



DEUTSCHE STIFTUNG FÜR
INTERNATIONALE RECHTLICHE
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Handbook

Trafficking in human beings for police, prosecutors and judges

Protection of victims' rights in criminal proceedings and beyond

Developed in the framework of a series of training seminars for police, prosecutors and judges organised by the Romanian General Prosecutors Office and the Ludwig Boltzmann Institute of Human Rights in Vienna, in partnership with La Strada International and the Deutsche Stiftung für Internationale Rechtliche Zusammenarbeit, and financed under the AGIS programme of the European Commission

Marjan Wijers, 2008



AGIS 2006

With financial support from the AGIS Programme
European Commission - Directorate-General Justice, Freedom And Security



JUSTIZ Bundesministerium für Justiz
JUSTIZRESSORT

Content

Introduction	3
1. Defining trafficking in human beings.....	5
2. International and European instruments to combat trafficking and protect victims.....	8
UN Trafficking Protocol	8
European instruments	13
Position of victims: access to justice	14
3. Identification process	17
Introduction.....	17
Indicators of trafficking.....	18
4. Rights of victims in the criminal proceedings	24
Introduction.....	24
Right to information	25
Right to assistance.....	27
Right to legal representation.....	30
Right to privacy.....	31
Right to physical integrity	33
Right to witness protection.....	34
Right to fair trial	36
Right to compensation	38
Non-punishment clause	39
Right to have the press excluded from the court room.....	40
Right to not cooperate with law enforcement	41
5. Interrogating the victim.....	42
Introduction.....	43
Background knowledge.....	43
First contact with the police	47
Pressing charges.....	48
Interrogation by the prosecutor	50
And finally.....	52
Literature & Documents.....	53
Annex 1 - List of contact details of relevant organisations.....	55
Annex 2 - Information brochure on protection of victims.....	64

Introduction

This handbook is based on a series of training seminars on trafficking in persons for police and judiciary in Romania. The seminars were organised by the Romanian General Prosecutors Office, Reaching Out Romania and the Ludwig Boltzmann Institute of Human Rights in Vienna, in partnership with La Strada International, a European Network of anti-trafficking organisations focusing on Central and Eastern Europe, and the Deutsche Stiftung für Internationale Rechtliche Zusammenarbeit. Training seminars were held in Bucharest, Brasov, Pitesti, Constanta and Sinaia during 2007 and 2008. Approximately eighty police officers, prosecutors and judges attended the seminars. The project was made possible through the financial support of the European Commission in the framework of the AGIS programme.

The project aimed to educate police, judges, prosecutors and lawyers on the needs and rights of trafficked persons, as well as to strengthen their knowledge of relevant European and international standards. It also aimed to strengthen contacts and allow the exchange of experiences among the several key actors - police, prosecutors, judges and NGOs - on issues relating to victims' participation in legal proceedings and victim assistance.

The Handbook gives an overview of the information presented in the training seminars. It also contains practical tips on the topics discussed, based on the discussions during the training and the joint experiences of the participants and trainers. Chapter 1 introduces the concept of trafficking in human beings and the UN Trafficking Protocol. Chapter 2 discusses existing international and European instruments to combat trafficking and protect and assist its victims. A first step in combating trafficking and assisting victims is the proper identification of possible trafficked persons. This is the subject of Chapter 3. Access to justice is a fundamental right. The treatment of victims with respect for their rights, their legitimate interests and their needs helps them in seeking justice, but also contributes to the successful prosecution of the traffickers. Victims who are treated well will be more willing to assist with the criminal investigation and will therefore be better witnesses. Chapter 4 examines the rights of victims in the criminal proceedings in Romanian and European law. Working together with victims of trafficking may be a challenging task. They may be traumatised, extremely afraid, distrustful or unwilling to communicate. All victims have developed their own survival strategies. When interviewing victims it is helpful to be aware of the various factors that may play a role in the communication with victims and their willingness to talk. Chapter 5 gives background information on some of these factors, and offers guidelines for establishing the first contact and conducting interviews. Throughout the handbook the yellow textboxes present the exercises and cases that were used in the seminar as practical examples. The blue boxes contain guidelines for the identification and questioning of (possible) victims and will help you to implement victims' rights and respond to their needs.

The Handbook limits itself to the issues discussed during the training, in particular the identification and questioning of victims of trafficking in persons and the translation of victims' rights into practice. Little attention, for example, is paid to the specific needs and rights of children, how people come free and how to help them to resettle. For the specific needs of children, we refer you to the website www.childtrafficking.com. You will find there, for example, the final report of the project "Development of a child rights methodology to identify and support child victims of trafficking", implemented under the 2005 AGIS Programme by Save the Children Italy in partnership with, among others, Save the Children in Romania. Other websites are www.ecpat.net (Ecpat) and www.terredeshommes.org (Terre des Hommes).

In order to facilitate national and international cooperation and referral of victims, annex 1 contains a list of Romanian NGOs as well as the contact data of some key Dutch actors. Annex 2 contains the brochure on victims' rights which is discussed in Chapter 4 of this Handbook.

Marjan Wijers, July 2008

Exercise Ana 1 - Definition

Ana works on the streets in Bucharest as a prostitute. One night a client tells her she can earn much more money in Turkey. He can arrange for her the necessary papers and a working place. Ana says she has no money to pay for a passport and the travel costs, but he assures her that is no problem. He can advance the money for her. She will earn a lot of money and will be able to pay him back the costs of the ticket and the papers in one month. Together they travel to Trabzon. There he brings her to a bar. He introduces her to the owner, tells her this is where she will work and leaves. The owner brings her to a small room, where she has to receive clients. That evening she receives 10 clients. The next morning she goes to the owner and asks for the money she has earned. He tells her that he has paid a lot of money for her and she first has to work off her debt to him before she can keep some money for herself. After a month she still has not received any money. When Ana protests, the owner says her papers are false and that if she goes to the police they will put her in prison because prostitution is illegal in Turkey.

Question: Is this a case of trafficking?

1. Defining trafficking in human beings

The term 'trafficking' was mentioned as early as the end of the 19th century, but there has been a persistent confusion about its meaning. In other words: precisely which practices should be combated? This confusion has been reflected in the various, sometimes contradictory, definitions used in national legislation and international instruments and only ended by the adoption in 2000 of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children.

The Trafficking Protocol for the first time contains an internationally agreed upon legally binding definition of trafficking. The Protocol supplements, together with a separate protocol on smuggling, the UN Convention Against Transnational Organized Crime. Romania is a party to both the Convention and the Protocol. Art. 3(a) of the Protocol defines trafficking in human beings as follows:

"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 or services, slavery or practices similar to slavery, servitude or the removal of organs"

Moreover:

- *The consent of a victim of trafficking in persons to the intended exploitation is irrelevant if any of the deceptive or coercive means as listed in the definition have been used;*
- *Any recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered 'trafficking in persons' even without the use of any of the deceptive or coercive means as listed in the definition;*
- *'child' shall mean any person under eighteen years of age.*

Traditionally trafficking is associated with enforcing women and children into prostitution, but the Protocol makes clear that trafficking can occur for all forms of forced labour or slavery-like exploitation, no matter the type of work. People can thus be trafficked into a diversity of industries, including domestic labour, sex work, sweatshop labour, construction, fishery or agricultural labour. The core of the crime is that people are brought or kept in a situation of forced labour or slavery-like exploitation with the use of deception, coercion, or abuse of authority. Trafficked people are usually deceived into their vulnerable situation. They may be offered further education, a well paid job or marriage and end up in forced labour or forced marriage. If a woman is trafficked into prostitution, she may know she is going to work in the sex industry, but not that she is going to be deprived of her freedom and her earnings. This is trafficking. In most cases traffickers deceive people about the conditions under which they will be forced to live and work.

Trafficking in human beings is a serious crime and generally considered a violation of human rights. In many cases trafficking is associated with organised crime. Often large financial interests are involved. Traffickers may be organised in network-like structures at a regional or international level with varying degrees of organisation. However, trafficking can also be committed by a single individual or a number of individuals in association. Traffickers can use different channels and methods. It can take place within a country or region or across regions or national borders and can involve illegal recruitment agencies, but also legal job or marriage agencies. Often corrupt officials are involved.

Trafficking is closely linked with slavery, slavery-like practices and forced labour. The crime of trafficking actually refers to a process or chain of events, starting with the recruitment of the victim and ending with her/his exploitation under forced labour or slavery-like conditions. The situation of victims can vary from a dependent position with the use of subtle forms of coercion, to complete control and the use of physical violence or threat. Victims and traffickers can come from a diversity of backgrounds.

Trafficking in human beings affects both men and women, but it is not a gender-neutral phenomenon. Women are affected in different ways than men in terms of the sectors into which they are mostly trafficked (in particular domestic work and sex work), the forms of abuse they suffer and the consequences thereof. Also in other aspects trafficking is not a 'neutral' phenomenon, but is closely related to and generated by discriminatory practices and unequal power relations, including those based on gender, race, ethnic or cultural background. Also children (male and female) can become victim of trafficking.

As stated by the UN High Commissioner on Human Rights "Violations of human rights are both a cause and a consequence of trafficking in persons".¹ "Trafficking is a cause of human rights violation because it violates fundamental human rights, such as the right to life, to freedom of movement, to dignity and security of the person, to just and favourable conditions of work, to equality and to be recognized as a person before the law. It is a consequence because it is rooted in poverty, inequality and discrimination".² The various elements of human rights violations that occur during the process of trafficking are addressed in numerous international treaties. The most important of them are the ILO Forced Labour Conventions (1930, 1957), the Conventions on Slavery and Slavery-like Practices (1926, 1956), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Protection of All Migrant Workers and their Families (1990), the Convention on the

¹ UNHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, guideline 1, (E/2002/68/Add.1).

² Ann Gallagher, *Trafficking and the Global Sex Industry: The need for a human rights framework*, edited extract from an address delivered by the High Commissioner on Human Rights Mary Robinson to an NGO/IGO consultation on trafficking, Geneva, June 21 1999, in: *Women's Rights are Human Rights*, Special issue on Women's rights – Spring 2000, OHCHR, www.unhcr.ch/html/menu2/womenpub2000.html

Elimination of all Forms of Discrimination Against Women (1979), the Convention on the Rights of the Child (1989), and within the European context the European Convention on Human Rights (1950).

2. International and European instruments to combat trafficking and protect victims

This chapter discusses existing European and international instruments to combat trafficking and to assist and protect victims. A central question is the understanding of the definition of trafficking: what exactly do we want to combat? A second important aspect is the position of victims: what European and international instruments do exist in this field? The rights of victims will be discussed more extensively in chapter 3.

UN Trafficking Protocol

The Trafficking Protocol is the first international instrument that addresses all aspects of trafficking and that contains an internationally legally binding definition of trafficking. It contains provisions on the criminalisation of trafficking in persons and the protection of victims as well as on prevention and co-operation. Primarily the Protocol is a law enforcement instrument to promote cross border co-operation by governments and to ensure that all countries have adequate laws to address this crime.

Assistance and protection of victims

With regard to the assistance and protection of the victims of trafficking, the Protocol outlines in Art. 6, 7 and 8 the core protection and assistance measures which should be available to trafficked persons:

- Information and counselling, in particular about their legal rights, including information on relevant court and administrative proceedings and assistance to enable the victim's views and concerns to be represented and considered during criminal proceedings
- Appropriate housing, medical, psychological and material assistance
- Employment, education and training opportunities, in accordance with the age, gender and special needs of the victim
- Protection of the physical safety, privacy and identity of victims;
- Possibilities to obtain compensation for damage suffered
- Temporary or permanent residence permits

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children

- Supplementing the UN Convention Against Transnational Organized Crime
- First internationally agreed upon definition of Trafficking in Persons
- Primarily law enforcement instrument
- Obligation to criminalize trafficking
- Provisions on victim assistance, prevention and cooperation

Moreover, due regard should be given to the safety of the victim and the status of any legal proceedings related to that person being a victim of trafficking when repatriating the victim, which

should preferably be voluntary.

Prevention

States are required to prevent trafficking in persons and to protect victims from re-victimisation by research, information, mass media campaigns, as well as by undertaking measures to alleviate the root causes of trafficking, such as poverty, underdevelopment and lack of equal opportunity (Art. 9). Furthermore, it requires States to undertake measures in the field of information exchange and training of officials, border controls as well as to ensure the integrity and security of travel or identity documents (Art. 10-13).

Definition

The definition of trafficking in Article 3 of the Protocol contains three distinct, but interconnected elements:

- ACTS: the recruitment, transportation, transfer, harbouring or receipt of persons
- MEANS: 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 payments or benefits to achieve the consent of a person having control over another person
- PURPOSE: for the purpose of exploitation (the '*purpose*'). 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.

Moreover:

- The consent of a victim of trafficking in persons to the intended exploitation is irrelevant if any of the deceptive or coercive means as listed in the definition have been used (Art. 3 b);
- Any recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is considered 'trafficking in persons' even without the use of any of the deceptive or coercive means as listed in the definition (Art. 3c);
- 'Child' means any person under eighteen years of age (Art. 3d).

In short, trafficking is about moving people with the use of deception, coercion or abuse of power into a situation of exploitation (slavery, servitude, forced labour). The central element is the use of coercion, deception or abuse of power. The inclusion of fraud, deception and the abuse of power or of a position of vulnerability recognises that trafficking can occur without any use of (physical) force. According to the interpretative notes to the Protocol, 'abuse of a position of vulnerability' refers to '*any situation in which the person involved has no real and acceptable alternative but to*

submit to the abuse involved' (para 63)³. This can for example be the case if the victim does not speak the language, if her/his identity papers are taken away, if s/he has no legal residence status or working permit, if s/he does not know where s/he is, is kept isolated or prohibited from having contacts with friends, family or the outside world or is threatened with reprisals against her/himself, children or other family members. In this way victims are brought in a situation of total dependency on their captors with no real and acceptable alternative than to submit.

The issue of consent

The Protocol stipulates that the consent of the victim shall be irrelevant where any of the means listed in the definition is used. This is in line with existing international legal norms and does not take away the right of the accused to a full defence and to the presumption of innocence, as explicitly stated in the interpretative notes to the UN Protocol. It should also not be interpreted as imposing on the victim the burden of proof. As

in any criminal case, the burden of proof is on the State or public prosecutor, in accordance with domestic law. However, once the elements of the crime of trafficking are proven, any allegation that the trafficked person 'consented' is irrelevant. Moreover, it should be kept in mind that the initial recruitment can be voluntary and that the coercive mechanisms to keep a person in an exploitative situation may come into play at a later stage.

Thus although a person may consent to migrate, to carry false papers, to work in prostitution or to work illegally abroad, this does not imply the person's consent to forced labour or slavery-like exploitation, including in the sex industry, and consequently does not exclude the person being a victim of trafficking.

