons will be more sustainable if based on national institutions already in place. Therefore, creation of the NRM should start with an assessment of the institutions – would-be participants to the NRM. The objective of this estimation is to determine the state or non-governmental organizations which significantly contribute to combating trafficking in human beings in this country; and which should participate in the NRM. “Based on the estimation results, it is possible to develop and create the corresponding structure of the NRM, to determine participants, and to select the action program.”

Which are the organizations in Moldova that render assistance and protection to trafficked persons?

Research, carried out by International Center “La Strada” in August-December 2003, showed that there are about 40 national, international, and foreign structures in Moldova, which render services related to identification, assistance, and protection of trafficked persons. This list can be extended by attracting organizations which render services to other categories of population in need of the society’s support.

State Structures

Results of the research show that some state structures in the Republic of Moldova.

The coordination of the above-mentioned state authorities’ activities is organized by the **National committee for combating trafficking in people**, which was created within the **Government of the Republic of Moldova in 2001.**

**Non-Governmental Organizations**

There are about 20 Moldovan non-governmental organizations actively working in the field of counteracting trafficking in persons. The most experienced and well-known are as follow:

**International Center for Women Rights Protection and Promotion “La Strada”** has the only Hot Line in Moldova, which serves to receive free of charge calls on a twenty-four hour basis from potential and already trafficked victims. The Center’s specialists identify trafficked persons, help liberate those from the places of exploitation, repatriate, provide psychological, social, and humanitarian assistance;

**Center for Prevention of Trafficking in Women** provides legal and social assistance to trafficked persons. It has branches in Balti, Ungheni, Cahul;

**“Save the Children” Moldova** provides medical, psychological, humanitarian assistance to the trafficked children as well as organize repatriation assis-
It provides shelter and social support, as well as helps with vocational training.

Over the recent years, an Italian non-governmental organization Italian Consortium Solidarity (ISC) has become known in Moldova for its training programmes and small business development assistance for the trafficked persons. This organization also provides social and psychological assistance to trafficked persons, as well as assistance in re-integration.

The research showed that the list of NGOs which provide assistance and protection to the trafficked persons can be extended by attracting organizations, which render services to certain categories of socially vulnerable strata of population, and which are ready to enlarge the circle of their beneficiaries.

**International Support**

Despite the increasing number of domestic organizations which provide assistance to the trafficked persons, the leading role in this field is still played by the international community. First of all by inter-governmental organizations, which enjoy a large financial, informational, and organizational potential.

**IOM (International Organization for Migration)**, mission to Moldova, does not only support the projects of other organizations that provide assistance and protection to the trafficked persons, but also directly helps the trafficked people. IOM provides medical, psychological and legal assistance for victims of trafficking in persons; it provides financing to various programmes of trafficked persons rehabilitation, training, assistance to trafficked children in job-placement. It manages a special shelter for the trafficked persons;

**OSCE Mission to Moldova** aims at enhancing efforts for the prevention of internal and external trafficking in humans, strengthening protection and assistance to trafficked victims in the Republic of Moldova. The Mission provides assistance to the state structures in creation of legal and institutional framework for efficient prosecution of traffickers. The Mission is completely based on the principle of respect for human rights of the trafficked victim.

**ILO – IPEC (International Labour Organization – International Programme on the Elimination of Child Labour)** carries out research on trafficking in children; it supports the Government’s and the civil society’s efforts in preventing trafficking in children, liberation, repatriation and restoration of victims’ rights, strengthening of the judicial system and police. IPEC also finances programmes for the rehabilitation of trafficked children, training, as well as assistance in job-placement of potential and really trafficked children;

**ILO – Migrant (International Labour Organization – International Migration Programme)** provides assistance in developing an adequate migration policy, adopting measures of efficient management of labor migration, and prevention of trafficking in persons. It finances programmes for prevention of trafficking in persons, rehabilitation of trafficked people, education, assistance in job placement, creation and development of small business for potential and real trafficked persons;

**UNICEF Moldova** finances educational programmes for children, programmes for prevention of unemployment and trafficking in children, as well as programmes for rehabilitation of trafficked persons. In partnership with IOM, it maintains a special shelter for trafficked children.

In Moldova, there is a growing number of programmes for prevention of traf-
fucking in persons, provision of assistance and protection to the trafficked persons, financially backed by the US Government and its structures (USAID, US Department of Labour etc.), The European Union, UNDP, Stability Pact South-Eastern Europe, governments and organizations are contributing in combating this social phenomenon.

**Based on international experience, what composition of participants to NRM in the Republic of Moldova could be recommended?**

The experience of other countries, where the NRM is already active, shows that the number of participants to the NRM should initially not be big. This will help successfully coordinate the activities and clearly determine the obligations and responsibilities of the participants. Usually, there are not more than 5-6 organizations within the NRM – representatives of the state and the civil society. Once operations start running smoothly, the number of participants to the NRM can be gradually extended.

It would be important to have the Ministry of Internal Affairs on board of the NRM. The police must guarantee the observance of trafficked person’s rights in compliance with international standards on behalf of the state.

Particular care and support should be provided to those trafficked persons, who testify during criminal proceedings on trafficking in persons. At the same time, protection of trafficked persons should become a mutual concern for the law-enforcement authorities and the specialized NGO.

A special point in the fight against trafficking in persons is assistance during the process of identification of potential trafficked persons, as well in the follow-up stages. Thus, the Ministry of Labour and Social Protection together with the subordinated authorities of social protection of the population and the network of job placement bureaus could actively contribute to this task of the NRM on behalf of the state structures.

One of the NGOs, included in the NRM, should act as the NRM Drop-in Center for identification of trafficked persons and consecutive referral thereof to various specialized organizations, which are initially not necessarily its members at first. It is just important that the referral process be transparent and carried out from the unique center. In addition, each process inside the NRM should be monitored and evaluated for compliance with human rights and observance of standards of work with victims.

The structure of the NRM should obligatorily include the organization which runs the shelter for the trafficked persons, and which is indispensable for the provision of assistance to the victims right after repatriation. Since this shelter in Moldova is run by the IOM Mission Moldova – an inter-governmental organization, this organization must be included in the structure of the NRM.

In order to establish a stable and successful structure of the NRM in the Republic of Moldova, collaboration between the state authorities and the civil society will be needed from the start.

*International Center “La Strada”*
I.3. Coordination of Actions within NRM: What Should Coordination in Moldova Look Like?

How to organize coordination of general issues related to functioning of the NRM?

As a rule, to coordinate actions at the national level, a special national authority is created (national committee, multi-disciplinary working group, committee, or some other authority), which includes representatives of state actors, non-governmental organizations, and international inter-governmental organizations that actively perform in counteracting trafficking in persons. This National coordinator should solve the most important (strategic) issues related to coordination. It should also periodically analyze and evaluate the work of participants to the NRM, integrate information about other countries' experience, and draft measures to combat trafficking in persons.

The National Committee to Combat Trafficking in Persons (NC), which has already rendered major contributions to overcome this dreadful social phenomenon in our country and to draft the national policy in this field, should act as the National Coordinator in Moldova.

It is necessary to point out that despite the fact the NC has been operating in Moldova for about three years now, its legal status and the procedure of adoption of decisions have not been determined, yet. The draft Law on Combating Trafficking in Persons determines the status, the scope of authorities of the National Committee, the decision-making, as well as the procedure of appointment and rotation of committee members.

An addition to the National Coordination Committee, some countries also have coordination committees at regional and local levels. This ensures cooperation with local governments.

In the Republic of Moldova, regional and local coordinating functions can be performed by regional and municipal committees to combat trafficking in persons, which were created in the majority of regions of the Republic of Moldova in 2003 upon decision of the National Committee.