Broad definition

The Protocol contains a broad definition, covering all forms of trafficking into sexual exploitation, forced labour or services, slavery, and servitude, independent of the type of work. Although the sex industry is one of the industries into which people, and in particular women, are trafficked and exploited under slavery-like conditions, it is important to note that not only women and children are trafficked but also men. Moreover, people can be trafficked into a diversity of industries, such as domestic work, sweatshop labour, construction or agricultural work. For the crime, it is not important whether the work is legal or illegal under national laws (e.g. begging, prostitution).

Definition UN Protocol

- ✓ **Core element:** coercion, deceit, abuse of power
- ✓ **Consent not relevant** if coercion or deception is used
- ✓ **Broad definition:** all purposes for which people can be trafficked
- ✓ **No crossing of borders** needed
- ✓ **Children:** coercion not required
- ✓ **Trafficking vs Smuggling**
- ✓ **Trafficking vs Prostitution**

³ Crime Prevention and Criminal Justice, report of the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime on the work of its first to eleventh session, Addendum, *Interpretative notes for the official records (Travaux Préparatoires) of the negotiation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, UN General Assembly, 3 November 2000 (A/55/383/Add.1), to be found at <http://www.odccp.org/crime-cicp-convention-documents.html>.

Difference between trafficking and smuggling

The Protocol makes a clear distinction between trafficking and smuggling, which is addressed in another protocol. The purpose of smuggling is the illegal crossing of borders, whereas the aim of trafficking is the forced labour or slavery-like exploitation of the trafficked person. When people are smuggled, at the end of the journey they are free and not tied to the person who smuggled them. When people are trafficked, at the end of the journey they are not free, but tied to their traffickers for the exploitation of their labour or services. Often, in fact, it is only once they arrive at the place of destination that their real problems begin. They are forced to work in jobs or conditions that they did not agree to and lose control over their life, liberty and work. In other words, smuggling concerns primarily the protection of the State against illegal migration, while trafficking primarily concerns the protection of the individual person against exploitation and abuse. Moreover, the crossing of borders is not required for trafficking.

Difference between trafficking and prostitution

The Protocol also makes a clear distinction between trafficking and prostitution. The terms 'exploitation of the prostitution of others' and 'sexual exploitation' were intentionally left undefined in order to allow all States, independent of their domestic policies on prostitution, to ratify the Protocol.⁴ The Protocol therefore does not imply a specific position on the treatment of (the exploitation of) non-coerced adult prostitution, leaving it to individual States how to address prostitution in their respective laws. Against this background, different legal systems, whether decriminalising, legalising, regulating or tolerating (non-coerced adult) prostitution, as well as systems criminalizing (the exploitation of) prostitution, prostitutes or the use of the services concerned, comply with the Protocol.

The purpose of exploitation

A critical element of the definition is the purpose of trafficking, namely exploitation. However, the Protocol does not give a definition of exploitation. It just states that exploitation should 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.

Purpose = Exploitation

- ✓ "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".
- ✓ "Exploitation of the prostitution of others and sexual exploitation": intentionally left undefined, so to leave it to States how they address prostitution as such in their respective domestic laws.
- ✓ Element of coercion crucial to have it fall under the Trafficking Protocol

As for sexual exploitation, the Protocol solely addresses the exploitation of the prostitution of others and other forms of sexual exploitation in the context of trafficking in persons. In particular in

⁴ The interpretative note to the UN Protocol reads that 'The *Travaux Préparatoires* should indicate that the Protocol addresses the exploitation of prostitution of others and other forms of the sexual exploitation only in the context of trafficking in persons. The terms "exploitation of the prostitution of others" and "sexual exploitation" are not defined in the Protocol, which is therefore without prejudice to how States Parties address prostitution in their respective domestic laws.'

relation to prostitution, the element of coercion within the definition is crucial to distinguish that it is the forced, exploitative, or slavery-like conditions of the work or relationship and whether those conditions were freely and knowingly consented to by the person, which give rise to it falling under the Trafficking Protocol, rather than the type of work or services itself.⁵

The Protocol itself does not give a definition of the concepts of 'forced labour or services', 'slavery', 'practices similar to slavery' and 'servitude'. However, these concepts are elaborated in international instruments to which regard must be taken in the implementation and application of the Protocol.

Forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs

- ✓ Defined in other international instruments, in particular the Forced Labour and Slavery Conventions
- ✓ New: link to Forced Labour
- ✓ **Up till then trafficking and forced labour treated as two different strands**
 - Forced labour (forced labour conventions)
 - Way people arrive in a situation of forced labour (trafficking)
- ✓ Brings into the arena the work of the ILO

The most important is the ILO Forced Labour Convention no. 29 (1930). The Convention defines forced labour as *'All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.'* Romania is a party to the Forced Labour Conventions.

In its Guidelines on human trafficking the International Labour Organisation (ILO) lists six elements that can be used to identify a forced labour situation⁶:

- Threats or actual physical or sexual harm
- Restriction of movement and confinement to the work place or a limited area
- Debt bondage/ bonded labour. This is the case when the person works to pay off a debt or loan and is not paid for his or her services. The employer may provide food and accommodation at such

1930 Forced Labour Convention

- "All work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."
- ILO Guidelines on Human Trafficking and Forced Labour exploitation
- **Six elements**
 1. the threat and/or application of physical or sexual violence
 2. restriction of movement
 3. debt bondage/ bonded labour
 4. withholding of wages or no payment at all
 5. the retention of passport and identity documents
 6. the threat of denunciation to the authorities.

- inflated prices that the person cannot escape the debt
- Withholding of wages or excessive wage reductions that violate previously made agreements
- Retention of passport and identity documents, so that the person cannot leave or prove his/her identity and/or status
- Threat of denunciation to the authorities where the worker has an irregular status.

⁵ The same goes for the purpose of 'removal of organs' in the Trafficking Protocol definition. Also this purpose is not inherently coercive but only becomes trafficking if one of the means is used (plus the element of movement).

⁶ Human Trafficking and Forced Labour Exploitation, ILO Guidelines for legislators and law enforcement, Special Action Programme to Combat Forced Labour, 2005.

Since the coming into force of the Forced Labour Convention, the ILO Committee of Experts has treated trafficking for the purpose of commercial sexual exploitation as a form of forced labour.

European instruments

Until now, States' policies have tended to concentrate on measures in the area of crime and migration control, but less on assistance and human rights protections for victims. This is reflected in the UN Protocol on Trafficking which contains strong and mandatory law enforcement provisions, whereas the provisions on assistance and protection leave wide discretion to States. It is also reflected in the European response, in particular the *EU Council Framework Decision on Combating Trafficking in Human Beings* - which obliges all EU Member States to harmonise their domestic criminal legislation on trafficking - and, most recently, in the 2004 *Council Directive on a temporary residence permit of victims who cooperate with the authorities*. The Directive only applies to those victims who are able and willing to assist in the criminal proceedings, thus making protection and assistance conditional on the victim's 'usefulness' for the criminal procedure.

European instruments

- EU Framework Decision on combating trafficking in human beings (2002)
- EU Directive on a temporary residence permit for victims who cooperate with the authorities (2004)
- Council of Europe Convention on Action Against Trafficking in Human Beings (2005)

A human rights approach opposes the reduction of human beings to tools of law enforcement. Under international human rights law the right to protection, assistance and redress of trafficked persons as victims of a human rights violation is a right in its own and is not made contingent upon the willingness or capacity of the trafficked person to co-operate in legal proceedings and/or to give evidence.

Human rights in the centre

A more human rights based instrument is the recent *Council of Europe Convention on Action Against Trafficking in Human Beings*, which was adopted in 2005 and to which Romania is a party. The convention explicitly identifies trafficking as a violation of human rights and covers both cross-border and internal trafficking. It contains minimum standards for the protection of the rights of trafficked persons (including a reflection period of 30 days) and sets out provisions related to the prevention and criminalisation of trafficking.

In particular the Council of Europe Convention requires State Parties to:

CoE Convention on Action Against Trafficking in Human Beings

- ◆ Identification of trafficked persons
- ◆ Training of law enforcement officials
- ◆ Assistance & protection, regardless of willingness to act as witness
- ◆ Reflection period of min. 30 days
- ◆ Residence permits
- ◆ Repatriation with due regard to rights, safety and dignity
- ◆ Redress and compensation

- Adopt procedures to identify trafficked persons, and ensure that this key task is undertaken by trained and qualified people
- Ensure that people who are reasonably believed to have been trafficked are not involuntarily removed until the identification process has been completed and that they are offered assistance and protection
- Provide assistance and protection to all people reasonably believed to be trafficked, including safe and secure housing, psychological assistance, emergency medical care, interpretation and translation services and information about their rights, including the right to compensation. Such assistance may not be conditioned on their willingness to act as a witness in any proceedings against those responsible for their trafficking
- Authorise the presence of trafficked people in the State in which they are found for a period (of not less than 30 days), which is sufficient for them to begin to recover, escape the influence of their trafficker(s) and make informed decisions about their future, and to grant them, when their stay is necessary for their personal situation and/or for their co-operation in investigations or criminal proceedings, renewable residence permits
- Ensure that any repatriation of a trafficked person is carried out with due regard to his or her rights, safety and dignity
- Ensure that the trafficked persons have access to redress and receive compensation for the abuses of their human rights to which they have been subjected.

Examples of practices that do not respect the rights and dignity of trafficked persons are mandatory medical check-ups and HIV-testing, compulsory counselling, restriction of the victim’s freedom of movement, or contacting the victim’s family and informing officials in his/her country of origin about them without prior consent.⁷ Respect for the rights of trafficked persons is also in the interest of the criminal proceedings. Research from Anti-Slavery International indicates that law enforcement officials have tended to be most successful in securing convictions when trafficked person’s rights had been respected.⁸ In the successful cases there were committed teams of law enforcement officials, prosecutors, lawyers and service providers, who all responded sensitively to the needs and rights of trafficked persons in each case.

Position of victims: access to justice

The importance of assistance and protection is reflected in the *United Nations Recommended Guidelines on Human Rights and Human*

Position of victims

UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power (1985)

- definition of victim
- right to access to justice, legal redress and compensation

UNHCHR Principles and Guidelines on Human Rights and Human Trafficking

EU Council Framework Decision on the Standing of Victims in Criminal Proceedings (2001)

- definition of victim
- right to be treated with respect for their dignity
- right to provide and receive information
- right to understand and be understood
- right to be protected in the various stages of the procedure

⁷ Trafficking in Human Beings, Report of the EU Experts Group, Brussels, 2004.
⁸ Elaine Pearson, Human Traffic Human Rights, Redefining Victim Protection, Anti-Slavery International, London, 2003.

Trafficking. Among others they recommend:

- Implementing measures to ensure that ‘rescue’ operations do not further harm the rights and dignity of trafficked persons. Such operations should only take place when appropriate procedures for responding to the needs of trafficked persons released in this way, have been put in place
- Making appropriate efforts to protect individual trafficked persons during the investigation and trial process and any subsequent period when the safety of the trafficked person so requires. Appropriate protection programmes may include some or all of the following elements: identification of a safe place in the country of destination, access to independent legal counsel, protection of the identity during legal proceedings, identification of options for continued stay, resettlement or repatriation
- Encouraging law enforcement authorities to work in partnership with non-governmental agencies in order to ensure that trafficked person receive necessary support and assistance.

The core rights of victims are outlined in the *EU Council Framework Decision on the Standing of Victims in Criminal Proceedings* and the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power*. Under the UN Declaration of Basic Principles, victims of crime are entitled to access to justice, legal redress and compensation. According to the Declaration a person can be considered a victim ‘regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the victim and the perpetrator’. The term victim also includes, where appropriate, the immediate family of the direct victim and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation.

The *EU Council Framework Decision, which is legally binding*, states that, as a minimum, ‘victim’ shall mean

‘A natural person who has suffered harm, including physical or mental injury, emotional suffering or economic loss, directly caused by acts of omission that are under criminal law of a Member State’.

Rights of victims include the right to be treated with respect for their dignity, the right to provide and receive information, the right to understand and be understood and the rights to be protected during the various procedural stages.

The role of law enforcement in protecting the human rights of trafficked persons is recognised as instrumental in a number of international documents: the *UN Code of Conduct for Law Enforcement Officials*, the *UN Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power* and the *European Code of Police Ethics*. Also the Universal Declaration of Human Rights contains a number of articles which are particular relevant to law enforcement work, such as the right to life, liberty and security of the person, equality before the law and entitlement to equal protection of the law without discrimination (Art. 7 UDHR).

3. Identification process

Introduction

One of the obstacles in combating trafficking is the identification of victims. Many (but not all) victims of international trafficking have an irregular immigration status. If not properly identified in the country to which they are trafficked, they may be detained and deported as undocumented or illegal aliens without any further investigation. Those trafficked into the sex industry, within or across borders, may be simply treated as 'prostitutes' and may face prosecution themselves in countries where prostitutes are punishable, like Romania.

It is not an easy task to establish if a person might be a victim of trafficking. Some may not see themselves as victims, but rather as people who have had 'bad luck'. In such circumstances, they may feel the intervention of police rather as oppressive interference than as a help or 'rescue'. Many are concerned that involvement of police will only add to their problems rather than solve them. All are threatened and afraid of reprisals against them or their families. Sometimes they have been witness to what has been done to other victims who tried to escape or who talked to the police.

Other serious barriers for the proper identification of trafficked persons that were mentioned during the seminars include lack of interagency communication and coordination, problems with information management within the law enforcement and the spread of a case over different judicial regions. Other challenges are the fact that police officers who come into contact with possible trafficked persons usually are not trained to identify them or respond to their special needs, the fact that the police is dependent on mandates of 'above' and need to have some sort of evidence before being able to do anything, the lack of adequate support services for under age victims, the possibilities to arrest, detain and sentence trafficked persons for prostitution (including minors) or illegal border crossing, problems with finding the right balance between gathering information and showing sensitivity towards the (possible) victim and cumbersome international cooperation. A general problem is the attitude towards prostitutes: often they are seen as co-authors of the crime, whose statement you cannot trust.

Only very few victims will report on their own initiative to the police. Often they will perceive law enforcement as a further threat rather than a potential help. There are many good reasons for such concerns. If they are irregular migrants, they risk arrest and expulsion. Women (and men) trafficked into the sex industry fear stigmatisation and rejection by their family or community if it gets known they have worked as a prostitute. No matter whether or not they knew on forehand they would work in prostitution, they are well aware of the still common attitude that once a prostitute, a woman loses her rights and is no longer entitled to protection against violence and exploitation.

This attitude acts as a powerful barrier for women to seek help. In addition, many are ashamed of what happened to them or fear being blamed themselves for the abuses committed against them. Most trafficked persons do not trust the police and have little confidence in the legal system, often due to previous negative experiences. Often the traffickers will have told them that the police is corrupt. Unfortunately this is not always unfounded.

Victims may respond differently depending on the type of exploitation they suffered. According to the experience of the specialised police officers access to victims of sexual exploitation is particularly difficult. Victims from forced labour exploitation come forward more easily and complain about labour conditions and lost wages. Victims of trafficking for begging are mostly Roma. This may make it difficult to communicate and often they have no identification papers or fixed address.