How are the current activities of the NRM participants coordinated?

To coordinate the current activity of participants to the NRM, i.e. activity targeted to solving particular issues related to cases of trafficking in persons, working groups will be created out of the number of specialists from organizations-participants to the NRM. A working group should be mobile, i.e. it must have its own transport means and work on a twenty-four hour basis. Usually, a mobile working group would include a member of the Drop-in Center, who receives calls on the hot line from people asking for help, a psychologist, law-enforcement collaborators, and other specialists, depending on particular case.

The working group should perform its activity according to certain standard operational procedures set (compulsory of all members of the working group, both for representatives of NGOs and GOs).

For instance, the Frontier Service of Moldova could be one of the important sources of information about potential victims of trafficking in persons. According to our data, a significant number of trafficked persons returning home have problems with
their identification documents (term of stay in the country expired, or passport lost). The passport check at border-crossing points brings border guards in direct contact with presumable victims of trafficking in persons. Currently, this possibility is not duly used for information about the rights and identification of trafficked persons. Mobile group members, equipped with means of transportation could, jointly with the border service, discover presumable victims of trafficking in persons for further identification, assistance, and protection.

International Center “La Strada”
II. REGULATORY FRAMEWORK


The following is our reference about regulatory acts of the Republic of Moldova with regard to combating trafficking in persons:

Over the recent years, Moldova adopted some regulatory acts with regard to combating trafficking in persons. First of all, the Government of the Republic of Moldova adopted the Decision “On approval of personnel of the National Committee for Combating Trafficking in Persons and the National Action Plan to Combat Trafficking in Persons” No. 1219 as of 09.11.2001 (Official Monitor RM, 2001, No. 136-138/1274).


Despite the significant number of traffic victims, Moldova has not yet adopted a legislative act, which would determine the state policy in this field, nor the state measures to counteract this phenomenon. Draft Law of the Republic of Moldova on prevention and combating of trafficking in persons has already been drafted by the Ministry of Justice of the Republic of Moldova. All organizations that actively work in the sphere of combating trafficking in persons have submitted their conclusions about the draft.

The United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime, known as the Palermo Protocol, is a model for drafting of the national legislation in the sphere of trafficking in persons. This Convention was signed by representative of the Republic of Moldova in December 2000, and on February 17, 2005 the Parliament of the Republic of Moldova has ratified the Convention and its Protocol.

What document should be drafted to legally formalize creation of NRM?

For creation of the NRM it is necessary to adopt a document which should formalize (legislate) collaboration between the state and non-state structures that deal with trafficked people. The experience from various countries having established such collaboration shows that the document can be drafted in the following forms:

- internal instruction of the corresponding Ministry (in the majority of cases it is the Ministry of Internal Affairs or the Ministry of Justice), or
- bilateral or multilateral memorandum of understanding.

Memorandum of understanding is the most wide-spread and the most preferable means to formalize collaboration, because this document is the result of negotiations between the corresponding organizations.

In any case, the document on creation of the NRM should determine:

- composition of participants to the NRM;
- authority and liability of each participant;
- principles of collaboration between the participants;
- principles of work with trafficked people;
- standard procedures (sequence of events);
- procedure of coordination of activities of participants to the NRM.

There is no doubt that foreign experience in creation of the NRM should be adjusted to conditions of the Republic of Moldova. Having mentioned the adjustment, it is worth pointing out that this form of agreement (memorandum of understanding), is not stipulated in the legislation of our country. However, some NGOs have concluded such agreements with state authorities. This is rather the result of the experience held by of foreign NGOs, than based on national legislation.

Taking into account our legal tradition, as well as the fact that the draft Law of the Republic of Moldova on prevention and combating of trafficking in persons has already been prepared, it would be more preferable to envisage in this law the procedure of creation of the NRM in the Republic of Moldova and the form of the document necessary for the creation thereof. This was also recommended by the international experts of the OSCE Office for Democratic Institutes and Human Rights (ODIHR) in Warsaw and OSCE mission in Moldova, who carried out expertise of the draft law in April 2004 at request of the Government of the Republic of Moldova.¹

¹ Preliminary recommendations to the draft Law of the Republic of Moldova on prevention and combating trafficking in human beings. Legislative assistance unit within the OSCE Office for Democratic Institutes and Human Rights, Warsaw, 2004, p. 17.

International Center “La Strada”
II.2. Draft Law on Prevention and Combating Trafficking in Persons

The introduction of article 113/2 "Illegal trafficking in persons" into the Criminal Code as of 1961 was the first step made by the national authorities with a view to combating trafficking in persons. This article was drafted and introduced as amendment to the current Criminal Code of the year 2001, upon recommendation of experts of the Council of Europe and OSCE. These experts significantly contributed to promotion of the standard, which would correspond to the requirements of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children, supplementing the UN Convention Against Transnational Organized Crime, which was signed by the Republic of Moldova in December 2001.

Later on, this corpus delicti was introduced in article 165 (but not only in this one) of the new Criminal Code, adopted in April 2002, and put into effect on June 12, 2003. It should be mentioned that the new Criminal Code defines trafficking in persons in compliance with international standards in this field.

Approval on November 9, 2001, of Government Decision No. 1219 „On approval of personnel of the National committee for combating trafficking in persons and the National Action Plan to combat trafficking in persons" was another more significant step made by the national authorities. This plan is of complex and multidimensional character, and particularly reflects the activity related to research and estimation, awareness raising, and prevention of trafficking in persons, to assistance and social reintegration of victims, as well as regulates some legislative aspects.

It is worth mentioning that within the framework of the above-mentioned Committee, three working groups of representatives from different institutions, both public and non-governmental, were created. The National committee should implement the National Plan. The Ministry of Justice, for instance, will have to implement and carry out the study of national legislation in the field of trafficking in persons.

Though there is no separate law regulating combat against trafficking in persons as well as assistance and protection of trafficked persons, a pertinent legislative framework already exists. The national legislation regulates some aspects of provision of assistance and adequate support to trafficked persons willing to collaborate as witnesses. Inter alia, the following can be mentioned: targeting the criminal prosecution towards traffickers, and not towards the victims; empowering the corresponding court authorities to oblige criminals pay compensations to victims, etc. Such standards exist in the Law on State protection of victims, witnesses, and other people providing assistance during criminal proceedings, No. 1458-XIII as of January 28, 1998, the Criminal Code, the Code of Criminal Procedure, the Law on operational investigation, No. 45-XIII as of April 12, 1994 etc.

At the same time, the scope of trafficking in persons in the Republic of Moldova, as well as legislative traditions, confirm the necessity to adopt a separate law that would ensure a
complex solution of this problem. In this respect, in compliance with item 14 of the Government Action Plan for the 1st quarter of the year 2004, approved by the Government Decision No. 1577, as of December 26, 2003, the Ministry of Justice drafted a Law on prevention and combating trafficking in persons. Drafting of this law also represents the realization of initiatives by the Republic of Moldova as Chairman of the Committee of Minister of the European Council in December 2003 – May 2004.

It is also worth mentioning that at the moment of launching the initiative of drafting the Law on prevention and combating trafficking in persons, the Ministry of Justice had already developed two versions of the draft. The Ministry of Justice submitted the first version to the National Committee for combating trafficking in human beings on October 23, 2003. The first version was rejected by the majority of interested authorities, since it did not encompass the entire range of necessities/services in the sphere of prevention and combating of trafficking in persons.

Having taken the observations and suggestions by the interested authorities into account, the second version of the draft Law on prevention and combating trafficking in persons was developed. The new version of the draft was submitted to the Government on March 16, 2004. Besides that, it was pointed out that since this draft is subject to increasing attention from the non-governmental organizations and other representatives of the country’s civil society, as well from international institutions (OSCE, Council of Europe, European Union, etc.), it is of utmost importance that the draft should be subject to expertise by the above-mentioned institutions.

The State Chancellery supported the initiative of the Ministry of Justice and sent the revised version of the draft for examination to all interested authorities, including representatives of international organizations in the Republic of Moldova, as well as to the corresponding non-governmental organizations. Afterwards, the Ministry of Justice received comments from the Ministry of Foreign Affairs, the General Prosecutor’s Office, the Ministry of Internal Affairs, the Service of Information and Security, the Ministry of Finance, the Ministry of Economy, the Ministry of Culture, the Department of Migration, the Department of Informational Technologies, the Department of Tourism Development, the Department of Border Guards, the Customs Department, the OSCE mission to Moldova, the UNICEF mission to Moldova, ABA CEELI, International Center „La Strada" etc.

After the synthesis of the submitted observations and suggestions, it was concluded that the majority of institutions support the need in such a draft. Yet, they believe the draft should be revised taking into account the range of very different and some times contradictory suggestions. Moreover, in compliance with some comments, a total revision of the draft both in terms of structure, and concept was suggested.

It is worth pointing out that this draft law is a legislative novelty not only for the Republic of Moldova, but also for the majority of East European countries. It is necessary to stress that such laws exist only in some European countries (for example, Romania, Albania, and Bulgaria). As a result, the drafting process of such a law turns out to be very difficult due to the lack of the corresponding international experience in
this field. At the same time, one should take into account the fact that currently the Council of Europe is finalizing the draft European Convention on combating trafficking in human beings (wherein this problem is regarded as a complex matter), which can be used for creation of the national regulatory framework of the Republic of Moldova. In this context, taking into account the submitted suggestions, preliminary recommendations, drafted by the Legal Assistance Unit within the OSCE Office for Democratic Institutions and Human Rights, and provisions of the revised draft of European Convention on combating trafficking in human beings (Strasbourg, October 29, 2003), a group of experts, created upon initiative of the Ministry of Justice and under support of the OSCE mission to Moldova, amended the draft Law on prevention and combating trafficking in persons.

Further on, I would like to dwell on the key aspects of the draft Law on prevention and combating trafficking in persons, which is currently being finalized at the national level, after the Council of Europe expertise.

Key provisions of this draft law are referred to introduction of general notions legal formalization of status of the National Committee and its general authorities, as well as standards of the National Action Plan of prevention and combating trafficking in persons. It also should be underlined that currently the National Committee for prevention and combating trafficking in persons works in the legislative vacuum, because its status is not defined in any regulatory act.

The draft also contains general provisions of creation of regional/municipal committees on combating trafficking in human beings. It also suggests that the authority of state actors and law-enforcement authorities in the sphere of prevention and combating of trafficking in human persons should be concretely specified. Here it is important to highlight that the corresponding articles will create a key premise for the initiation and formalization of the status of the National Referral Mechanism. This mechanism will facilitate the establishment of collaboration between the national public authorities, both governmental and non-governmental, and representatives of international institutions. Besides that, this mechanism will give momentum to the creation and maintenance of ways to refer trafficked persons.

The draft law also regulates issues associated with social rehabilitation and social protection of trafficked persons. In addition, it proposes a basic standard regarding creation of centers for assistance and protection of trafficked persons, which does not currently exist in the national legislation.

At the same time the draft defines the obligations of diplomatic missions and consular agencies of the Republic of Moldova related to their activity in the field of prevention and combating of trafficking in persons. The draft also establishes criteria of referring certain actions to trafficking in persons, classification of forms of trafficking in persons depending on category of exploitation, liability of legal entities for trafficking in persons, as well as some particularities and details relating to criminal liability for trafficking in persons. Chapter VI of the draft law defines the general standards of international collaboration.

In addition to the above-said, it is worth underlining that the Ministry of Justice turned to the National committee with the proposal to publish the draft Law.
On February 19, 2005, the Government of the Republic of Moldova has approved the draft Law on prevention and combating trafficking in human beings and submitted to the Parliament for adoption. As a result, the draft Law will be published in the media after it has been finalized by the group of experts.

In conclusion, I would like to express my hope that this draft law, subject to adoption by the Parliament, will be an important step of our country to creation of all legal premises, as well as necessary institutions with a view of initiating a real and efficient process of prevention and combating of trafficking in persons, and will become an important condition for concentration of efforts of all national institutions in combating this phenomenon.¹

¹ On February 19, 2005, the Government of the Republic of Moldova has approved the draft Law on prevention and combating trafficking in human beings and submitted to the Parliament for adoption.
III. NON-GOVERNMENTAL SECTOR AND NRM

III.1. Non-Governmental Organizations, their Role in Society and in Functioning of NRM. The Importance of NRM for the Democratization of Society

Non-governmental organizations promptly react to the changing needs and problems of the society, help the public institutions solve these problems. They fill in the "gaps" in execution of socially necessary functions. NGOs can also detect the gaps in legislation and fight for improvements both in the legislation itself, and in its application. Besides, NGOs, together with the media, exercise social control over the activities of public authorities.

This allows to remove or mitigate social contradictions; turn the state into a means of achieving public compromise, into a harmonious mechanism of administration of social affairs.

Art. 39 of the Constitution of the Republic of Moldova envisage the rights of citizens of the Republic of Moldova to directly participate in the administration of public affairs. This made a broad development of democratic processes possible.

These days, thousands of public organizations are active in our country. There are about 20 such organizations in the sphere of counteracting trafficking in human beings alone.

What is the role of non-governmental organizations in helping and protecting trafficked persons? What could be the contribution of these organizations to the creation and functioning of the National Referral Mechanism for trafficked persons (NRM)?

The whole thing starts with identification of the victim ...

One of the key tasks of the NRM is to simplify the access to protection and comprehensive assistance for trafficked people. This task can be solved by extending the possibility for identification (detection on the basis of certain criteria) of trafficked persons, by actively looking for the presumably trafficked persons.

Identification of trafficked persons can be done both by state authorities, and by specialized non-governmental organizations. Paradox as it may sound, but despite the fact that trafficked persons are more often encountered by public authorities, such as police, border guards, employment and welfare services, this task should be solved by attracting NGOs. The point is that trafficked persons are often afraid to tell public officers what they experienced. This is due to various reasons: because they fear revenge on behalf of traffickers, because they do not trust the official institutions. Moreover, authorities (first of all, law-enforcement authorities) often lack collaborators trained to work with trafficked persons, particularly they lack female personnel, whereas some actively working NGOs, such as the International Women’s Rights Center “La Strada”, have already gained professional experience in identifying trafficked persons. Besides that, the victims are more apt to trust collaborators of NGOs than law-enforcement authorities.
Another important argument is that identification of trafficked persons, commonly used in the corresponding literature, is not present in legislation of the Republic of Moldova. The Code of Criminal Procedure of the Republic of Moldova envisages only the procedure of registration of victim’s complaint by law-enforcement authorities (item (2) art. 58 CCP RM). As a result, law-enforcement authorities recognize as trafficked persons only those who give the corresponding evidence. Such approach constricts the victim’s access to the necessary assistance. The NRM concept suggests that the approach to identification of trafficked persons be changed, giving presumable victims the possibility to first get access to the necessary assistance and information about their rights, and only then to adopt an informed decision whether to give evidence against the crimes they were subjected to.