As a direct consequence of not being properly identified, trafficked persons are unaware of their rights and do not have access to assistance services in place for them. Moreover, without recognition of the victims, the effective investigation and prosecution of trafficking cases will fail. For these reasons it is important to be aware of the many indicators and sources of information that can help to detect actual cases of trafficking. The indicators mentioned below will not work as 'evidence' and do not prove a case of trafficking on their own. Still they should be known by law enforcement agencies and others who work in the area of trafficking in human beings and who may come into contact with victims. Closer investigation should be at least considered, whenever and wherever (a combination of) these indicators are present. Finally, it is important to keep in mind that each case is individual!

Law enforcement agencies that might come into contact possible victims⁹ include front line officers, border guards, immigration services, detention centre workers and specialised police units.

A recently happened case in Romania
A 12 year old girl was working as a prostitute since she was 8 years old. One teacher reported to the police that the girl had disappeared one year ago. The girl lived with her parents.

Q: Who would have been responsible to undertake action, could the police have done something, might this have been a case of trafficking?

Discussion: Participants agreed that this was not a case of trafficking as she was not tricked into prostitution, there were no signs of coercion or deception. Some participants put forward that prostitution is illegal in Romania, but since she was under 12 years the police could not arrest her. They maintained that if there is no evidence that she is trafficked, there is no cause for the police to undertake action and take her off the streets. If she had been over 14, she would have been punishable herself for working in prostitution and could have been arrested. Others stated that the girl herself was to blame or the parents, who had failed to protect the child. Again others stated that, no matter whether or not it is a case of trafficking, minors can never legally consent to work in prostitution and a youth protection institution should have been informed.

Indicators of trafficking

⁹ The term 'possible victim' describes the situation where there are reasonable grounds to believe that a person might have been trafficked and a process of identification is warranted to ascertain whether or not a person is a victim of trafficking.

There is not one indicator of trafficking. Rather a (combination of) varying indicators may point to a possible situation of trafficking, that warrants further investigation. Below the various sources of information and victim and non-victim related indicators that were identified during the training seminars are listed.¹⁰

Non-police sources of information

It is mostly up to the police to look for indicators in the field. Still police cannot be everywhere. So it has been proved successful to develop a network of other information sources. The following institutions and/or persons may provide useful information:

- NGOs and other social service providers (e.g. social workers, outreach workers)
- Family and relatives of (possible) victims reporting a person missing
- Hospitals and other medical institutions and service providers (e.g. physicians, health workers, abortion facilities, etc.)
- Organisations on sexual abuse and related crimes
- Labour agencies, e.g. the labour department, labour inspectors, employment agencies and unions
- Recruitment and travel agencies
- Landlords, care takers, administrators and other people working in buildings that may be used for trafficking (brothels, factories, agriculture, domestic workers)
- Child protection agencies, orphanages and juvenile centres
- Schools (e.g. the unjustified absence from school of a child), churches, pensions, hotels, bars, disco's
- Taxi drivers
- Clients
- Colleague workers
- Police informers
- Open sources, such as the media (and internet), e.g. advertisements for work abroad, adds of adoption agencies, advertisements for sexual services, or articles of journalists on trafficking cases and related issues.

Victim related indicators

Indicators of trafficking can be based on the statement of the (possible) victim or friends or family members, but also on the behaviour or appearance of the person or the circumstances in which she

¹⁰ For the list of victim related indicators use is also made of the *Protocol for Identification and Assistance to Trafficked Persons and Training Kit*, Anti Slavery International in cooperation with the Dutch Police Academy, On the Road (Italy), Eaves Housing for Women (UK) and the Foundation Against Trafficking in Women (now Comensha) in the Netherlands (2005), and the *Guidelines for the Investigation and Prosecution of Trafficking in Human Beings and the Treatment of Victims during Law Enforcement Proceedings*, Marjan Wijers, Roelof Haveman, Tristram Moeliono, Mudzakkir & Irawati Harsono, Jakarta: IOM 2005.

or he is found during labour inspections, inspections of brothels, police investigations, et cetera. Obviously, not all of the listed indicators are present in every case. Also, one indicator does not mean it is a case of trafficking. However, if a combination of several indicators is present, it is reasonable to suspect that it might be a trafficking case.

Recruitment

- A third party arranged the travel, identity and/or work documents;
- The person has not paid her/himself for the journey and the necessary documents;
- The fees and/or interest rates charged by the recruiter(s) are excessive;
- The person is in debt and the family and/or loved ones back in the country of origin have been guaranteed re-payment of the debts;
- The person has been given false, inaccurate or misleading information about the nature or conditions of the work. This includes e.g. promises of marriage.

Mario, an adolescent boy of 14 years from Oas, heard from friends, who had lived at the same orphanage, that France offers a lot of opportunities to earn money. He travelled together with an older boy, from whom he had borrowed money and who had contacts in France. After some time Mario was caught shoplifting in Bordeaux and sent back to Romania. Officials meet him at the airport and referred him to a centre for juvenile delinquents.

Q: Are there indicators that this may be a case of trafficking? Which? Was the case handled properly?

Personal documents and belongings

- The person's passport and/or travel or identity documents were confiscated/ the person is not in the possession of her/his own travelling or identity documents;
- The person has false or falsified identity, work and/or travel documents, which are arranged for by other persons;
- The person's personal belongings were confiscated;
- The person is prohibited from possessing and/or transferring earnings and savings.

Freedom of movement

- Limitation or deprivation of freedom of movement: the person is not allowed to move freely without permission and/or is kept under constant surveillance;
- The person is physically confined to her/his workplace. S/he is not allowed to leave the premises for a longer period or to leave the premises unaccompanied;
- The possible victim is not allowed to resign from work;
- The person has not been allowed to choose her/his place of residence;
- Limitation of social contacts: the person is subjected to arbitrary or unlawful interference with her/his right to privacy, family, home etc. S/he is kept isolated and/or deprived of her/his freedom to freely maintain contacts with others (family, friends and colleagues).

Violence or threat of violence

- The person faced (threats of) violence or abuse, including threats to others, for example family or children at home, if s/he did not comply or showed resistance;
- Blackmail is used to force the person to comply, e.g. pictures are taken of the victim being raped or working as a prostitute and she is threatened that these will be sent to her family if she tries to escape;
- The person faced physical or sexual abuse and/or harassment, including beatings, forced drugs consumption and rape;
- The person shows signs of physical or sexual violence, of fear, depression or a nervous break down;
- The person faced psychological abuse, including verbal abuse;

Working conditions

- The person is forced to perform tasks for which s/he was not recruited and/or which are not stipulated in the agreement or contract; The person is not able to exercise control over his/her working conditions;
- The terms of the employment contract or verbal agreement are not respected by the employer or the person was forced to sign a new contract upon arrival in the destination country;
- The person is not paid for her/his work, payment is delayed and/or the person is paid only a fraction of what s/he should get paid compared to wages promised or to the national minimum wages, where applicable;

Valentin responded to an offer in a local newspaper, which promised good pay for agricultural work in Spain. The only precondition was that he was required to pay 200 EUR commission as well as to cover his travel expenses from Romania to Spain. Upon his arrival in Spain he was accommodated in a barrack without water, electricity or toilet. Valentin earned significantly less than initially promised while also having to cover the cost of board and lodging. He quickly ran up a debt, was forced to work for up to 15 hours per day and was physically abused by watchmen. A raid carried out by Spanish police freed Valentin along with 37 Romanian co-patriots. All were deported back to Romania.

Q: Are there indicators that this may be a case of trafficking? Which? Was the case handled properly?

- The person cannot dispose over her/his own earnings and/or has to hand over (the largest part of) her/his earnings to a third party. This can be the mediator, agency, employer, or, in the case of trafficking for prostitution, the brothel keeper or pimp;
- Significant deductions are made from the salary (e.g. to pay for placement fees or in the form of 'compulsory savings');
- Debt bondage: The person is under the obligation to pay an (excessively) high amount of money to a third person or party

(e.g. for the costs of recruitment, identity papers, the journey, food, lodgings, clothing or other utilities for the work), before s/he can dispose over her/his own earnings and/or before s/he is allowed to stop working or to leave the job;

- The person is denied adequate medical care; occupational health and safety information is not provided and/or health services are inaccessible or do not meet the person's needs;

- The person has to work under extremely bad conditions, has to work excessive hours, is not given sufficient leisure time and/or is denied benefits to which s/he is entitled (e.g. paid holiday, sick leave, maternity leave);
- The person is exposed to occupational risks which compromise his/her health and safety and/or is not provided with protective gear or equipment;
- The person is subjected to mandatory medical testing, forced pregnancy tests or forced abortion;
- The person is accommodated in the same place as s/he works against her/his will.

Specific indicators in the case of trafficking for prostitution:

- The possible victim is paid a lesser percentage of her earnings than is usual in prostitution;
- The possible victim is obliged to earn a minimum amount of money per day;
- The person has no control over the number of clients or the sexual services provided and/or has no right to refuse clients and/or certain sexual acts;
- The brothel keeper or another third person has paid a transfer sum for the possible victim and/or hands over (part of) the earnings of the possible victim to a third party;
- High mobility: the venue where the person is set to work changes repeatedly.

Miruna had been arrested by police after a raid of prostitutes. She was taken to the local police station and questioned by the local police inspector, who was particularly interested in getting all the names of the women and girls working with her in the raided area. Miruna felt intimidated and gave away some names in order to get out of the police station. Police made use of the information and knocked at the doors of the families of the women and girls that she named during the interview.

Q: Are there indicators that this may be a case of trafficking? Which? Was the case handled properly?

Living conditions

- The person finds him/herself in a situation of dependency of a third party (does not speak the language, has no means of subsistence, has no identity papers, does not know the way, etc.);
- The person is denied the right to choose or change his/her place of residence;
- The person has to pay an excessive amount of money for substandard accommodation;
- The person is denied the right to freedom of thought, conscience and religion/expression;
- The person is denied the freedom to seek and receive impartial information and ideas of all kinds.

Adina, a 12 year old girl was on her way to school when she was picked up by strangers at a bus stop. She was not given any choice but enter the car. The orphanage she lived in, reported her as missing but investigations did not lead anywhere. Adina was brought to Bucharest and forced to work on the streets. She was repeatedly fined for prostituting herself. After one year in this situation she was taken to a shelter for trafficked women and girls with the help of a specialised police officer.

Q: Are there indicators that this may be a case of trafficking? Which? Was the case handled properly?

Also the background of a (possible) victim can give an indication, for instance if the person comes from a socially marginalised or vulnerable group, such as Roma, disabled people, children in orphanages or poor and illiterate

families. However, also well educated people from middle class families can become victim of trafficking.

Non-victim related indicators

Other indicators include locations and objects, for example unusual activities, visitors or other people around a certain building, expensive cars or other valuables, working places where the doors are locked or which are guarded or indications that a building is used as a brothel. Another indicator can come from analysing money flows.

The fact that a possible victim agreed to migrate for work or agreed with a certain type of work (e.g. to work as a domestic helper or as a prostitute) does not mean that she/he cannot be a victim of trafficking. Also illegal entry or stay do not necessarily make part of trafficking. Although many trafficked persons enter or stay in a country illegally or irregularly, victims can also have a legal staying permit and/or have entered the country legally. Moreover, trafficking also occurs within borders.

Guidelines for the identification of trafficked persons

- Recruitment by a third person
- Arrangement and/or payment of costs of travel, identity and/or work documents by a third person
- Excessive fees and/or interests
- Debts
- False information about the nature or conditions of work
- No possession of personal documents and belongings
- False documents
- No or limited freedom of movement and/or social contacts
- Physical confinement to the workplace
- Under constant surveillance
- Violence or threat of violence against person and/or family
- Blackmail
- Physical, sexual or psychological abuse
- No, little or delayed payment
- No adequate medical care and/or health services
- Mandatory medical testing, forced pregnancy tests or forced abortion
- Accommodation at the work place
- Obligation to earn a minimum amount per day
- No control over working conditions
- Extremely bad and/or unsafe working conditions
- Situation of dependency
- No right to choose or change work and/or place of residency
- No freedom to seek information

4. Rights of victims in the criminal proceedings

Introduction

Trafficking in human beings constitutes a serious infringement on the integrity of the victim, which justifies special attention to the treatment of victims by the police and judicial authorities. A critical component in the effective detection, investigation and prosecution of trafficking is the willingness of trafficked persons to assist in prosecutions. The willingness of victims to report to the police and cooperate in criminal proceedings is strongly related to their general treatment by the police and judicial authorities, the protection of their safety and privacy, the availability of information and assistance and the risk they incur of being arrested, detained, prosecuted or deported for offences arising out of their status of being trafficked, such as illegal entry or stay, involvement in the sex industry and/or the use of false documents. Research shows that victims who are treated well are more willing to cooperate and will therefore be better witnesses.¹¹

A proper and respectful treatment of victims is an inherent element of an effective approach to trafficking in human beings. A proper treatment includes the following:

- Treatment of victims with respect for their dignity: granting victims basic human respect is the basis of building communication and cooperation. Recognition of the rights and legitimate interests of victims will contribute to their confidence in the justice system and to their willingness to cooperate
- Right to provide and receive information: Police experience demonstrates that successful communication depends on the extent to which the victim has been informed and understands his or her rights and responsibilities¹²
- Right to protection from harm and access to assistance during the various stages of the criminal proceedings: in particular it should be ensured that the victim is protected from risks of reprisals and/or intrusion of his or her privacy. Traffickers and their accomplices often intimidate their victims to keep them silent and prevent them from seeking help. If victims have reported to the police they may harass and abuse the victim for having done so. It is crucial to set up conditions that prevent secondary victimisation of the victim. This includes (the organisation of) assistance of victims according to their needs, accompanying victims where necessary during and after criminal proceedings and protection of the victim against unnecessary confrontation with the suspect or family members of the suspect.

Guidelines for the proper treatment of victims

- Respect
- Communication
- Information
- Protection
- Assistance

¹¹ Handbook on Justice for Victims, UNODC, Center for International Crime Prevention, 1999.

¹² Protocol for Identification and Assistance to Trafficked Persons, ASI 2005.

The quality of the treatment of victims is also important with an eye to the public support for the criminal justice system. At the same time attention needs to be paid to the general interest of the process of truth finding and to finding an adequate balance between protection of the interests of the victim on the one hand and the interest of the suspect on the other hand in the light of Art. 6 of the European Convention on Human Rights.

Both the Romanian Criminal Code and European law stipulate rights of the victim in the criminal proceedings. The most relevant rights of the victim in Romanian law are described in the "Information brochure on protection of victims" (see annex 2). Below an overview is given of the various rights of victims as listed in the Information brochure and their basis in national and European law. A crucial question concerns the implementation of victims' rights, the role and responsibility of the various actors in the criminal justice process and obstacles faced. Though current Romanian law (in particular Law No. 678/2001) addresses the position of the victim extensively, various challenges were identified. These include, among others, the lack of continuity of the appointed lawyer and psychologist (according to the law they are appointed by default, which means that they can be different persons at each stage of the proceedings), the lack of trust of the victim in the criminal justice system, the general attitude towards prostitutes, the need for better case management and better communication between all parties involved, enhancing respect and understanding among the different branches of law enforcement and judiciary, the limitations in the protection that victims can be offered, lack of adequate technical equipment at court, the need to repeatedly interrogate the victim, the length of the criminal proceedings and the need to ensure closed-door trials for *all* trafficking cases.

Based on the victims rights' brochure and the outcomes of the discussions during the training seminars some guidelines are given for a professional, adequate and victim friendly treatment of trafficked persons, which does justice to their vulnerable position.

Right to information

Transparency of procedures and honesty of information is paramount. Trafficked persons will have been frequently deceived and used. It is important that the victim is given full and accurate information to enable her/him to take informed decisions. Provision of accurate information at an early stage will enable the victim to build a cooperative relationship with law enforcement and other officials. Information provision should take into account the possible effects of severe psychological trauma or the person's cognitive abilities. For example, victims who are traumatised may find it difficult to adequately process information.

The decision to press charges may have severe implications for victims, in the light of their safety and privacy, but also with an eye to the emotional and psychological burden of a court case, the

risk of re-victimisation and their future perspectives. These need to be fully understood and considered. Victims may need time before they can fully consider their position and options. If the victim needs more time to make an informed decision about pressing charges and/or act as a witness, this time should be given. This lessens the likelihood of re-victimisation of the victim and is likely to lead to better evidence and a stronger witness in the long run.

Guidelines

- Provide information when it's useful for the victim – from the very first stages of the investigation
- Use language that the victim understands (Romanian, Hungarian, German) – an interpreter is free of charge according to Art. 8 CC
- Be honest and realistic about the information you give: do not make promises you cannot fulfil. Be honest about limitations in the protection you can offer
- Information should be given from the very first contact of the victim with the police and other judicial authorities and should be accurate, relevant and clear
- Information is preferably given both verbally and in the form of written information. It is not sufficient to give the victim a leaflet with his or her rights, you need to explain in person to be sure that the victim understands what it means in practice
- Informing the victims is a shared responsibility of police, prosecutors, judges and service providers/NGOs, including NGOs in the country to which the victim was trafficked

Information to the victim should include:

- The different stages of the proceedings and the role and position of the victim in the criminal proceedings, in particular her/his rights and duties and the degree and nature of protection the victim can expect
- The types of services and organisations available for social and psychological support and how to access them
- The possibilities and limitations to obtain (free) legal aid through, for instance, NGOs, IOM, legal aid institutions and the National Agency
- The possibilities and limitations for protection of the safety and privacy and personal data of the victim (including protection against media intrusion). This should include information about how the police can protect the victim and how s/he can protect her/himself, in-court measures and the fact that if the victim decides to cooperate with the police, her/his personal data will be stored in a database
- The procedures and requirements for compensation through the criminal case or a civil law suit. The police always ask the victim whether or not she/he has suffered material and/or immaterial damages and whether she/he wishes to claim compensation. If so, the police inform the victim about the possible procedures to claim compensation and/or refer the victim to an organisation that can help her/him to claim compensation
- The right not to cooperate
- The non-punishment clause
- If the victim is an (undocumented) migrant: any special arrangements to protect their interests (e.g. reflection period and temporary residence permit)
- The possibilities to be kept informed about the progress of the proceedings. The police ask whether or not the victim wants to be kept informed about the progress of the case. If so, the police shall do so to the best of their ability
- Any decision to release the suspect, to stop the investigation or the prosecution or to dismiss the case

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Art. 43. Victims of the crimes stipulated in this Law are entitled to receive information on the applicable legal and administrative procedures.

Romania - Law No. 211 on certain measures to ensure the protection of victims of crime (2004)

Art. 4. Judges, in the case of offences for which prior complaint must be lodged with a law court, or public prosecutors, police officers/agents shall provide victims of crime with following information:

- services and organizations that provide psychological counselling or other forms of assistance to victims of crime
- body of criminal prosecution with which complaints may be lodged
- right to receive legal assistance and responsible institution
- conditions and procedure for obtaining legal assistance free of charge
- procedural rights of injured persons/parties and civil parties
- witness protection
- financial compensation from the State.

The information shall be made known to the victim by the judge, public prosecutor, police officer/agent before whom the victim appears. Information shall be either in writing or verbally, in a language that s/he understands.

Art. 5. Reach-out through nation-wide helpline.

Art. 6. Reach-out through websites of Ministry of Justice and Ministry of Administration.

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 4.1. Right to receive information

Each Member State shall ensure that victims in particular have access, as from their first contact with law enforcement agencies, by any means it deems appropriate and as far as possible in languages commonly understood, to information of relevance for the protection of their interests, including:

- type of services or organizations to which they can turn for support;
- type of support which they can obtain;
- where and how they can report an offence;
- procedures following such a report and their role in connection with such procedures;
- how and under what conditions they can obtain protection;
- to what extent and on what terms they have access to legal advice, legal aid or any other sort of advice;
- requirements for them to be entitled to compensation;

Right to assistance

As mentioned before, proper assistance of the victim makes up an important part of an effective approach. The police have a paramount role in the organisation of assistance to the victim, as they are often the first to establish contact with the victim. It is therefore important that they are informed about and keep good contacts with non-governmental organisations (NGOs) for victim support, as well as with the National Agency and Bureaus of Probation, which also have a role in supporting victims. Various NGOs can provide shelter and support to victims (see annex 1). The National Anti-Trafficking Agency has several regional offices and can refer victims to assistance services. It also has social workers and psychologists available. Although there are several support services available, participants noted that in practice there are still many problems. These include the lack of capacity to provide psychological assistance to victims, the need of long term support programmes, the lack of trust of victims in agencies (including NGOs), the protection of victims (who is competent and responsible for what) and the need to improve cooperation between police, the National Agency and NGOs. A condition for good cooperation between NGOs and police is respect and understanding of each others role and responsibility. NGOs represent the interest of victims, the interest of state institutions is not always the same as that of the victim. A psychologist, for example, is not there to do the work of the police or the prosecutor (i.e. question the victim). The police and prosecutor are there to catch the criminals, the psychologist is there to offer support and defend the interests of the victim.

It is recommended that each region establishes procedures for the assistance and referral of victims. Victim support services should be available to the person, regardless of her/his decision to report the crime.

Victims' rights brochure

You have the right to:

- accommodation for a period of 6 months up to 1 year
- medical health care free of charge
- education or further training, finishing of your education at school
- support in finding a new job
- psychological counselling
- legal advice, offered by non-governmental organisations and by advice centres of the local authorities

Guidelines

- The police should inquire with the victim if there is sufficient support and assistance in the direct social environment of the victim. If the victim wishes so, the police should establish contact with a non-governmental organisation or the National Agency for victim support. Assistance and support should be provided where possible, including referral of the victim to a victim support organisation
- The victim should have the possibility to receive support from a social organisation during investigation, interview(s)/ interrogation and trial. A counsellor, social worker or other companion of the choice of the victim should be permitted to be present during these proceedings to emotionally assist and support the victim
- The organisation of assistance to the victim is a shared responsibility of the police in cooperation with local partners and the National Agency

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Article 26.

1. Victims of the crimes stipulated in this Law, as well as other victims of these crimes, shall be granted special physical, legal and social protection and assistance.
3. Victims of the crimes stipulated in this Law are entitled to physical, psychological and social recovery.
4. Underage victims of the crimes stipulated in this Law shall be granted special protection and assistance, as appropriate for their age.
5. Female victims of the crimes stipulated in this Law, as well as females at high risk of becoming victims of such crimes shall be granted special social protection and assistance.

Article 44. Persons are entitled to assistance enabling the exercise of their rights within the criminal proceedings provided by law, at all stages of the criminal trial and are also entitled to supply evidence for their demands and civil actions against persons who have committed the crimes stipulated in this law, where they are involved.

Romania - Law No. 211 on certain measures to ensure the protection of victims of crime (2004)

Art. 4. Judges, in the case of offences for which prior complaint must be lodged with a law court, or public prosecutors, police officers/agents shall provide victims of crime with following information:

- services and organizations that provide psychological counselling or other forms of assistance to victims of crime;

Council of Europe Convention on action against trafficking in human beings (2005)

Article 12. Assistance to victims:

1. Each Party shall adopt such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery. Such assistance shall include at least:
 - a. standards of living capable of ensuring their subsistence, through such measures as: appropriate and secure accommodation, psychological and material assistance;
 - b. access to emergency medical treatment;
 - c. translation and interpretation services, when appropriate;
 - d. counselling and information, in particular as regards their legal rights and the services available to them, in a language that they can understand;
 - e. assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders;
 - f. access to education for children.
2. Each Party shall take due account of the victim's safety and protection needs.
3. In addition, each Party shall provide necessary medical or other assistance to victims lawfully resident within its territory who do not have adequate resources and need such help.
4. Each Party shall adopt the rules under which victims lawfully resident within its territory shall be authorised to have access to the labour market, to vocational training and education.

5. Each Party shall take measures, where appropriate and under the conditions provided for by its internal law, to co-operate with non-governmental organisations, other relevant organisations or other elements of civil society engaged in assistance to victims.

6. Each Party shall adopt such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.

7. For the implementation of the provisions set out in this article, each Party shall ensure that services are provided on a consensual and informed basis, taking due account of the special needs of persons in a vulnerable position and the rights of children in terms of accommodation, education and appropriate health care.

Right to legal representation

Most victims are not legally trained and have no experience with legal proceedings. In order for them to be able to actually exercise their rights access to legal aid is a crucial factor. Although according to the law victims have the right to a lawyer, in practice this right meets various obstacles. Not all judges are happy to appoint lawyers for victims; appointed lawyers do not get appropriate fees and are only paid after the trial is finished, which can take a number of years. As a consequence, the standard of assistance can be low. Moreover, they are appointed by default, meaning that victims may have different lawyers at each stage of the proceedings. In addition the selection of lawyers follows different rules in different regions. In some cases, NGOs can fill the gap and provide the victim with a fixed lawyer. Generally the police will call in a lawyer in the first interview with the victim, the prosecutor will appoint a lawyer during the pre-trial phase and the judge will appoint a lawyer for the trial.

Victims' rights brochure

You have the right to a lawyer:

- according to law you have the right to a lawyer by default during a criminal procedure
- according to law the judicial authorities (judges, prosecutors, police) have the duty to offer a lawyer by default

Guidelines

- The victim should be informed about the possibilities to obtain (free) legal aid
- A lawyer should be appointed from the first contact with the police
- It is recommended that the victim has one and the same lawyer during the entire criminal proceedings
- In some cases, NGOs can provide the victim with a lawyer
- The appointment of a lawyer is a shared responsibility by the police, prosecutor and judge

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Article 26.1. Victims of the crimes stipulated in this Law, as well as other victims of these crimes, shall be granted special physical, legal and social protection and assistance.

Romania - Law No. 211 on certain measures to ensure the protection of victims of crime (2004)
Chapter IV - Free legal assistance for victims of certain offences.

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 6. Specific assistance to the victim.

Each Member State shall ensure that victims have access to advice, provided free of charge where warranted, concerning their role in the proceedings and, where appropriate, legal aid, when it is possible for them to have the status of parties to criminal proceedings.

Council of Europe Convention on action against trafficking in human beings (2005)

Article 15. Compensation and legal redress.

1. Each Party shall ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings in a language which they can understand.
2. Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.

Right to privacy

Apart from the fear for reprisals from the side of the suspects, one of the obstacles for victims to report to the police and to act as witnesses is the fear for their predicament to become publicly known, in particular in the case of trafficking into the sex industry. Public exposure may lead to stigmatisation and social rejection and may effectively prevent the victim from restoring her/his life. Protection from intrusion on her/his privacy is important in any stage of the proceedings. If the victim, for example, chooses not to inform her/his direct surroundings (family, partner, friends, neighbourhood, village) about her/his predicament, this wish should be respected at all times. Contacts with the victim should be made in a way that respects this wish, for example through the services of a victim support organisation.

Victims' rights brochure

- You have the right to protection of your privacy and of your identity
- You can demand that your life and your identity are protected during a criminal procedure
- You can demand that the trial is not open to the public / behind closed doors

Guidelines

- All possible steps should be taken to ensure the privacy of the victim/ witness and, if applicable, the partner and family members of the victim. There should be no public disclosure of the identity of the victim and her/his privacy should be protected to the extent possible, while taking into account the rights of the accused to a fair trial
- Law enforcement agencies and the courts should not publish names or addresses of trafficked persons or information that may easily identify a victim and thus jeopardise her or his safety and/or privacy
- Law enforcement should be particularly careful that enquiries (for example in the victim's home town or neighbourhood, with the victim's friends or associates or with trafficking suspects) do not lead to the identification or social exclusion of the victim or to safety risks to the victim, her/his family or friends
- No details should be passed to the media that could lead to the identification of the victim, including name, address, photograph or medical data
- The victim should be given full warning, in advance, of the difficulties inherent in protecting her/his identity and other personal data and should not be given false or unrealistic expectations regarding the capacities of law enforcement agencies and the court in this regard

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Article 26.2. Victims of trafficking in human beings shall have their privacy and identity protected by this Law.

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 8.2 - Right to protection

To that end, and without prejudice to para 4, each Member State shall guarantee that it is possible to adopt, if necessary, as part of the court proceedings, appropriate measures to protect the privacy and photographic image of victims and their families or persons in a similar position.

Council of Europe Convention on action against trafficking in human beings (2005)

Article 11 - Protection of private life

1. Each Party shall protect the private life and identity of victims. Personal data regarding them shall be stored and used in conformity with the conditions provided for by the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108).

2. Each Party shall adopt measures to ensure, in particular, that the identity, or details allowing the identification, of a child victim of trafficking are not made publicly known, through the media or by any other means, except, in exceptional circumstances, in order to facilitate the tracing of family members or otherwise secure the well-being and protection of the child.

3. Each Party shall consider adopting, in accordance with Article 10 of the Convention for the Protection of Human Rights and Fundamental Freedoms as interpreted by the European Court of Human Rights, measures aimed at encouraging the media to protect the private life and identity of victims through self-regulation or through regulatory or co-regulatory measures.

Right to physical integrity

The right to integrity refers to the protection of the safety of the victim, but also to, for example, medical examinations. The victim must give her/his informed consent to any medical or other examination. To be able to do so, s/he must in any case be informed about the very limited possibilities to keep the medical data confidential if the case goes to court. In particular in the light of these limited possibilities, refusal to consent should not be seen as a failure to cooperate with the authorities.