The above-said could conclude that the procedure of trafficked person identification is a rather difficult and sometimes time-consuming process. It is necessary to establish intimate collaboration between NGOs and public institutions to work with presumable trafficked persons with a view to identifying victims of trafficking. If identification is done by specialized NGOs, it will ensure access to necessary assistance for each victim, even if there is no crime registered against a presumable trafficked person (i.e. unconditioned access to assistance).

Experience from other countries, for instance Serbia and the Czech Republic, indicates that in order to expand the access to protection and assistance for trafficked people, it is recommended that a Drop-in Center should be created within the framework of the NRM. All presumable victims should be sent to this Center for identification and further referral to get protection and assistance. The functions of this center should be assumed by one of the specialized non-governmental organizations corresponding to the following established requirements.

**How to organize the work of the NRM Drop-in Center?**

The Drop-in Center should have a Hot Line to receive calls from trafficked people, their immediate families, as well as organizations in contact with trafficked persons, on a 24-hour basis:

a) foreign non-governmental organizations;

b) international inter-governmental organizations;

c) public and non-governmental organizations from the Republic of Moldova (police, border guards, employment service, welfare service, various NGOs). The Hot Line number should be widely advertised in the media and in special leaflets, accessible to trafficked persons.

The office of the Drop-in Center should be guarded; it should have a room for carrying out the first discussion with the presumable victim. Specialists should be trained and have practical experience in identifying trafficked people. The Drop-in Center should have cars and a mobile group of specialists working on a 24-hour basis. The Drop-in Center should also have a data base of organizations rendering assistance to trafficked persons to refer such people. The Center could also collect anonymous data about trafficking in persons cases, systematize, and analyze the information.

The Drop-in Center staff carries out the first consultation with the trafficked person, assesses the victim’s needs...
and drafts an individual plan of assistance, and further refers the trafficked person to specialized organizations.

**Why is referral needed?**

The point is that the range of services trafficked persons need is so diverse that not a single organization is nowadays ready to entirely satisfy the victim’s needs. Consecutive victim referral is needed for this purpose. The Drop-in Center should have a data base of organizations providing assistance to trafficked persons. Besides that, it is necessary to draft unique standards of provision of services to victims. It is important that the referral process be transparent, and that the victims’ fate is monitored by the Drop-in Center. Only in this case the real control of quality of rendered services and compliance with standards can be ensured.

**What else can NGOs do within the NRM?**

NGO can and must ensure qualitative provision of all services needed by the victim, and for which the victim is eligible in compliance with international standards. First of all, victims need a specialized medical and psychological assistance. If medical assistance is, as a rule, rendered by specialized public institutions licensed to provide such services, then the provision of psychological assistance is rather to be carried out by personnel of a specialized NGO, which features profiled knowledge in the field of psychological assistance.

Victims may need immediate humanitarian assistance to buy clothes and living essentials. Money or necessary things, food etc., are also usually provided by NGOs and international intergovernmental organizations.

Often victims need shelter for a period of time. For this purpose, a special shelter for trafficked people was created in the Chisinau municipality, which is run by the International Organization for Migration and a specialized NGO.

Victims also very often need a lawyer, since they usually have problems with identity documents, different problems of family character, housing problems, etc. Besides that, the trafficked person has the right to demand criminal prosecution of persons, through whose fault the victim suffered. The victim also has the right for compensation of physical, material, and moral damage. To exercise these rights, the victim needs the assistance of a lawyer.

Legal assistance to trafficked people, including lawyer’s services, is also a task to be fulfilled by a specialized NGO. Currently, this social function is fulfilled by the NGO – Center for Prevention of Trafficking in Women.

After the immediate assistance to trafficked person, it is necessary to consider how to make a person competitive on the labor market. For this purpose, the person has to be helped in acquiring a profession demanded on the labor market.

**How will creation of the NRM influence the development of civil society?**

NGOs are called to play the most important role in protection and assistance to trafficked persons. As representatives of the civil society, NGOs not only supplement the state’s assistance to trafficked persons, but also ensure social control over observance of commitments of the NRM members, including the state authorities. Each process inside the NRM should be subject to monitoring and assessment in terms of compliance with human rights and standards of work with
victims. NGOs also ensure recognition of the institute of human dignity of trafficked persons.

At the same time, creation of the NRM is an important contribution to the construction and development of democratic institutes in a law-governed state, which ensures the protection of people’s fundamental rights and freedoms through a system of political and juridical guarantees. The structure of the NRM and its operating mode involves all levels of society: individual people, non-governmental organizations, and public authorities on the local, regional, and national levels. The experience of collaboration between the civil society and the state actors within the framework of the NRM is particularly important for the countries under transition.

International Center “La Strada”
III.2. Hot Line – Drop-in Center’s Indispensable Mechanism to Identify Trafficked Persons

**What is Hot Line?**

Hot Lines have long ago become an efficient instrument to provide various services to the population by offering information. For organizations involved with the trafficked persons, the Hot Line could link to the Drop-in Center (as part of the National Referral Mechanism for Assistance and Protection of Trafficked Persons), which could collect and concentrate information about all specialized services in the field of provision of assistance and protection of trafficked persons.

Drop-in Center a link of the National Referral Mechanism and performs many functions. One of the primordial functions is to identify the trafficked persons. Trafficked persons, relatives that suspect a member of their family having been trafficked or possess precise information of this kind, can call/appeal the Center on the Hot Line asking for help. The Hot Line is also open to different categories of professional groups (such as border guards, social workers, psychologists, employment services officers), who in their day-to-day work encounter trafficked persons and can inform them about the Drop-in Center’s possibilities, can refer them for getting the necessary assistance depending on each concrete case. Specialists of the Drop-in Center carry out final identification of the trafficking in person case, particularly when professionals from other areas suspect there is a potential case of trafficking in persons. Another very important function of the Drop-in Center is to ensure cooperation between providers of services in the field of anti-trafficking as to satisfy the needs of this category of people.

The International Center „La Strada” performs the definitive identification of trafficking cases, rendering social assistance to the trafficked persons through the informal referral mechanism. The International Center „La Strada” has been carrying out this activity since 2001, and by now has become an informal Drop-in Center, unique in the Republic of Moldova.

Having been identified by the Drop-in Center, the person is referred to another institution to receive a certain type of as-

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**“La Strada” Hot Line SOS calls statistics**

01.01.2002 – 31.12.2004

<table>
<thead>
<tr>
<th>Year</th>
<th>I. Assistance to trafficked people (liberation and/or repatriation and/or reintegration)</th>
<th>II. Information and assistance in search and/or liberation of missing people – presumably trafficked people</th>
</tr>
</thead>
<tbody>
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<td>2001</td>
<td>93</td>
<td>99</td>
</tr>
<tr>
<td>2002</td>
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<td>2003</td>
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<td>275</td>
</tr>
<tr>
<td>2004</td>
<td>331</td>
<td>275</td>
</tr>
</tbody>
</table>
sistance (for example, if a trafficked person needs temporary dwelling, medical- and psychological assistance, this person will be referred to a special asylum where these services can be rendered). These structures provide direct specialized assistance, without having to re-start the case from the very beginning. Also, the Drop-in Center (through the Hot Line) monitors the person/case during 6 to 12 months as to identify the primary needs and ensure a successful integration of the corresponding person in society.

**What is the role of the Hot Line in the identification of trafficked people?**

Actually, this instrument of the Drop-in Center is one of the key sources of identification of trafficked persons, as well as potentially trafficked persons. The Hot Line also ensures continuous connection between the trafficked person and the social worker or with the team of social workers twenty-four hours a day.