Victims' rights brochure

- You have the right to protection of your physical integrity
- You have the right to protection of your physical integrity during the whole duration of the criminal procedure

Guidelines

- It is recommended to have victims accompanied to court by the police and/or an NGO. Victims feel more safe and comfortable if they are accompanied by a person they trust of their own choice. Often this is the police officer, who had the first contact
- A best practice is to have the victim transported by a car with smoked windows and have her/him stay in the car till the court room is set
- Physical examination of a victim should only occur where absolutely necessary for the investigation and with the informed consent of the victim. It should be conducted by a trained medical practitioner of the same sex
- Ensuring the physical integrity of the victim is a shared responsibility of the police, prosecutor, judge, the National Agency and NGOs

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Article 27. Upon request, and on Romanian territory, the Ministry of the Interior shall provide physical protection for victims of trafficking in human beings during the criminal procedures.

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 8.1 - Right to protection

Each Member State shall ensure a suitable level of protection for victims and, where appropriate, their families or persons in a similar position, particularly as regards their safety and protection of their privacy, where the competent authorities consider that there is a serious risk of reprisals or firm evidence of serious intent to intrude upon their privacy.

Council of Europe Convention on action against trafficking in human beings (2005)

Article 30 - Court proceedings

In accordance with the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular Article 6, each Party shall adopt such legislative or other measures as may be necessary to ensure in the course of judicial proceedings

- a. the protection of the victims' private life and, where appropriate, identity
- b. the victims' safety and protection from intimidation

in accordance with the conditions under its internal law and, in the case of child victims, by taking special care of children's needs and ensuring their right to special protection measures.

Right to witness protection

Many victims have a well-founded fear for reprisals from the side of the traffickers, not only against themselves but also against their children and other family members or persons close to them. In most cases they have been threatened by the suspects with reprisals against them and their loved ones if they would dare to report to the police. Often they have personal experience with the violence the suspects are able to exercise. In many cases traffickers or their associates (which can include family members) will try to intimidate the victim in order to keep them quiet. They may put the victim under pressure and harass or abuse them to prevent them from testifying or to withdraw their statement. This is often worse if there is a close relationship between the victim and the trafficker, for instance because they come from the same community or family. The safety of the victim and her/his family and friends should therefore always be a paramount consideration.

For trafficked persons the fear of being directly confronted with the accused (suspect) may be significant. Wherever possible, direct confrontation between the victim/witness and the accused during the criminal investigation and trial should be avoided in order to avoid putting victims under unnecessary pressure and protect them from intimidation by the accused. This includes, for example, separate waiting areas and separate times of entering and exiting the police station or the court room. Though it is good to have specific witness protection programmes, it was noted that generally these do not offer a real option, as they require the victim to change her/his identity, sever all ties with their family and friends and basically wipe out their former existence.

Guidelines

- Before, during and after the criminal proceedings, all necessary and possible measures should be taken to protect the victim from intimidation, threats of reprisals and reprisals from the suspect(s) and/or their associates. If necessary, similar protection should be provided to the family and/or friends of the victim
- The need for safety of the victim and her/his family and friends should be taken into account in decisions on the arrest, detention and terms of any form of release of the suspect
- If the suspect is released, the victim should be notified prior to the release of the suspect from custody or detention
- If possible, a direct confrontation between the victim and the suspect should be avoided. If nevertheless such confrontation is necessary, the victim should be carefully prepared beforehand.
- If possible, the victim/ witness should be provided with a separate waiting area and other necessary facilities. If this is not possible, different times to enter and exit the courtroom and escorts to and from the courtroom should be arranged
- If there is evidence that the presence of the accused may influence the testimony of the victim/witness or may harm the mental wellbeing of the victim/witness, the victim/witness should be heard in absence of the accused (suspect). Alternatives are the examination of witnesses through video conferencing or closed TV circuits.

Victims' rights brochure

- You have the right to be examined as a witness without exposure of your identity
- You can demand from the police and the prosecutor the application of witness protection programmes
- You can also demand to be heard while protecting your identity (your name, your address)

Romania - Law No. 682 on witness protection (2002)

Chapter II - Witness Protection Programme

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 8.4 - Right to protection

Each Member State shall ensure that, where there is a need to protect victims - particularly those most vulnerable - from the effects of giving evidence in open court, victims may, by decision taken by the court, be entitled to testify in a manner which will enable this objective to be achieved, by any appropriate means compatible with its basic legal principles.

Council of Europe Convention on action against trafficking in human beings (2005):

Article 28 - Protection of victims, witnesses and collaborators with the judicial authorities

1. Each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for:

- a. victims;

- b. as appropriate, those who report the criminal offences established in accordance with Article 18 of this Convention or otherwise co-operate with the investigating or prosecuting authorities;
 - c. witnesses who give testimony concerning criminal offences established in accordance with Article 18 of this Convention;
 - d. when necessary, members of the family of persons referred to in subparagraphs a and c.
2. Each Party shall adopt such legislative or other measures as may be necessary to ensure and to offer various kinds of protection. This may include physical protection, relocation, identity change and assistance in obtaining jobs.
3. A child victim shall be afforded special protection measures taking into account the best interests of the child.
4. Each Party shall adopt such legislative or other measures as may be necessary to provide, when necessary, appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators, for members of groups, foundations, associations or non-governmental organisations which carry out the activities set out in Article 27, paragraph 3.

Right to fair trial

In light of Art. 6 ECHR a balance needs to be struck between the rights of the defendant and the rights of the victim. It does not mean that the rights of the victim are always subordinate to those of the suspect. The EU Framework Decision stresses the need to make every effort to treat victims with due respect for their dignity. This includes that methods of detection, investigation, gathering and interpretation of evidence should minimise intrusion and should not degrade the victim.

In particular in cases of trafficking for prostitution or other forms of sexual exploitation, the personal history, alleged 'character' or the current or previous occupation of the victim should not be used against the trafficked person or cited as a ground for disqualifying the trafficked person's complaint or for deciding not to investigate the case or prosecute the offenders.

Given the nature of the crime of trafficking, questions relating to the personal history, previous sexual behaviour, the alleged 'character' or the current or previous occupation (e.g. as a prostitute) of the victim must, in general, be deemed irrelevant as evidence whether or not the crime of trafficking has been committed. In particular in cases of trafficking for prostitution or other forms of sexual exploitation, the defendant should only be allowed to introduce such evidence with the leave of the president of the court. The introduction of such evidence should only be allowed if the president is satisfied that the evidence is of such relevance and its omission would be so prejudicial to the defendant, that this would result in a miscarriage of justice for the defendant. In such case, the president should still establish the limits within which such evidence or questions may be introduced.

- According to international conventions and to national legislation your rights are of the same importance as the rights of the defendant

Guidelines

- It is the responsibility of the prosecutor to stand up for the protection of the victim/witness against exposure to direct questioning by the defendant
- it is the competence of the judge to decide about the limits within which evidence may be introduced, including the relevance of questions to the victim/witness. This goes in particular for questions relating to the personal history, previous sexual behaviour, the alleged 'character' or the current or previous occupation of the victim/witness

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 2 - Respect and recognition

1. Each Member State shall ensure that victims have a real and appropriate role in its criminal legal system. It shall continue to make every effort to ensure that victims are treated with due respect for the dignity of the individual during proceedings and shall recognise the rights and legitimate interests of victims with particular reference to criminal proceedings.
2. Each Member State shall ensure that victims who are particularly vulnerable can benefit from specific treatment best suited to their circumstances.

Right to compensation

The right to compensation is an important element of access to justice for trafficked persons. Victims of trafficking generally have suffered serious damages, both material damages (financial and pecuniary losses: unpaid wages, medical, funeral or hospital and other costs, costs of relocation, loss of future earnings, costs of damage to property etc.) and immaterial or moral damages (psychological and emotional suffering and injury, loss of reputation, pain and suffering, loss of society and companionship).

Advice services for trafficked persons are an essential element of the right to compensation. To pursue a claim victims must be aware of their rights and how to access them. In general, claims against the trafficker require the trafficked person to actively participate in the criminal proceedings, including giving evidence about the damages suffered. This can be an intimidation experience. Legal assistance and representation is therefore an important requirement for victims to improve their chances to successfully claim compensation.

Different mechanisms for victims of trafficking to claim compensation exist in Romania: State compensation schemes as well as compensation through criminal, civil and labour courts (see for a review of compensation mechanism in Romania annex 2). However, although compensation mechanisms exist, in practice only a small minority of trafficked persons claim damages and still fewer victims actually receive a compensation payment. A major disincentive to participating in a criminal case and to achieving a successful claim for compensation is the requirement for the physical presence of the victim in a criminal court and the necessity to give oral testimony, with all the associated risks and trauma for the victim. Moreover, the types of damages available through the State compensation scheme are restricted, victims must be willing to participate in criminal proceedings and procedures are time consuming and costly. Improving access to compensation for victims of trafficking is a challenge for all involved parties: police, prosecutors, judges and NGOs.

Guidelines

- Police as well as prosecution and judiciary are obliged to inform the victim about the possible procedures to claim compensation, including the possibility of putting forward a civil claim in the criminal proceedings and to obtain legal assistance to do so. It is advised that they refer the victim to an NGO or other organisation that can help her/him to claim compensation
- The start for collecting information about the damages suffered by the victim lies with the police. To this aim the police should include in the record of the statement of the victim, or in an annex to the record, relevant information about the material and immaterial damages suffered by the victim.
- If the victim has expressed her or his wish to claim compensation and/or to be kept informed about the proceedings following her or his pressing charges, the police should, to the best of their abilities, inform the victim about the progress and disposition of the case up till the moment the record is sent in to the prosecutor. From that moment on the prosecutor should be responsible for the proper information of the victim about the progress of the proceedings.

Victims' rights brochure

- As you have suffered as a victim of the punishable act /criminal offense of trafficking in human beings, you can claim (financial) compensation.

Romania - Law No. 211 on certain measures to ensure the protection of victims of crime (2004)

Chapter V. Financial compensation from the State for the victims of certain offences.

EU Council Framework Decision on the standing of victims in criminal proceedings (2001)

Art. 9. Right to compensation in the course of criminal proceedings

1. Each Member State shall ensure that victims of criminal acts are entitled to obtain a decision within reasonable time limits on compensation by the offender in the course of criminal proceedings, except where, in certain cases, national law provides for compensation to be awarded in another manner.
2. Each Member State shall take appropriate measures to encourage the offender to provide adequate compensation to victims.
3. Unless urgently required for the purpose of criminal proceedings, recoverable property belonging to victims which is seized in the course of criminal proceedings shall be returned to them without delay.

Council of Europe Convention on action against trafficking in human beings (2005)

Article 15 - Compensation and legal redress

3. Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.
4. Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation or measures or programmes aimed at social assistance and social integration of victims, which could be funded by the assets resulting from the application of measures provided in Article 23.

Non-punishment clause

One of the obstacles for victims to report to the authorities is their fear -which is commonly exploited by the traffickers - to be prosecuted themselves for trafficking related offences, such as illegal border crossing, begging or prostitution. Especially in the case of trafficking into the sex industry, the victim gets caught in the firing line: if she does not report the crime or facilitates the arrest of the offenders she can be prosecuted by the authorities for prostitution, but if she does so, she risks intimidation and reprisals from the side of the perpetrators.

Victims' rights brochure

- You can not be charged with prostitution or with begging when you are a victim of trafficking in human beings.

Guidelines

- From the first point of contact, the police should inform the victim that she or he will not be prosecuted for prostitution or other trafficking related offences
- Putting the victim under pressure to cooperate with the authorities by threatening with prosecution may be successful on the short term, but does not show respectful treatment. It is detrimental to the building of a relationship of trust and on the long term will lead to unreliable witnesses

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Article 20. The trafficked person who has committed the crime of prostitution, stipulated in Article 328 of the Criminal Code, shall have no liability for that crime if, before the start of the criminal investigation for the crime of trafficking in human beings, this person has come forward and reported the crime to the competent authorities or if, after the start of the criminal investigation or after the identification of the criminal offenders this person facilitates the arrest of those offenders.

Council of Europe Convention on action against trafficking in human beings (2005)

Article 26 - Non-punishment provision

Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.

Right to have the press excluded from the court room

In cases of trafficking it is generally preferably to have the hearing take place behind closed doors, in particular in cases of trafficking for prostitution and /or cases involving sexual offences. This serves to protect the privacy of the victims, *in casu* to prevent public exposure of intimate details of the personal life of the victim, as well as the safety of the victim. The judge has the competence to order the hearing to take place behind closed doors if the victim requests so. Trafficking cases involving minors are always tried behind closed doors.

Victims' rights brochure

- You have the right to let the press being excluded from the court room.
- You may ask the judge to ban the press from the court room in order to protect your private life

Guidelines

- It is recommended that cases involving sexual offences and child offenders should always be tried behind closed doors. This means that cases of trafficking for prostitution or other forms of sexual exploitation should always be tried behind closed doors, independent of the victim being an adult or a child
- Also when the case is tried behind closed doors, the victim/witness should be allowed to have her/him accompanied by a counsellor or companion of her/his choice

Romania - Law No. 678 on the Prevention and Combat of Trafficking in Human Beings (2001)

Article 24.

1. Court sessions in cases involving crimes of trafficking in human beings within Article 13 and child pornography within Article 18 shall not be open to the public.
2. Court proceedings in the conditions of para 1 can be attended by the parties, their representatives, legal counsels as well as other persons whose presence is deemed necessary by the court.
3. In cases involving crimes stipulated in this Law, the hearing of a person aged less than 14 shall take place in the presence of one of the parents or the legal guardian or the foster parent the underage person has been entrusted for raising and education.

Art. 25. Upon the request of the victim, the Court can order a closed-doors session for cases based on Articles 12 and 17.

Right to not cooperate with law enforcement

Pressing charges and/or acting as witness can have far-reaching consequences for victims. It may expose them, their children and other loved ones to intimidation and reprisals from the offenders and greatly increases the risk that their situation becomes publicly known, with all the consequences entailed. Moreover, the court case itself is extremely burdening and risks to re-traumatise the victim. It should always be kept in mind that the first and foremost concern of victims will be the safety of themselves and their family and the perspectives for their future life. These concerns are completely legitimate and should be respected.

This is not to say that victims of trafficking have no interest in pressing charges. Prosecution and conviction of the offenders also means acknowledgement of the injustice done to them: the recognition that another person has no right to do this to him or her. Along with many other things, trafficking certainly also violates the sense of justice of its victims. Pressing charges and acting as witness can be a way to prove that there is a way to win justice, that you are not just a powerless victim but that it has use to fight back.

Victims' rights brochure

- You have the right to refuse cooperation with the prosecution authorities.

- „You have the right to keep silence“. You have the right to refuse giving information with regard to the criminal offence of human trafficking or relating to persons who have committed such a crime. However, this entails that from that moment you can no longer claim any of the above-mentioned rights.