Finally, the Hot Line could ensure a permanent connection between different providers of services from the National Referral Mechanism and Unique Drop-in Center, who collect and update information about the phenomenon and about each separate trafficking case, thus avoiding redundant overlapping of information from different autonomous institutions and a waste of efforts.

However, the best effect is in collecting information and monitoring the trafficking cases during different stations of the trafficking route, offering the possibility of providing assistance and improving the situation both in the country of destination, and in the countries of origin and transit. Actually, it is necessary to recognize that the Drop-in Center cannot be conceived without the Hot Line, which ensures unconditional, permanent, and continuous access to assistance for trafficked persons.

Currently, in the Republic of Moldova only the International Center “La Strada” has a national Hot Line, which can be accessed on a twenty-four hour basis. Victims are welcome, if not to say - urged, to call the hot line, because their information will be kept anonymous and confidential, and the victims are free to make their own decisions (a social assistant guides the victim and helps make the best decision).
IV. ASSISTANCE AND PROTECTION OF TRAFFICKED PERSONS. NEEDS AND REALITY

IV.1. Services Related to Protection and Support of Trafficked Persons. Theory and Practice

The list of services needed by trafficked persons is very diverse. This is caused by the physical and moral sufferings experienced and the distressful situation of the victim. Public and inter-governmental organizations rendering assistance to trafficked persons, struggle to institutionalize the victim’s right to services as well as the principles of service provision in both international agreements, which are permissive, and in the legislation of all countries of origin, transit, and destination. So far Moldova does not have an officially approved package of services and standard procedures for working with trafficked persons.

What kind of services do trafficked persons need?

The maximal package of services offered to trafficked people in Moldova includes the following services:

1) Organization of secure repatriation
2) Meeting at the airport
3) Rendering shelter
4) Medical services
5) Social guidance
6) Psychological assistance (immediate and long-term)
7) Legal assistance
8) Re-issue of identification and other documents
9) Assistance in establishing contacts with the family (upon request of beneficiary)
10) Vocational guidance, vocational training or assistance in getting education
11) Training and support in small business development
12) Assistance in job placement.

In emergency situations, some trafficked persons are helped solve their housing problems.

If the trafficked person is under-age, the victim has the right to special support and protection in compliance with international conventions and obligations of Moldova in this field. All actions with regard to under-age child victims should be based on the principle of observance and protection of human rights, established in the UN Convention on the rights of the child (1989).

Trafficked persons having agreed to place charges against traffickers have to enjoy:

• access to justice;
• safe-keeping and protection against threats and pursuit by traffickers;
• assistance of a lawyer.

The task of specialized NGOs, which render assistance to trafficked persons, is to develop such packages of services for victims, which on the one hand would be standard, and on the other hand, adjusted to individual needs of victim.

Giving Shelter

Giving a secure shelter is the most important element of the entire system of protection and assistance of trafficked
persons. All trafficked persons should enjoy the right for unconditional shelter (e.g. not subject to their consent to collaborate with the police).

Usually, confidential shelters with classified addresses are open for the victims. According to international standards of work with trafficked persons, these shelters should be created for separate categories of victims, because trafficked persons can be not only women, but also children and even men.

The most important requirement of a shelter is security. Besides that, it is necessary to allocate food and clothes to beneficiaries. A shelter should also give the possibility for cultural pastime (library, studio, gym, etc.). While in the shelter, trafficked persons are also offered a complex of specialized services.

People staying in the shelter should observe certain rules, non-compliance of which leads to exclusion from the shelter. Apart from this, the victim's right for freedom of movement should not be restricted, except at night.

It is necessary to point out that provision of shelter is the most expensive and complicated type of assistance. For the present, there is no organization in Moldova which could render shelter to trafficked persons for more than 3 months.

Provision of a secure shelter is the most important element in the entire system of assistance and protection of trafficked persons.

**Particulars of rendering financial assistance to trafficked persons**

Financial assistance can be rendered for various purposes: nutrition, dwelling, purchase of clothes, and the essentials, medical assistance etc. Financial assistance can be rendered by two different methods:

- directly to trafficked person;
- via specialized organizations and structures, which render assistance and protection for trafficked persons. In this case the victim does not receive money, but concrete services.

The combination of these two methods is optimal, because the trafficked person is not always able to control his/her actions well.

**Does the trafficking victim receive the necessary assistance?**

In practice, the trafficked person is far from always getting the necessary assistance. Because of the diversity of services needed by victims, not a single organization in Moldova can independently and entirely render all required assistance. Hence, the referral of victims to different organizations is necessary. Currently, there is no unique referral center in Moldova, whereas various organizations, involved in the provision of assistance to one and the same person, do not bear responsibility to each other for completeness and quality of provision of services. The quality of rendered services is not always high, and fluctuates depending on the service-rendering organization. This is due to insufficient training of specialists and lack of access to information about the problem.

In addition, organizations are limited in means and try to distribute those available to as many victims as possible. Often, this factor makes them reduce the period of assistance, regardless of the concrete needs of the victims and their psychological state.

According to the opinion of some international and national experts, one of the conditions for comprehensive
and qualitative satisfaction of victims’ needs is the availability of a Drop-in Center, as one of the key elements of the NRM, for referral of victims and general long-term monitoring of their movements. This factor directly influences the achievement of the final result of the rendered services – social re-integration of the victim and exclusion of re-victimization (repeated involvement in the traffickers’ networks).

Often the trafficked person does not have a vague idea about his/her rights of free assistance. It is necessary to legislate all rights of trafficked person, as well as the procedure of familiarizing the victim with its rights. Each victim should have the right to receive a standard package of assistance: shelter (placement in a special asylum), specialized medical, psychological help, consultations, etc. This assistance should be rendered unconditionally, i.e. regardless of the victim’s consent to testify as witness. It is inadmissible to use the shelter for carrying out police interrogation. Besides that, assistance should not be imposed. It should be rendered to victims only at the victims’ free will, and to the amount that corresponds to their individual needs. The victims should not be deprived of the right to work, continue study, or vocational training. The rendered assistance and support should be long-term and should ensure comprehensive social re-integration of victims. Assistance should be accessible for all categories of trafficked persons having suffered from all types of exploitation, both abroad, and within the country.

International Center “La Strada”
IV.2. Protection of Trafficked Persons

In compliance with international standards, a trafficked person has the right to:
- secure shelter/settlement in a secure location;
- professional legal assistance of experienced and independent lawyer;
- right to confidentiality, i.e. privacy of information about what happened;
- right to information, which is necessary for solution of accumulated problems;
- right to assistance (medical, juridical, psychological etc.);
- information about risks related to participation to criminal proceedings as witness;
- protection in compliance with professional assessment of degree of risk and possibility to change the degree of protection depending of circumstances.

Besides that, trafficked person who agreed to give evidence against traffickers, has the right to:
- information about possibility to file a civil claim for compensation of material and moral damage;
- make anonymous testimony during criminal investigation;
- psychological support for the period of court proceedings (NGO);
- compensation of moral and material damage at the account of sale of traffickers’ seized property.

Often, a successful criminal prosecution of traffickers directly depends upon the testimony of the victim, who sometimes is the only witness, and whose testimony is basis for the entire charge. Often, people carrying out criminal prosecution of traffickers complain about the inconsistency of trafficked persons, who initially testify, and then reject their own testimony. Should only the victims be blamed for that? Do they always have a comprehensive idea about how the criminal proceedings will be carried out, about what to expect? Do they always enjoy the necessary protection? Are the interests of a trafficked person always given the first priority?

If we want the trafficked person-witness to act accordingly, it is necessary to, first of all, take care about the victim’s interests. Each victim needs complete information about the risks related to witnessing in criminal proceedings. Only a fact-based decision to collaborate with the police in criminal prosecution can ensure a predictable witness behavior during court proceedings, when the victim starts to feel emotional pressure of the trafficker’s defense and from the relatives of the defendant. The testifying victim should also be informed about the possibility of filing a civil action, along with the criminal one, for compensation of material and moral damage. The victim should be helped in filing such action.

If the trafficked person agrees to collaborate with the law-enforcement authorities in prosecuting traffickers, i.e. to become witness and testify within the opened criminal case, such a person should be rendered a complex of services which guarantee protection and security of the victim. In special literature on this problem, protection of victim-witness means a complex of services, targeted to ensure:

a) **physical protection** of witnesses from any possible infringement upon their life, health, honor, or property;

b) **psychological protection** of witnesses. During testimony, the witness experiences great psychological stress. Dwelling under permanent protection and supervision of outsiders also causes psychological dis-
comfort to the witness. To remove the consequences of possible psychological stress, the witness should enjoy the assistance of a psychologist and social worker;

c) protection against psychological exploitation. To provide help and support to the witness and protection from any possible manipulations on behalf of unfair collaborators of law-enforcement authorities, the witness should be rendered independent legal assistance by an experienced specialized lawyer.

In compliance with the legislation of the Republic of Moldova, ordinary and extraordinary means of state protection can be used for physical protection of witness.1 Ordinary measures of protection are as follows:
a) body-guard, guarding the place of dwelling and property;
b) supply with special means of individual protection, means of communication and alarm devices;
c) temporary placement in a secure place;
d) non-disclosure of information about the protected person.

The extraordinary measures of protection are as follows:
a) changed place of work (service) or study;
b) relocation to another place of residence, including provision of housing;
c) new identity including ID documents;
d) closure of court case.

The degree of protection should be selected according to the concrete circumstances. But in reality, physical protection of trafficked persons in Moldova is not yet up to the mark. This is explained, first of all, by difficulties of transitional period faced by our country. Besides that, measures of physical protection are applied behind time and do not always match the measures of psychological protection and protection against psychological exploitation.

International experience shows that only by creating collaboration between the criminal prosecution authorities and non-governmental organizations, which are specialized in assisting trafficked persons, it is possible to obtain the balance between interests of criminal prosecution and interests of the victimized person, to ensure a stable behavior of witnesses and success of criminal prosecution.

International Center “La Strada”

IV.3. Observance of Legislation on Prevention and Combating of Trafficking in Persons. Activity of Law-Enforcement Authorities in This Field

General Prosecutor’s Office has generalized the results of activity of law-enforcement authorities in the field observance of legislation on combating trafficking in persons in the year 2003-2004. According to the statistic data, in 2003 the following were brought before court: 173 criminal cases on trafficking in persons, 9 criminal cases on trafficking in children, 71 criminal cases on trading in prostitution, 7 cases on smuggling children from the country. Compared to the year 2002, when there were started only 42 criminal cases on trafficking in persons and 49 cases on trading in prostitution, in 2003 this figure increased about 3 times.

In 2004, 382 crimes related to trafficking in persons were solved and registered in the Republic of Moldova, of which 238 – trafficking in persons; 103 – trading in prostitution; 33 trafficking in children, and 8 - smuggling children.

The majority of crimes related to trafficking in persons have been detected by the police authorities of Chisinau municipality, Balti municipality, Anenii Noi rayon, the Traffic Police Department, and the Department for combating trafficking in persons within the Ministry of Internal Affairs. In Glodeni, Comrat, Nisporen, Rezina, Rîșcani, Straseni, Cîmislia, and Șoldanesti regions there were solved 2 such crimes in each, in Dondușeni, Criuleni, and Ocnița regions there was registered 1 crime in each, whereas in Causeni, Leova, and Vulcanesti regions, no such crimes were discovered in the year 2004.

In the year 2003, 107 criminal cases on crimes related to trafficking in persons were submitted to court instances for examination, whereas in 2004 – 162 cases. For commitment of these crimes, court instances in the year 2002 sentenced 22 persons, in the year 2003 – 34 persons, and in 2004 – 95 persons, of whom 13 persons – for trafficking in person, 75 persons – for trading in prostitution, 7 persons – for trafficking in children.

Analysis of court rulings shows that examination of trafficking in persons cases in the courts is not uniform, and the sentences are rather mild. This negatively influences the activity of prevention of this criminal phenomenon. Out of those sentenced in 2004 for such crimes, only 13 persons were sentenced to really serve time in prison; the following punishment was applied for the rest: postponement of execution of judgment, fines, as well as release from criminal punishment based on Law on Amnesty in connection with the 10th anniversary of adoption of the Constitution of the Republic of Moldova.

Some sentences are difficult to understand from the point of view of application of criminal punishment. For example, the court of Botanica district found citizens C. and S. guilty of trafficking in persons and trading in prostitution and sentenced them to 10 years in prison, with suspension of sentence for a 2 year probation period. On 10.03.2003, the Turkish citizen O., previously condemned for recruiting girls in Turkey to practice prostitution, was acquitted by the same judges for commitment of similar recruiting and released from under guard right from the court room. Only upon the protest of the prosecu-
tor this sentence was modified and the Turkish citizen O. was sentenced to 15 years in prison and put on the “wanted” list. In many cases people convicted with suspension of sentence continue the same criminal activity. For example, based on the sentence of the court of Botanica district as of 11.02.2003, citizen L. was found guilty of trading in prostitution and sentenced to 15 years in prison with suspension of sentence for a 3-year probation period. Citizen L., grossly violating the conditions envisaged by law, by previous concert with an unidentified person, by deceit and under pretence of employment abroad, recruited citizen B. in spring 2003, soon after the sentence was passed and took her to Dubai to practice prostitution.

It is an alarming fact that in many cases children, particularly under-age girls, are trafficked outside the Republic of Moldova to practice prostitution. Moldova is still one of the key countries of origin for trafficking in children. According to data of the International Organization for Migration, out of 1400 trafficked persons repatriated during the latest 4 years, 10-12% are under-age children. In criminal cases on trafficking of human beings started during the latest two years, there are about 90 under-age girls, among the trafficked people. The temporary center for the under-aged in Moscow, Russian Federation, estimates that more than 50% of those begging in the streets of Moscow are from the Republic of Moldova.

The practice shows that children from socially vulnerable or incomplete families, or children left without parental care because their parents left abroad to work, are more likely to become trafficked. These children easily fall within influence of the „street” and social vices, and become easy prey for the traffickers. Children become victims of trafficking due to the following reasons: desire to have their own income and a decent place to live; conflicts and violence in the family; miserable conditions of living; trust in the tempting promises of those who returned from abroad; hope in a better future; desire to become free and independent by hook or by crook. For example, citizens D., B., and T., due to mercenary motives, by deceit and abuse of confidence, under pretence of visiting the “Red Square”, recruited the under-age C., 16 years-old, and brought her to Moscow, where threatening her by violence made her have sexual relations with various men. As a result, the victim could not stand the exploitation and jumped from the 6th floor of an apartment block, causing herself serious bodily injury.

Children are trafficked abroad not only for sexual exploitation, but also for being used in child pornography, begging, forced labor, and other humiliating and inhuman objectives. Many kids, especially from Nisporeni and Straseni regions, are trafficked to practice prostitution and begging in Poland. For example, based on the verdict of the Ungheni region court, as of 23.12.2002, citizen S. was sentenced for trafficking of citizen T. and her under-age daughters to Poland to practice begging. Starting from the year 1998, groups of Roma from Nisporeni region have trafficked 8 children abroad for begging purposes. By now, there is no news about these children. Based on the verdict of Ialoveni court, as of 29.04.03, citizen P. was sentenced to 7 years in prison for trafficking an under-age girl to Ukraine for the forced labor.