Guidelines

- If the victim, for whatever reason, decides not to press charges or act as witness this decision should be respected and no undue influence should be exerted on her or him

Exercise	
TRAFFICKING IN HUMAN BEINGS: VICTIMS' RIGHTS IN CRIMINAL PROCEEDINGS AND BEYOND	
1. WHICH ACTIONS DOES THIS RIGHT IMPLY?	2. WHO IS RESPONSIBLE TO TAKE ACTION?
Right to information	
1. Right to assistance	
2. Right to legal representation	
3. Right to privacy	
4. Right to physical integrity	
5. Right to witness protection	
6. Right to fair trial	
7. Right to compensation	
8. Right to non-discrimination	
10. Right to not cooperate with law enforcement	

5. Interrogating the victim

Introduction

There are no givens how a trafficked person will react. This will depend on the individual circumstances and person. People may suffer from post traumatic stress disorder, they may be addicted to drugs, they may be extremely afraid or distrustful. Some may be collaborative, others will be numb or aggressive and unwilling to communicate at all. The specialised police officers stressed from their own experience that there is not one kind of victim. Every individual will react in her or his own way, depending on their previous experiences, their background and education. Reactions will also depend on the behaviour of the interviewer (body language, tone of voice). Victims themselves have also expectations and want to be helped. People are generally well aware of their needs. They know what they want and often have a life experience which is bigger than their age. The first interest of the victim is to survive and they will survive with all means they have. Every victim has his or her own survival strategies. Some reject the police from the beginning, others realise that by helping the police they can also help themselves. If a victim is taken well care for, this is also in the interest of the police and the prosecutor. A suggestion is to evaluate the situation with a psychologist.

One of the problems participants noted with regard to the interrogation of victims is that there is a tendency to get lost in detail. Victims of trafficking feel terrorised with questions as to how many clients they had, how often, et cetera. By focusing on these questions relevant evidence that would further proceedings easily gets lost. Participants thought that a specialised court would be an asset in this regard, also not to lose momentum throughout the trial. Another general issue is the attitude of the interviewer towards victims. Victims are very sensitive to rejection and will notice immediately. If the interviewer looks down on the victim, the victim will notice this immediately and respond to it.

Background knowledge

Trafficking in human beings mostly takes place in a network-like structure and is based on violence. This has many consequences, both on the initial decision of the victim whether or not to cooperate with the authorities and on the further process. Before starting the interview it is good to be aware of the various factors that may play a role in the communication with the victim and her or his willingness to talk.

Fear of reprisals

Most victims have been threatened with reprisals to deter them from contacting the authorities or asking others for help. These threats do not lose their effect once police are involved, even if the police is understanding and motivated to support the trafficked person. In most cases the traffickers know where the family or children of the victim live. It is very common to use threats against the family in order to manipulate or intimidate the victim. These threats are strengthened by the fact that the offence usually takes place in some sort of network-like structure. Most victims are aware of the fact that the people who are controlling them form part of a larger network. As was said to one woman after a vain attempt to escape:

"Remember that it has no use to try to escape. I have people everywhere to watch you. You don't know them, but they know you." Even if the victim is in a safe situation or one or more of the offenders are arrested, his or her family can still be at risk.

Fear for stigma and social exclusion

Most women who are trafficked into the sex industry do not want that it becomes known that they have worked as prostitutes. The stigma on prostitution and the fear for social exclusion are powerful mechanisms to keep them silent. Being aware of the common attitude against prostitutes, they do not feel confident that their complaint will be taken seriously, that they will be treated respectfully, that their privacy will be respected and that their interests will be taken into account. Many victims feel ashamed or blame themselves for what happened to them. They may not trust that they will not be prosecuted themselves or refused a future passport or travel visa if it becomes known that they have worked as prostitutes.

Lack of trust in the police

Many victims have little confidence in the police, especially if they are undocumented migrants, come from minority communities or have worked as prostitutes. Often they have negative experiences with the police either in the country they were trafficked to or in their home country. It is a common strategy of traffickers to tell their victims that it has not use to go to the police

Role play Ana II – First contact with the police

The owner keeps Ana locked behind doors; she cannot refuse clients and has no choice over the number of clients. When she protests she is beaten up. He threatens her that if she tries to escape they know where she lives and will kill her child who stays with her mother. Moreover he convinces her that no one will believe her because she is a prostitute. After a year working in Trabzon she is arrested during a police raid and is deported back to Romania. Ana knows of at least ten other women that worked in the same place and have been trafficked by the same group. On her return back in Romania she is questioned by the police.

Instructions for the police officer

Ana is arrested during a police raid in Trabzon and deported back to Romania. You are the person who questions her at her arrival in Romania. You need to find out what happened and if she is a victim of trafficking.

Instructions for Ana only:

- you do not want to tell the police that you already worked as a prostitute in Romania
- you believe the police will not believe you because you are a prostitute and you agreed to work in Turkey
- you do not want your family to know about the trafficking and the prostitution
- you are afraid because you have been told that your child will be killed when you speak with the police
- respond to the situation. If you feel invited to tell your story do so, if not: keep silent or lie.

because the authorities are complicitous. For these reasons they may perceive the police rather as a threat than a potential help.

Immigration status

One of the major barriers for migrant victims to turn to the authorities is the fear for detention and/or deportation. Though on the face of it expulsion - 'returning home' - may seem a solution, reality is more complex. For many trafficked persons deportation is an even more frightening perspective than trying to survive in their current situation, in the hope that at some point they will be able to realise their original aims for seeking a job abroad. They accepted an offer for a job abroad because they wanted to escape the lack of perspectives at home. Often they made debts to pay their recruiters. In many cases their families are dependent of their income. Expulsion means returning home empty-handed with debts they will never be able to repay. Moreover, it increases the risk of harassment or prosecution by the authorities in their home country, for example for having crossed the border illegally or for having worked as a prostitute. Deportation may also expose them to the risk of reprisals or re-trafficking on return.

Relation with the trafficker

The effects of the situation of extreme dependency in which victims of trafficking have been are comparable with situations in which people are kept hostage, for example the mechanism to identify oneself with the hostage taker or protect him or her (Stockholm syndrome). Sometimes victims will protect the trafficker as they believe he (or she) is the only person that can help them or 'protect' them from the authorities. Other victims believe that if they have paid off their debt, they eventually will be able to earn some money themselves. Common strategies of traffickers are 'divide and rule' and playing 'good cop - bad cop'. One victim, for example, may be used to instruct or control other victims in exchange for privileges, like a bit more freedom of movement or the possibility to send money home. Or one member of the criminal network will beat up the victim, while another will help her or him to take care of the bruises or wounds. Victims may also be given false information about each other. In this way a web of disinformation, insecurity and fear is woven around them. Sometimes victims will try to contact their traffickers again. This can have various reasons. It can be an attempt to make clear that they 'did not talk' in order to ensure the safety of their family or themselves. Victims can also have the feeling that one of the members of the criminal network was actually on their side, for example the person who accommodated them if they were beaten up. In some cases a friend or a sister they want to protect is still in the power of the criminal network. All these factors can make the relationship with the traffickers very complex.

Trauma

Some victims may suffer from severe post-traumatic stress disorder (see also annex 2). A trauma basically means that something happens to a person, which he or she is unable to process, because the most basic and unquestionable concepts with regard to one's "self" and "others" and to the environment are inconsistent with the event. One reaction to this is dissociation. The victim has no

memory of the event or feels as if he or she is another person (depersonalisation). In contrast to incidental violence, structural and relational violence, as in trafficking cases, gives the victim the time to adapt in order to reduce further violence. Common survival strategies are:

- Avoidance: the victim will do everything to avoid the violence, but nothing will reduce the underlying feeling of inferiority and powerlessness, or the overwhelming power of the abuses
- Identification with the offender (Stockholm syndrome) as an element of coping strategies. This will in particular happen if the victim feels that
 - she or he might not survive the violence
 - she or he is isolated from the outside world
 - escape is not possible or dangerous
 - despite all threats, there is something responsive inside the abuser
- Numbing: The victim is so involved with the abuser that she or he becomes alienated from her/his own emotions and thoughts. The victim loses control over her/himself.

The recovery process will go through a number of steps:

- "Hostile victim": in order to prevent any intrusion that could jeopardize the dominance of the abuser (leading to violence against the victim) the victim will avoid any cooperation with the law enforcement
- Loss of orientation: The victim has not found "her new coordinates" within the new framework
- Reconstruction and remembering: Victims long for everything to be as it was before. Crucial in this stage of recovery is for the victim to fully accept the reality of what has happened.
- Social reintegration: Victims have to reconstruct social relations in order to overcome social fragmentation caused by violence.

To help the victim recover long term assistance is needed: when living under the permanent threat of violence victims start to identify with the offenders (taking over their view), they lose self-esteem and stop valuing their own needs and they tend to forget who they are. For a very long time after leaving the situation of abuse, fear will remain the strongest emotion in the life of the victim.

First contact with the police

The primary goal of the first interview is to ascertain whether there are reasonable grounds to believe a person has been trafficked. Secondly to provide the person with all relevant information that will enable him/her to make an informed decision about future actions and to obtain the support he or she needs. Finally police officers must ascertain if there are immediate safety risks that need to be addressed. In order to do so, one of the most important challenges in the first contact with a (possible) victim is to build a relationship of trust so that you can work together. There are a number of general guidelines that can help to do this. The guidelines below are based on the Protocol for Identification and Assistance to Trafficked Persons and Training Kit, prepared by Anti-Slavery International in cooperation with the Dutch Police Academy, On the Road (Italy), Eaves Housing for Women (UK) and the Dutch Foundation Against Trafficking in Women.

Guidelines

- Be professional and approachable
 - Make sure to be aware of appropriate legislation, professional guidelines and contact, including shelters and NGOs for possible referral
 - Bear in mind potential gender barriers. Some victims feel more at ease if the police officer is female
 - Always speak in pairs with to victims
 - In cases where the victim is a prostitute, ask yourself first what your own opinion is about that, if and how you will describe this in your police report, and if you include this in your report, whether this will have negative consequences for the victim
 - Avoid any kind of stigmatisation and be unprejudiced
 - Be aware of possible cultural or language barriers
- Show respect
 - Treat the victim with respect and listen carefully. Do not make judgements about what they have done or their views
 - The victim may have been through traumatic events which may be difficult and upsetting for them to recount. Try to minimise any additional trauma or harm to the victim caused by this process
 - Future actions and steps should be agreed with the victim rather than imposed
- Be clear
 - Tell the most important information early on and be clear about what is possible or not, particularly the role and the limitations of the police. Unrealistic or false promises should not be made under any circumstances
- Be aware of the safety implications
 - Bear in mind the potential risks of the person of giving an interview
- Be there for the victim
 - Ensure that the possible victim knows what is happening step by step, what will happen next, and also that he/she has a say and can regain control of his/her situation

In addition to these general guidelines there are a number of practical tips for a professional and 'victim friendly' approach. The following tips are based on the discussion of the role plays during the training seminars, supplemented by guidelines from the above mentioned Protocol.

Tips for the (first) interview

- Introduce yourself
- Offer coffee, water, a cigarette, something to eat
- Have an open and friendly attitude (both verbal and non-verbal). You are not there to judge her or him
- Be honest and clear about why the victim is there and what you know about her or his situation
- Make clear that the police don't want to do any harm
- Be clear that she/he is not guilty of a crime
- Show that you care and that you are interested in her/him as a human being
- Show interest and understanding of the personal situation of the (possible) victim (children, family): find out who the person is and what worries he or she has
- Anticipate expectations and attitudes of your counterpart ('are you afraid?')
- Try to build a bridge between her/him and your world ('it could have happened to me')
- Offer information and practical help (e.g. shelter). Let him or her know what you can do to help as well as what you cannot do
- Tell her/him about your achievement in the fight against trafficking
- Don't make promises you cannot uphold
- Explain the purpose of the interview and what you want to achieve. Think how much information you need to gather at this stage
- Explain how the interview will proceed step-by-step so that the person knows what to expect
- Explain the options available to the victim so that he or she can make an informed and conscious decision later. Explain how her or his statement will be used
- Let the person tell her or his story by answering your questions
- Take time to carefully listen to the answers: some things may be difficult or traumatic to tell. Pay attention to the person's reaction and emotions
- Point out possible signs of trafficking. Name the emotions you observe
- Jointly decide about the next steps: discuss possibilities and consequences and let the person decide if they want to report the crime or if they would rather leave this decision to a later stage
- Arrange the necessary help (shelter, assistance, safety arrangements)

Pressing charges

The victim's statement plays an important role in the prosecution of suspected traffickers. Law enforcement officials will be anxious to take the statement of the victim as soon as possible so as not to miss any opportunities for the investigation. But victims may need more time. They may be traumatised, distrustful or fear that pressing charges or acting as a witness will worsen their existing problems or even create new problems, rather than contribute to a solution. Experience shows that the longer the victim is given to make a decision about whether or not to cooperate with law enforcement, the better the evidence they ultimately give and the higher the chances that they will maintain their statement throughout the criminal proceedings.

In order for the victim to make an informed and conscious decision, it is important to carefully address the questions the victim has. And again: to be honest about the possibilities and limitations, in particular in relation to the protection of the safety and privacy of the victim and her or his family. One of the pitfalls participants noted is that in order to convincing the victim to press charges it is tempting to make all kinds of promises that you cannot really uphold. For example promises about hiding the victim's identity, providing safe accommodation, no need for a written statement, reading law together, no information leaking to the media, nobody will get to know personal details except for the lawyer and the police. Other issues that were discussed included the need for a reflection period for the victim to decide whether or not she or he wants to press charges and the need to establish a relationship of trust with the victim.

If the victim decides to report, the statement can be taken over several sessions as it may be a very demanding process for the victim. If the victim wants so, she or he should be allowed to take a companion of his or her own choice with him or her to provide psychological support. Keep in mind that recounting the abuse may be traumatic for the victim,

Pressing charges is not without consequences. Once a statement is made, the victim cannot withdraw her or his statement. It is therefore of the utmost importance that the statement of the victim is taken down in a professional way, that means with great care and precision.

Working with a team of two officers can contribute to the quality of the statement: officers can complement each other, it facilitates a critical assessment, it gives more opportunity for observation and diminishes the chance of influencing the victim.

Interviews of trafficked persons should meet the following standards:

- Interviews should be conducted by personnel trained in trafficking and in conducting interviews with victims. For children, interviewers should be specifically trained in interviewing children;
- On the request of the victim, the interviewer should be of the same sex as the victim;
- The interview should take place in a non-confrontational, non-judgmental and professional environment. If a victim prefers to be heard at another venue than the police station, this wish should be granted, unless the interest of the investigation opposes this;

Role play Ana III - Pressing charges

Ana does not want to press charges. She is afraid that if she presses charges the perpetrators will kill her child. They know where she lives. She is also afraid that her family and others will learn about her having worked as a prostitute and will reject her or that her child will be taken away from her if they know she is a prostitute. If she testifies, will everybody know that she is a prostitute? Will it be in the newspapers? Will the traffickers know that she testified against them? Will she be confronted with the traffickers during the court case? Will the judge believe her? Will the police protect her and her child from reprisals? What if they come after her or her child after the court case is finished?