Criminal prosecution of trafficking cases is also complicated by the status of the victim, who has a specific position during the criminal proceedings. As a rule, the trafficked person does not accept
collaboration with law-enforcement authorities; very often the victim makes declarations that do not correspond to reality, are incomplete, or contradictory. Often, after testifying the trafficking, the victim goes abroad again or, being influenced by the traffickers, hides from the criminal investigators, changes the testimony, undertakes other actions, which complicate the criminal prosecution. Such behavior of trafficked persons is obviously explained by the fact that they are often subject to pressure on behalf of criminals. Due to this, the criminal prosecution judge should attentively listen to the victim and ensure her with the protection measures, envisaged by legislation.

It is worth mentioning that measures of state protection of injured party, witnesses, and other parties to the criminal procedure, envisaged in Law No. 1458, as of 28.01.1998, are in practice applied extremely rarely and reluctantly. This is caused by many juridical, economic, and social factors. This state of affairs requires that law-enforcement authorities and, primarily, the Ministry of Internal Affairs, should train and permanently improve criminal prosecution officers. Also, the above-mentioned law should be modified as to create a clear-cut mechanism of victim protection.

A complex analysis of the trafficking in persons issue showed that inappropriate execution of legislation on prevention and combating trafficking in persons is influenced by many factors, of which the following can be mentioned:

- **unsatisfactory execution** by the corresponding central and local governments of **economic and social measures**, which would eliminate causes and conditions that contribute to illegal migration, including trafficking in persons;

- **lack of strategy and policy on behalf of the state** as to maintain control over the phenomenon of citizens’ migration abroad in search of better paid jobs;

- **poor activity of police authorities** in detecting cases of traffic and traffickers, which is largely explained by lack of experience in this new type of activity;

- **imperfection of legislation** on prevention and combating of trafficking in persons, protection and assistance to trafficked persons;

- **lack of efficient collaboration between the law-enforcement authorities, governmental structures and nongovernmental organizations in this field**, especially at the local level.

The above analysis leads to the conclusion that it is necessary to adopt a complex of economic, legislative, and educational measures, as well as to raise the activity of all institutions that counteract trafficking in persons, as to overcome this social disaster in Moldova. The **indicated measures can be adopted in the framework of creating in the Republic of Moldova of the National Referral Mechanism for assistance and protection of trafficked persons.**
V. INTERNATIONAL EXPERIENCE

V.1. Six Months of Work of the Agency for Coordination of Assistance to Trafficking Victims and the Role of SOS Hot Line within the Mobile Team

The National Referral Mechanism (NRM) in Serbia was established in March 2004 under the title Agency for Coordination of Assistance to Human Trafficking Victims, following numerous activities carried out in the course of 2002 - 2003, with an aim to design a structure and scope of work of all members of the future NRM. As a matter of fact, some informal mechanisms for referral and assistance to the victims of human trafficking existed even before the establishment of the Agency. Such mechanisms functioned at the level of non-governmental organizations, i.e. ASTRA, which coordinates SOS Hot Line, and Counseling against Family Violence, which coordinates the Shelter, in cooperation with the police and international organizations.

Six months, which passed since the beginning of the Agency’s work, is a relatively short period, but it is nevertheless possible and useful to draw certain conclusions in order to improve its work, as well as for the sake of exchange of experiences with other NRM which already exist or are due to be established soon.

The main conclusion is that NRM should exist, as it enables coordination of all existing actors in the process of identification and referral of the victims. However, certain problems have also been encountered in the process itself, resulting from deficiencies in or even inexistence of institutional solutions, different approach of NGOs on one side and state institutions on the other etc.

The Agency for Coordination of Assistance to Human Trafficking Victims has been created under the Ministry of Labor, Employment and Social Affairs of the Republic of Serbia. It has a coordinator and a deputy, who represent the Agency in relations with other entities. The Agency also has an advisory body – Mobile Team, which gathers the Agency staff and representatives of elected advisers: representatives of NGOs ASTRA and Counseling against Family Violence. The advisers refer to the Agency all cases of potential victims the information on which has been collected through SOS Hot Line and work with clients, from partner organizations or any other source, providing that the victim agrees to this kind of assistance. The Mobile Team shall as-

ASTRA is a nongovernmental organization dedicated to eradication of all forms of trafficking in human beings, especially in women and children, through prevention, education, awareness raising of all relevant institutions, professionals and general public and direct assistance to victims and potential victims of trafficking. ASTRA runs two programmes: prevention/ education programme and victim assistance programme that involved the SOS Hot Line, the only one of its kind in Serbia.

What is the experience of NRM establishment in the other countries?

Tamara Vukasovic, a member of NGO ASTRA (Serbia) shares the experience of NRM activity on the pages of our edition.

1 The term used in the Draft Memorandum on Understanding, foreseen for the NRM creation.
sess every individual case brought to the Agency and to decide whether a certain person should be identified as a victim, and what would be the best model of assistance for that particular person. The main principle of Mobile Team’s work is the best interest of the victim, whereby the victim’s will should always be respected.

Although the Memorandum on Understanding, foreseen at the NRM creation in Serbia, has been drafted and agreed upon by all signatories (Ministry of the Interior, Ministry of Labor, Employment and Social Affairs, NGO ASTRA, NGO Counseling against Family Violence and International Organization for Migration), it has unfortunately not been signed to date.

As has been mentioned earlier, ASTRA is a Mobile Team member. Besides the police, it is ASTRA SOS Hot Line through which the majority of victims in Serbia (both foreign and domestic citizens) have been identified. It has been shown in practice that both victims and their families are more prone to contact NGO Hot Line in order to report certain information and ask for help. It should be borne in mind that in our country, which is probably also the case in other SEE countries, citizens are wary of institutions and of state authorities, while, on the other hand, they feel almost no barrier toward NGO Hot Lines. There are numerous examples of girls, who, although having been at first identified as victims by institutions, contacted us by SOS Hot Line, asking for certain kind of help which they had previously refused in communication with officials from state institutions. What should be taken into account here is trauma the trafficking victims have suffered and the fact that they have no trust in certain institutions. Also, NGOs are much more flexible and free of red tape and administration requirements, which might complicate and prolong the interventions, especially in cases when prompt reaction is necessary.

On the other hand, it has turned out during these six months that for specific institutions, communication and administrative procedure have been considerably simplified by the very fact that the Agency is registered with the Ministry, which resulted in increased number of identified victims in March-July 2004. Of course, all relevant state institutions were previously informed on the establishment of the Agency and Mobile Team. It has nearly become a rule that state institutions are more prone to contact the Agency, while victims, their families and citizens are more likely to contact NGO.

As NGO representatives, we must stress that the Agency and Mobile Team will attain their goal and justify their existence only providing that they are able to provide adequate and the promptest possible assistance to the trafficking victims, without administrative prolongations, whereby not becoming another instance or bureaucratic mechanism which has to be satisfied or whose conditions have to be fulfilled.

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1 From autumn 2003 to March 2004, the number of identified victims, i.e. of the victims accommodated in the shelter plummeted. During that period, the majority of victims accommodated in the Shelter were identified through ASTRA SOS hotline.
V.2. Trafficking in Human Beings: is the Enlarged EU Prepared to React?

Anti-Slavery International is the world’s oldest organization and was set up in 1839. Anti-Slavery International is committed to eliminating slavery through research, raising awareness and campaigning. It works with local organizations to put pressure on governments to acknowledge slavery and to take actions to abolish its practice.