Instructions for Ana

- Ask your questions. Be insistent.
- Respond to the situation. If you feel confident to press charges, decide to do so. If not, downplay your story and refuse to **press charges or to testify**.

Instructions for the police officer

You have heard Ana's story and you want to convince her to press charges and to testify. How do you do that? What protection can you offer her?

- If a victim expresses the wish to have a companion, for example a friend, a social worker or a worker from a non-governmental organisation, present during the interview this wish should be granted. It should be pointed out to the victim, however, that in principle that person cannot act as a witness anymore in a later stage of the case;
- The victim should be free to leave at any time of the interview; interviews should preferably last no longer than two hours;
- The interview questions and technique should be non-confrontational and non-judgmental; in interviewing the victim no questions are posed that might suggest that the integrity of the victim is put into doubt, that call the victim to account or that blame the victim for the crime committed to her/him. In cases involving trafficking for prostitution or other forms of sexual exploitation questions regarding the victim's sexual history which are not immediately relevant to the allegations should not be asked;
- If this has not already been done, part of the process of taking down the statement is the referral of the victim to an organisation which can provide her/him with the necessary psychological, medical, social or legal assistance;
- If needed, the victim should be provided with a competent, qualified translator when taking down her/his statement.

Interrogation by the prosecutor

One of the problems noted by participants is the fact that victim need to be repeatedly interviewed: by the police, the prosecutor and again by the judge at the trial. There are no possibilities to use the statement of the victim made during the investigation (e.g. by an

Role play Ana IV – Interrogation by the prosecutor

Instructions for Ana only

In your statement to the police you have lied about two things:

1. It was not a client who proposed you to work in Turkey, but a friend. You have not told this because you want to protect this friend and can still not believe that he sold you to the bar owner

2. You were not beaten up when you protested, but they withheld food from you until you submitted. You are very ashamed of yourself that you did not put up more resistance and gave in not because you were beaten, but because you were hungry!

Respond to the situation. If you feel confident enough, tell the truth. If not: keep to your original story.

Instructions prosecutor

You need to know more details about her story, especially about how she was recruited and what happened when she worked as a prostitute in Trabzon and what kind of coercion was used. Anticipate the questions the defence will pose her during cross examination!

investigative judge) at the trial. It would be better if the victim only needed to be interrogated once or twice in an early stage of the criminal process and if those statements could, for example, be videotaped and used during the trial. This would reduce the pressure on the victim to change her/his statement, which is a common problem. The Romanian law does not have this option. Another issue mentioned was the need to improve cooperation between police and prosecutors and between the investigating prosecutor and the court prosecutor. For the successful accomplishment of a court case, it would be good to have one prosecutor following the entire case, or have both prosecutors

(investigating and representing at court) jointly present at court. Moreover, court cases can take years. Another, related, problem is that victims regularly withdraw or change their statement at court. Because court cases take so long, the victim can be married in the mean time or have build up a new life and does not want to be again confronted with the past. Also victims can be intimidated in the mean time by the suspects or offered money to change their statement.

And finally...

For many of the participants this was the first time that police officers, prosecutors, judges and NGOs sat together on issues of trafficking. It helped them to better understand each others work and gain more respect for the difficulties inherent to each others role in the criminal justice process. Better cooperation and direct contacts benefit all: the victims and the quality of the response of the criminal justice system. As expressed by one of the participants: 'We all need each other'. A suggestion was made to evaluate cases in a mixed team of police, prosecutors and judges from different courts, in order to learn from the case and from each other. An even wilder idea was to evaluate cases in a mixed team with foreign colleagues, for example Dutch police, prosecutors and judges.

Also NGOs play an important part here. Support by NGOs strengthens the victim, but also enhances changes for a successful prosecution. A victim who is informed and whose needs and concerns are respected will have more confidence in the police and be more willing to assist. It also offers practical advantages: it is much easier and less threatening to contact a victim via an NGO that knows that person, and to have the victim supported by a NGO worker during examinations as a trust-person. At the same time NGOs have and should have an independent role in defending the rights of the victim. It should be kept in mind that the interests of the victim and those of the prosecution not automatically coincide. NGOs have a role in keeping the balance between the interests of the prosecution and those of the victims.

Not only NGOs need to have an understanding of the psychological situation of the victim, such knowledge is as useful for the other actors. As some participants remarked: "Now that I know more about trauma and the psychology of a victim, I have a different attitude towards them" and "It will make me more capable to talk with them, which is also good for the prosecution".

All of these observations led to a range of recommendations: better cooperation between the various agencies and institutions, more involvement of NGOs, easy access to a trust-person who can accompany the victim, including a psychological evaluation of the victim in each file, achieving a better balance of interests, improving the legal representation of victims, better informing victims about possibilities for compensation from the trafficker and/or the State and the establishment of specialised judges and prosecutors. It is now up to the participants to make this come true!

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Annex 1

List of contact details of relevant organisations

Romania: Non-governmental organisations (NGO's)

ADPARE - Association for Developing Alternative Practice for Reintegration and Education

Adpare started in 2003. They provide support to young Romanian woman who were trafficked into the sex industry and are brought back or repatriated to Romania.

What can they offer?

Adpare provides shelter, medical and social support and therapy, vocational training and/or other educational opportunities and job-hunting guidance. The Adpare shelter has 4 places available. Persons can stay from 6 months to maximum 2 years. They also support women with children. In addition they support external clients. Adpare cooperates with the police, Caritas, AIDROM and with IOM. Most of the clients are referred by the police and IOM. The staff of Adpare consists of 3 social workers, 1 lawyer, 1 psychologist, 1 accountant and 3 volunteers.

Contactdetails

Address: Intrarea Italiana Street No 1-5, Ap. 1A, Sector 2 - Bucharest

Telephone + 40 021 2532904

Website: www.adpare.ro

AIDROM - Ecumenical Association of Churches in Romania

Since 2000 AIDROM developed an anti trafficking program, named SENS, focusing on prevention and reintegration of victims of trafficking. In 2003 AIDROM started a counselling centre, specialised in reintegration of victims, in cooperation with ADPARE and the shelter opened by the Banat Metropolitan. AIDROM financially supports the counselling and reintegration of a number of returned victims. In the development of anti trafficking programmes AIDROM closely cooperates with ARCA and CARITAS. They also develop programmes with Roma communities and work together with 5 Roma organisations on human rights issues.

What can they offer?

AIDROM provides assistance and shelter for girls at risk and girls that have been trafficked inside Romania. They have a youth trafficking prevention programme, named School Parentship Project, started in 2005. This project runs similarly in several countries: Bulgaria, Serbia, Montenegro, Bosnia & Herzegovina, Croatia, Macedonia and the United States of America. Since 2003 AIDROM also developed a prevention program in the Republic of Moldova. The program in Moldova contains educational programs in schools, training of priests from Chisinau and Soroca region and a series of training seminars for women from the Ecumenical Forum of Moldavian Christian Women. For more information see www.aidrom.ro and www.sens.org.ro. Together with CARITAS Bucharest and the National Agency They develop training for teachers, local authorities and priests.

Contactdetails

Address: Calea Callarasilor 177, Bl.45, apt 18, floor 6. Sector 3 - Bucharest

Telephone: + 40 21 320 98 70 /71

E-mail: office@aidrom.eunet.ro or aidrom@gmail.com

Website: www.aidrom.ro; www.aidrom.rdsnet.ro; www.geocities.com/aidrom

Conference Centre & office

Address: 12 Halmeu St. Sector 2, 021118 - Bucharest

P.O. Box 48, Box 41 -Bucharest

E-mail: et@aidrom.eunet.ro

Telephone : + 4021 210 46 87, fax: + 40 21 210 72 55

ARCA

ARCA was created in June 1998 to defend and promote human rights, in particular the rights of refugees and other migrants (asylum seekers, repatriates and returnees). The organisation has contacts and networks all over the country. They are member of the Romanian Forum for

refugees/migrants. Although most of the services are dedicated to the integration of refugees, ARCA has experience in providing services to repatriates, returnees and other migrants, including trafficked persons. ARCA was also involved in drafting the national strategy against trafficking in human beings. ARCA is member of COATNET (International network of Caritas) and cooperates with AIDROM, IOM, Adpare and Caritas, as well as with the Ministry of Interior, UNHCR, and the main church related NGOs.

What can they offer?

ARCA offers support to victims of trafficking returning to Romania. They have a multi-cultural team which provides legal and social assistance. They also offer vocational training, job consultation and technical support if needed, next to integration and reintegration support in general and migration assistance. ARCA does not have its own shelter, but makes use of the IOM-shelter and the Adpare-shelter, in which victims of trafficking are allowed to stay up to one year. ARCA also provides support to victims of trafficking after leaving the shelter. They also give support to illegal migrants for which special 'open door' consultation hours are offered. ARCA is also active on awareness raising activities.

Contact details

Address: 23 Austrului Street, sector 2, Bucharest

Telephone / fax: 00 40 212527357/8

Website: <http://www.cdn.net/network/rumania.htm>

Caritas

There are 11 Caritas offices in Romania, covering more than 30% of the total country, including the South Eastern part. Caritas focuses on medical care, social care, the educational sector and involvement in emergency support.

What can they offer?

Caritas Bucharest has a crisis shelter, where victims of trafficking can stay for a short period. Currently Caritas is setting up a special shelter for traumatised victims in south Romania. They also work on education, awareness raising and trafficking prevention programmes aimed at youth in cooperation with schools. See further website www.anti-traffic.ro Caritas works together with CRS - Catholic Relief Services cooperates, as well as with other NGOs. Occasionally Caritas provides direct assistance to trafficked persons in cooperation with foreign NGOs, like ALC in France and CARITAS offices abroad. Caritas does not have specialised staff on the issue of trafficking and therefore only offers emergency support if others do not. Caritas and a number of other NGOs are united in the SENS network.

Contact details

Address: Str. Washington 38, sector 1, 011976 Bucharest

Telephone/fax: 0040 21 2304013/0040 21 2312900

Website: <http://www.anti-traffic.ro/>

Connexion - Fundata Conexiuni Roumanie

The Foundation "Conexiuni" came into being on 20 December 1994 at the initiative of the Organization "Medicine du Monde". Contributors to creation of Conexiuni included Romanian professional people who were graduates of the "Formation of Trainers" program in the field of social work. That program was a pilot program, developed in Romania by the "Regional Institute of Social Workers" - Paris with the financial support from the EU.

What can they offer?

Foundation "Conexiuni" promotes projects and programs that contribute to the development and improvement of practices in the fields of social work, medical support and education. Foundation "Conexiuni" is an organization that promotes and advocates the rights of children and women as human rights.

Assistance for social reintegration of victims of illegal human trade (human trafficking):

1. Advising and accompaniment during reintegration
2. Medical, legal and psychological assistance

3. Material support for emergency (money for internal transport, medical tests, remaking identity documents)
4. Activities of prevention - Information campaigns in schools, mass -media, formation courses
5. Referral to shelters

Contact details

Address: Al. Romanilor, No.7, 330107 -Deva, Romania
 Tel/fax: 0040-254 232 120
 E-mail: Fundatia.conexiuni@yahoo.com; angalital@yahoo.com;
 Website : www.fundatiaconexiuni.ro

Fundatia Filantropia Timisoara

Fundatia Filantropia Timisoara was founded in 2006 by the Orthodox Archbishops of Timisoara founded. It offers social services, among others to victims of trafficking. In 2004 a shelter was opened in Timisoara for persons who were victims of trafficking and were repatriated through the International Organization for Migration (IOM). In cooperation with IOM the organisation was involved in national awareness campaigns with the main churches. The organisation cooperates with AIDROM and IOM. Most clients are referred by IOM. The Romanian Orthodox Church covers 90% of the costs.

What can they offer?

The organisation offers shelter for up to 2 individuals or two families (max 6 persons) in their 2- bedroom shelter in Timisoara. Victims of trafficking, including for (forced) begging, can stay for up to one year and are offered medical treatment, basic assistance and psycho-social therapy (individual and groups sessions), as well as vocational training and employment. Minors are obliged to go to school. They also offer support to persons outside the shelter within the region.

Contact details

Arhiepiscopia Ortodoxa Romana a Timisoarei (Romanian Orthodox Dioceses - Timisoara)
 Address: Bd C .D. Loga nr.7, 300021 - Timisoara, Timis county
 E-mail: claustimro@yahoo.com
 Telephone: + 40256490287

Reaching Out

Reaching Out was established in 1999 and was one of the first organisations to provide assistance to women and children who are victims of trafficking and sexual exploitation, as well as to young women leaving the orphanage system. Also women with children are welcome. A fundamental rule of all assistance activities is that priority is given to protecting the rights of the victims and that their well being is considered above the interests of all other persons, organisations and governmental agencies. Reaching Out aims to empower women and girls, and to restore or maintain their ability to build an independent life by conferring respect, dignity and acceptance on each individual victim.

What can they offer?

The organisation has its own shelter situated in Pitesti, which can accommodate maximum 14-16 women or girls. They can stay in the shelter as long as it is necessary for them to start an independent life and have access to services that are tailored to their individual needs, developmental stage and the different environments from which they come. Reaching Out has developed a programme of psychological support for trafficked women and girls and external social workers visit the shelter. They also offer vocational training including cooking lessons and budgeting, next to empowerment programmes. In addition an external doctor provides health check ups. Minors are enrolled in local school programmes. If requested Reaching Out also offers support in court cases. Once girls or women leave the shelter, Reaching Out will try to maintain contacts.

Contact details

Address: St. Campineanu Bl.2 Sc C., Apt 14, Pitesti 0300, Jud.Arges
 Cellphone: 40 722 298 042

Tel/fax + 40 48 631 022
E-mail: reachingoutrom@yahoo.com

Scop - Society for Children and Parents/ Societatea pentru Copii și Părinți (Timisoara)

In 2000 SCOP established a shelter for female victims of domestic violence, later also their children and children being abused or at risk of abuse were accommodated in this shelter. Shortly after a Day Care centre was opened for children. The centre for victims of domestic violence was later closed, due to lack of funding. It is however expected that in 2006 they will re- open a maternal centre in Timisoara.

What can they offer?

Currently Scop focuses on prevention programmes for teenagers in high schools, in cooperation with Pro Familia. SCOP is planning to continue its awareness raising work on trafficking, with prevention programmes at schools and with an awareness website, set up by volunteers. For the prevention work see www.nutrafic.co.nr

Contactdetails

Address: Str. Milcov nr. 4, Bl. 10 ap 6, 300553 Timisoara
Telephone: + 40 256 29 44 03/29 31 76/43.73.28
E-mail: infodrug@rdslink.ro; scopro@mail.dnttm.ro; infodrug@rdslink.ro

SAVE the Children (Salvati Copii)

Save the Children Romania is a national democratic movement, unaffiliated politically or religiously, based on the voluntary involvement of its members. It was established in 1990 and has currently branches in 15 countries. They fight for children's rights, including the rights of trafficked children. They are involved in lobby and advocacy, influence public opinion and support children at risk. They cooperate with Save the Children worldwide and are affiliated with the ECPAT network.

What can they offer?

SAVE the children offers (support) programmes in the shelters set up by the government, provides a hotline and offers consultation and awareness programmes. They have an extensive programme to enrol street children in special programmes and get them from the street and from begging.

Contactdetails

Address: Intr. Stefan Furtuna nr. 3, Sector 1, 010899 - Bucharest
Telephone : 0213166176/0213111343
Telephone: 4030217248
E-mail: rosc@salvaticopiii.ro,
http://www.salvaticopiii.ro/romania_en/index.html
Focal point for separated and un accompanied Children: stefania_ionita@salvaticopiii.ro

Romania: Intergovernmental Organisations

IOM (International Organisation for Migration)

In Romania IOM is active on the issue of trafficking in human beings since 2001. They cooperate with governmental shelters, including shelters for minors. In 2003 IOM started with developing a social card on all the actors involved in addressing internal trafficking. They published a report on the anti-trafficking situation in Romania, see www.iom.org. They also work to improve legal assistance offered to trafficked persons.

What can they offer?

IOM offers assistance to victims returning from abroad, including pre-departure assistance and airport assistance, risk assessment, assessment of the family situation and family assistance, shelter for a maximum period of 6 months (which can be extended) and medical assistance.

In the case of minors, if needed, Child Protection will be informed, in particular when

children can not be supported by their own family members. After returning to their family the victim will receive during the first three months assistance. After the first three months, assistance will be given twice a year. During a number of years they are continued to be monitored. For counselling they refer the victim to the social workers within the person's region. IOM Bucharest established a network of 20 NGOs all across Romania, which are able to provide reintegration assistance to victims of trafficking on the basis of bilateral agreements with IOM. Victims who are willing to return home and to join the assistance program are referred to a partner NGO in their area of residence. The budget allotted to the NGO by IOM for each case depends on the reintegration plan and on the project within which the victim was returned.

Contact details

Counter Trafficking Unit IOM Bucharest
Address: 89, Dacia Blvd - Bucharest 2
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Fax: +40 21 211 44 54
E-mail: lalex@iom.int
Website : www.iom.int

ILO (International Labour organisation)/IPEC office in Bucharest

ILO operates a specific awareness raising project on child trafficking project in Albania, Kosovo, Romania, Moldavia and Ukraine. La Strada is partner in both Moldova and Ukraine. Their main goal is fighting against child labour and child exploitation and they monitor child labour systems. ILO works with unions, employment agencies and helps to set up traineeships and internships. They give training to all the partners involved. Most of their clients are children who are begging on the street. Sometimes these children become victim of trafficking. In 2006 ILO published a global report on Child Labour, named the End of Child Labour within Reach. See:

<http://www.ilo.org/public/english/standards/ipec/about/globalreport/2006/index.htm>
They also published a report on trafficking from Romania: 'Trafficking of migrant workers from Romania: Issues of labour and sexual exploitation' in the framework of the Special Action Programme to Combat Forced Labour.

What can they offer?

ILO/IPEC - in close cooperation with Save the Children and Child Protection Departments - offers support to both the victim and his or her direct relatives. Once a child is identified as a victim the parents are informed and asked for co-operating in order to save the child: If the parents co-operate they can obtain financial support, social support and vocational training if needed. In case a minor victim returns to Romania the involved NGO inform the Child Protection Department.

Contact details

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Address: Str. Radu V Rodica Moise
National Programme Manager ILO IPEC Romania : Oda 26-26A, sector 4 - 040275 Bucharest
Telephone: +40 (0)314056875
Fax: +40(0)314056873
E-mail : patrick@protectcee.ro
Website: www.ilo.org/public/english/standards/ipec/protectcee/index.htm

Romania: Governmental Agencies

The National Agency Against Trafficking in Persons (NAATIP)

The National Agency was established in March 2006 in order to better coordinate the activities of State institutions against trafficking in human beings. The Agency is tasked to coordinate the implementation of the National Action Plan and to harmonise national policies on trafficking in human beings. Among its aims are the establishment of a national hotline on trafficking and a (centralised) national data base which should combine data received from law enforcement and other agencies involved in anti trafficking activity. Several ministries

are involved in the Agency, including the Ministry of Labour, Education and the Ministry of Health. The president of the Agency is due to inform all actors every 6 months and provide reports.

What can they offer?

The National Agency consists of one head office and 15 regional offices. They work together with local agencies and can refer victims to shelters and assistance services.

Contact details

President: Dumitru Licsandru
Address: St. Mihai Voda, nr 6, sector 5 - Bucharest
Telephone +40(0)21 319 01 83
Cellphone: + 4074 777 9079
E-mail: dlicsandru05@yahoo.com

Netherlands: Non-governmental Organisations

La Strada International

The International La Strada Association is a network of nine independent human rights NGOs (Non-Governmental Organisations) in Belarus, Bosnia and Herzegovina, Bulgaria, the Czech Republic, Macedonia, Moldova, the Netherlands, Poland and Ukraine. It aims to prevent trafficking in human beings, with a focus on women in Central and Eastern Europe. The primary goal is to improve the position of women and to promote their universal rights, including the right to choose to migrate and work abroad and to be protected from violence and abuse.

All La Strada member organisations are registered as independent non-governmental organisations and work at the grassroots level. All nine member organisations work according to the same basic programme. However, the exact services which are offered can vary, depending on the local situation. The three pillars of the La Strada programme are: information & lobby, prevention & education, and assistance and support.

The La Strada national offices also run hotlines, often 24 hours operational and in some cases toll free (see hotline numbers on the right). If needed, referral can take place to other services via the hotline, including search for missing persons. Several offices provide consultations for migrants, also in foreign languages.

La Strada International is the international secretariat of the nine La Strada members and focuses on international networking, lobbying and public relations on behalf of the member organisations, producing common policies and action plans and harmonised lobby and advocacy programmes. La Strada International works on the expansion of its relations with national and international organisations, national governments, European institutions and UN bodies. The secretariat supports capacity building of the members and provides a forum for NGOs on the issue of trafficking. It also houses an international archive and documentation centre and manages the international La Strada website.

Contact details

Address: La Strada International, De Wittenstraat 25, 1052 AK Amsterdam
Telephone: + 31 (0) 20 688 1414
Fax: + 31 (0) 20 688 1013
E-mail: info@lastradainternational.org
Website:

Comensha, La Strada Netherlands

The Dutch Foundation Against Trafficking in Women (STV) was established in 1987. It is one of the nine La Strada member organisations. In 2007, STV changed its name to Coordination Centre Human Trafficking (CoMensHa), to better reflect its work with female as well as male victims of exploitative working conditions. In total, five staff members work at the CoMensHa helpdesk. CoMensHa is the national referral point for victims of trafficking, it organises support and assistance services for victims, and coordinates the return and reintegration of victims who want to go back to

their home country in cooperation with various organisations. It also functions as the national reporting and registration point for trafficked persons.

In order to provide shelter and support to trafficked persons, CoMensHa organises, maintains and supports a wide range of regional networks. These networks consist of shelters, lawyers, social work and welfare agencies, (mental) health agencies, police, youth care, (refugee) support groups, victim support agencies and local governmental and community organisations.

What can they offer?

If a trafficked person is reported to CoMensHa, it will place her/him (if needed) in a shelter and activate the local network, which will then take over the responsibility under the coordination of a local case manager. Through the local networks, victims of trafficking are provided with shelter, social and psychological assistance, legal and medical aid, social welfare benefits, and other services needed.

Contact details

Coordination Centre Human Trafficking (COMENSHA)

Visiting address: Regentesselaan 31, Amersfoort

Postal address: Johan van Oldenbarneveltlaan 34-36, 3818 HB Amersfoort

Telephone: + 31 33 461 50 29

Fax: + 31 33 461 80 64

E-mail: stv@opvang.nl

Website: www.mensenhandel.nl

Bonded Labour in the Netherlands (BLinN)

BLinN is a programme of Humanitas and Oxfam Novib and supports victims of trafficking in the Netherlands. Through a range of activities BLinN works together with the client on discovering new perspectives and making new plans. The programme includes dealing with trauma, support in education and work, social training, and individual support aimed at empowerment. BLinN also supports women without legal residence status.

Contact details

Humanitas/Oxfam Novib

Address: PO Box 71, 1000 Amsterdam

Telephone: +31 (0)20 5231100

Fax: +31 (0)20 6227367

Email: info@blinn.nl

Website: www.blinn.nl

Netherlands: Governmental Agencies

Expertise Centre Trafficking in Human Beings and Human Smuggling

The Expertise centre is part of the National Crime Squad (DNR) of the Dutch National Police Agency.

Address: PO Box 611, 8000 AP Zwolle

Telephone: +31 (0)38 4963555

Bureau of the National Rapporteur on Trafficking in Human Beings

Since 1 April, 2000 there has been a National Rapporteur on Trafficking in Human Beings in the Netherlands. The Rapporteur, Mrs. C.E. Dettmeijer-Vermeulen, is assisted by six staff members who together constitute the Bureau of the Dutch Rapporteur on Trafficking in Human Beings (in Dutch: Bureau Nationaal Rapporteur Mensenhandel, or BNRM).

The Rapporteur's main task is to report on the nature and extent of human trafficking in the Netherlands, and on the effects of the anti-trafficking policy pursued. The reports contain information on relevant regulations and legislation, as well as information on prevention, criminal investigations regarding human trafficking, prosecution of perpetrators and victim support. They also contain policy recommendations aimed at improving the fight against human trafficking.

The Dutch Rapporteur works independently and reports to the Dutch government. The government

responds to the report to Parliament. The reports of the Rapporteur are public and can be found on this website (go to: Reports). The Rapporteur is not a complaints body and has no power of criminal investigation.

The Bureau of the Dutch Rapporteur of Trafficking in Human Beings keeps in contact with and gathers information from individuals, organisations and authorities involved in the prevention and combating of human trafficking and in giving assistance to trafficking victims. For their information, the Rapporteur and her staff have access to criminal files held by police and judicial authorities. Because human trafficking often occurs across borders, the Bureau also has many contacts abroad and co-operates with international organisations.

Contactdetails

Bureau Nationaal Rapporteur Mensenhandel
Postal address: Postbus 20301, 2500 EH Den Haag
Visiting address:
Schedeldoekshaven 131, 2511 EM Den Haag
Email: g.baboeram@minjus.nl .
Telephone: +31 (0) 70 370 45 14
Fax: +31 (0)70 370 45 37

Annex 2

Information brochure on protection of victims



AGIS 2003

With financial support from the AGIS Programme
European Commission - Directorate General Justice and Home Affairs

**...înainte de a spune
un singur cuvânt,**

citește



DREPTURILE

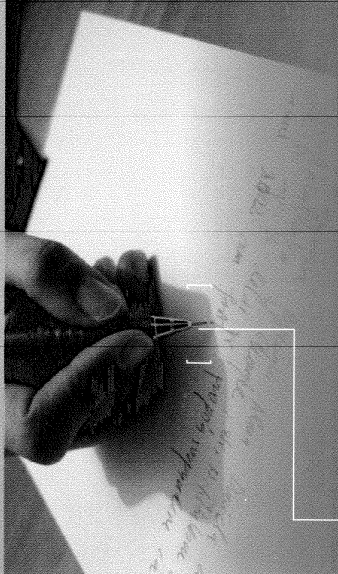
TALE



DEUTSCHE STIFTUNG FÜR
INTERNATIONALE RECHTLICHE
ZUSAMMENARBEIT E.V.



PENTRU INFORMAȚII
SUPLIMENTARE SUNAȚI LA:
0248.290.686



10 Ai dreptul să refuzi cooperarea cu organele de anchetă

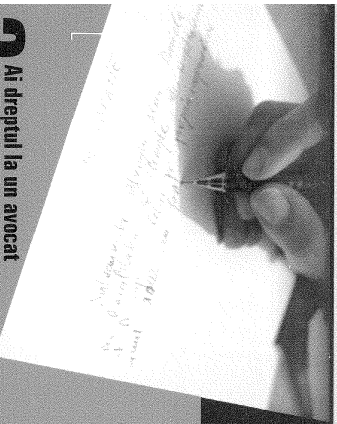
„Ai dreptul să nu spui nimic”

Poți să refuzi să oferi informații cu privire la săvârșirea infracțiunii de trafic de persoane și despre cei care au făcut acest lucru, dar din acest moment nu mai poți cere să beneficiezi de drepturile prevăzute de mai sus (punctele 1-9)

DACA FACI ASTA GÂNDEȘTE-TE CĂ VAINE O ALTĂ PERSOANĂ VA AVEA DE SUFERIT CA ȘI TINE DE LA ACELEAȘI PERSOANE CARE NU VOR FI CONDAMNATE NICIODATĂ !!!

1 Ai dreptul de a fi ajutat(ă)

- Poți beneficia de: cazare între 6 luni și 1 an;
- servicii medicale gratuite;
 - cursuri de calificare/specializare și completarea studiilor școlare;
 - sprijin pentru ocuparea unui loc de muncă
 - consiliere psihologică
 - asistență juridică oferită de ONG-uri (organizații neguvernamentale) și centre de asistență ale autorităților locale



...înainte de a **scrie**
un singur cuvânt.

citește
DREPTURILE
TALE

2 Ai dreptul la un avocat

- a) Legea prevede că ai dreptul tău de a fi asistată de un avocat din oficiu pe perioada procesului penal
- b) Legea prevede obligativitatea organelor Juridice (Judecători, procurori, poliție) de a-ți asigura un avocat din oficiu

3 Ai dreptul la protejarea vieții private și a identității

Poți cere ca viața și identitatea să-ți fie protejate pe tot parcursul procesului penal; poți cere ca destăurarea judecătii în sala de tribunal să se facă cu ușile închise (fără accesul publicului)

4 Ai dreptul la protecție fizică

Integritatea ta corporală este foarte importantă! Poți cere protejarea ta fizică pe toată durata procesului penal

5 Ai dreptul să fi audiată ca martor fără a ti se cunoaște identitatea

Poți cere procurorilor sau polițiștilor să beneficiezi de programul de protecție a martorilor sau să fi ascultată cu ascunderea identității (a numelui, a adresei etc.)

6 Ai dreptul la un proces echitabil

Drepturile tale sunt la fel de importante ca și cele ale inculpatului, potrivit convențiilor internaționale și a legislației naționale.

7 Ai dreptul la o compensație materială

Pentru că ai suferit ca urmare a săvârșirii infracțiunii de trafic de persoane, poți cere o compensație materială.

8 Nu poți fi acuzată de săvârșirea infracțiunii de prostituție și cerșetorie

Dacă ai suferit în urma săvârșirii infracțiunii de trafic de persoane, nu poți fi acuzată de săvârșirea infracțiunii de prostituție și cerșetorie

9 Ai dreptul să ceri limitarea accesului mass-media în sala de judecată

Poți cere judecătorului să limiteze accesul mass-media în sala de judecată pentru a-ți proteja viața privată.