The enlargement of the European Union (EU) has been one of the top European political priorities in past thirteen years. Twelve countries (Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, and Slovenia) have been candidates for EU membership since 1998 (Turkey became a candidate in 1992). In October 2002, the European Commission concluded that all countries excluding Romania, Bulgaria and Turkey, will be ready for membership from 2004. Bulgaria and Romania will be supported to join in 2007.1

The possible consequences of enlargement have been analyzed in great detail from a number of perspectives. However, there is a vacuum in the debate about what kind of impact the enlargement will have on trafficking in human beings in EU member states and the new neighboring countries. Perhaps this is caused by the lack of data about trafficking in human beings in the EU generally, a lack of common European policies so far in this area and/or a lack of systematic analyses of the situation. It is generally expected that there will be a shift in the roles of the countries that will become the new EU border states. Most probably countries such as Poland and the Czech Republic or Slovakia will be predominately transit and to a smaller degree destination countries in EU. There is significant evidence of women trafficked from Russia, Belarus and Ukraine to and through Poland, women trafficked from Slovakia, Ukraine, Moldova, Vietnam and China to the Czech Republic and it would be possible to continue on and on. It is suggested that the ‘new’ EU countries already have a rather specific position of being countries of origin, transit and destination of trafficked persons into various labour sectors.

So far many Member States recognize trafficking in human beings as a criminal offence only if the purpose of trafficking is sexual exploitation. But during 20042 the States are supposed to include also trafficking for forced labour, or services, slavery or practices similar to slavery in their criminal legislation. However, the change of penal code does not yet mean that effective policies are in place to address the situation of trafficked persons for other purposes than sexual exploitation. On the contrary, this area seems to be underdeveloped.

What will EU membership mean for the anti-trafficking policies of the new member states?

The EU political debates about the need for ‘legislation that prohibits trafficking joint efforts to combat trafficking and assisting it’s victims’ resulted in adoption of the EU’s Framework Decision on combating trafficking in

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1 SVU Czechoslovak Society of Arts and Science, from Women in Development Europe (WIDE),
2 EU Framework decision The EU Council Framework Decision 2002/629/JHA
human beings,\(^1\) which obliges the EU member states to criminalize trafficking. That means that all EU member states will have criminal legislation in place. Even though we can expect improvement in terms of defining what trafficking means and better legislative tools to punish it, clearly it does not represent a solution in itself. Definitely not for those who had been trafficked. The Council Directive\(^2\) on the residence permit issued to third-country nationals, who are victims of trafficking in human beings, is the opportunity for the destination countries to ensure that the rights of trafficked persons will be addressed. However, the law per se is only a chance for improvement, which will not materialize unless an effective policy and system of implementation are in place. In this respect, the OSCE/ODIHR National Referral Mechanisms Handbook\(^3\) is one of the useful tools. It brings several practical suggestions, models of identification procedure and examples of good practices how to address the problem.

**So what do trafficked people actually need?**

**Recognition.** In my view, the identification of trafficked persons remains one of the key problems. In many cases, trafficked people have irregular immigration status and are then identified as ‘undocumented’ or ‘illegal migrants’ or, those trafficked into prostitution, simply as ‘prostitutes’. In most of the destination countries those trafficked people who are not recognized as such face deportation and possibly detention in immigration facilities. As a direct outcome, the trafficked persons are unaware of their rights and do not have access to assistance measures, which -according to the law in many states - exist to support and assist them.

**Time.** The most essential need, once the trafficked person is identified, is to [swiftly] ensure adequate protection and support. The basic pre-condition for securing adequate assistance in the receiving country is a provision of residency permit for trafficked person. A crucial aspect of residency status is the immediate period of recovery - reflection delay, which enables the victim to consider the realities of their current situation and make an informed decision as to whether or not they want to testify against the trafficker. In this way, the reflection period also facilitates the gathering of intelligence about the modus operandi of traffickers and makes cooperation in a prosecution more likely. However, not all countries operate the reflection delay and in practice in those that do difficulties in implementation can occur.

**Support.** Experience of services providers as well as results of specialized research\(^4\) show that housing and oppor-

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1. EU Framework decision The EU Council Framework Decision 2002/629/JHA on Combating Trafficking in Human Beings obliges all EU member States to harmonise their domestic criminal legislation on trafficking by 2004, including adoption of common definition of trafficking consistent with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children supplementing the United Nations Convention against Transnational Organised Crime.: "Trafficking in persons" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour [39] or services, slavery or practices similar to slavery, servitude or the removal of organs."


tunity to be financially independent are the greatest needs of trafficked persons. Access to extensive support and assistance measures such as housing, psychological and medical help, legal assistance and other services together with the ability to be financially independent and to work aids reintegration and lessens the chance of future trafficking. However, the opportunity to work in the receiving country as a support measure for trafficked persons is still rare.

Rights. Residency after the reflection delay (if such is operational in the country) is in most cases contingent on the individual’s willingness and ability to participate in criminal proceedings against the trafficker. But, the residency status should primarily be in line with general humanitarian principles and international human rights, so as not to expel someone if there is evidence that they may be in danger of torture. Decisions on the residency status should be based on assessment of whether the trafficked person has suffered serious harm or abuse in the country where they are located and also risk of reprisals or further human rights abuses if they return home, including the risk of being re-trafficked.

Protection. Destination countries need to bear in mind that when returning trafficked persons to countries of origin in many cases the trafficked person can be sent straight back into the hands of traffickers, especially if they have a debt to repay, no protection from intimidation from traffickers and no means of economically sustaining themselves in the country of origin.

Measures to protect trafficked people as well as prosecute traffickers are essential elements in any counter trafficking strategy.

Yet, anti-trafficking strategies will not be effective unless there is a strong effort to address the root causes and circumstances in which people become trafficked. This is a challenge not primarily for the countries of origin and those outside EU, but mainly for the (enlarged) EU itself.
VI. CONCLUSION

Benefits of NRM Creation

The NRM will allow:
- increase the number of identified trafficked persons and ensure thereof with access to assistance and protection;
- protect the trafficked person’s rights in compliance with international standards;
- provide access to a standard package of services for all categories of trafficked persons;
- broaden the list of services rendered to victims, and improve the quality of such services;
- successfully carry out criminal prosecution of traffickers;
- create foundation for efficient regional and international collaboration in combating trafficking in persons.

Efficient assistance and protection of trafficked victims could be accomplished by:
1) creating a clear-cut mechanism of interaction between all people that contact with trafficked persons as to identify, help, and protect thereof;
2) creating specialized organizations to refer victims;
3) dissimilating knowledge about methods of work with the victims;
4) exchanging experience and provide training to people that contact with the victims;
5) achieving a more rational use of financial means, human resources, and skilled personnel at the account of specialization in service rendering and referral of victims;
6) creating a regulatory base to regulate identification, assistance, and protection of trafficked persons (standard procedures and principles of work with the victims);
7) setting responsibility for violation of standards in rendering services to the victims;
8) raising the works and services, rendered to trafficked persons, to a new qualitative level;
9) creating the corresponding information data base as to draft proposals intended to improve the work with victims and combat against trafficking in persons.

Creation of the NRM will significantly contribute to organization and development of democratic institutes in a law-governed state, which ensures protection of fundamental rights and freedoms of people through the system of political and legal guarantees. The civil society will have leverages to really influence the state actors. This will allow control observance by the state of its international commitments in the sphere of human rights, and solve such important public problem as trafficking in persons. The experience of collaboration between the civil society and state structures within the framework of the NRM is particularly important for the countries under transition.