

## **Status of Human Rights in Moldova for the 40<sup>th</sup> Session of the Universal Periodic Review**

### **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Moldova (Moldova) for the 40<sup>th</sup> Session of the Universal Periodic Review (UPR).

### **Background**

2. Located in eastern Europe, Moldova has an estimated population of 3.3 million people<sup>1</sup>. The population is predominately Christian, with 90% of the population identifying as Orthodox Christian, 2% as other Christian, and 7% as unspecified<sup>2</sup>.

3. Moldova's previous review was held on 4 November 2016<sup>3</sup>. As a result of the review Moldova received 208 recommendations, 193 of which Moldova supported. One recommendation Moldova supported was for the government to “[f]urther strengthen public institutions to combat trafficking in persons, through dedicated resources, enhanced cooperation with civil society, and incorporating best practices”<sup>4</sup>. While it was also recommended that Moldova “[c]ontinue to guarantee freedom of religion and freedom of belief without discrimination and without legal preferences”, there have been no major reports of Moldova infringing on the religious liberty of its citizens<sup>5</sup>.

### **Legal Framework**

4. Article 24 of the Constitution of Moldova states the following:

1. The State shall guarantee to everyone the right to life, to physical and mental integrity.

2. No one shall be subject to torture or other cruel, inhuman or degrading punishments or treatments.

3. The capital punishment shall be abolished. No one shall be sentenced to such a penalty, nor executed<sup>6</sup>.

5. Additionally, Articles 43 and 44 of Moldova's Constitution enshrine the rights of the worker and expressly prohibit forced labour.

Article 43

1. Every person shall benefit by the right to work, to freely choose his/her profession and workplace, and to equitable and satisfactory working conditions, as well as to the protection against unemployment<sup>7</sup>.

#### Article 44

Forced labour shall be prohibited<sup>8</sup>.

6. Furthermore, under Article 165 of Moldova's Criminal Code:

(1) The recruitment, transportation, transfer, concealment or receipt of a person, with or without his/her consent, for the purpose of commercial or non-commercial sexual exploitation, for forced labor or services, for begging, for slavery or similar conditions, for use in armed conflicts or criminal activities, for the removal of human organs or tissues committed by:

- a) the threat of physical or mental violence not dangerous to the person's life and health, including kidnapping, the seizure of documents, and servitude for the purpose of paying a debt, the amount of which was not set within a reasonable limit, as well as through the threat of disclosure of confidential information of the family of the victim or of other persons, both individuals and legal entities;
- b) deception;
- c) the abuse of vulnerability or abuse of power, giving or receiving payments or benefits to get the consent of a person controlling another person;

shall be punished by imprisonment for 5 to 12 years with deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 3000 to 5000 conventional units with the deprivation of the right to practice certain activities or the liquidation of the legal entity.

(2) The same actions committed:

- a) by a person who previously committed an act set forth in par. (1);
- b) against two or more persons;
- c) against a pregnant woman;
- d) by two or more persons;
- e) by an official or a high-ranking official;
- f) with violence dangerous to the person's life, physical or mental health;
- g) with torture, inhumane or degrading treatment aimed at ensuring the person's subordination, or with the use of rape, physical dependence, or a weapon;

shall be punished by imprisonment for 7 to 15 years with the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 5000 to 7000

conventional units with the deprivation of the right to practice certain activities or the liquidation of the legal entity.

(3) The actions set forth in par. (1) or (2):

- a) committed by an organized criminal group or by a criminal organization;
- b) that cause severe bodily injury or a mental disorder, or the death or his/her suicide;

shall be punished by imprisonment for 10 to 20 years with the deprivation of the right to hold certain positions or to practice certain activities for 3 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 7000 to 9000 conventional units with the deprivation of the right to practice certain activities or the liquidation of the legal entity.

(4) The victim of trafficking in human beings shall be exempted from criminal liability for any crimes committed by him/her in relation to this procedural status<sup>9</sup>.

7. Article 206 of the Criminal Code codifies the crime of trafficking in children:

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

- a) commercial or non-commercial sexual exploitation in prostitution or a pornographic industry;
- b) exploitation by forced labor or services;
- b1) practicing begging or other base purposes;
- c) exploitation in slavery or in conditions similar to slavery including illegal adoption;
- d) participating in armed conflicts;
- e) participating in criminal activities;
- f) removing human organs or tissues;
- g) abandonment abroad;
- h) sale or purchase;

shall be punished by imprisonment for 8 to 12 years with the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 3000 to 5000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity<sup>10</sup>.

8. In addition, Moldova is a party to the International Covenant on Civil and Political Rights (ICCPR). Articles 7 and 8 of the ICCPR address trafficking in persons, as well as forced child labour:

Article 7

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation<sup>11</sup>.

#### Article 8

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3. (a) No one shall be required to perform forced or compulsory labour . . .<sup>12</sup>

### **Human Trafficking**

9. In recent years, the government of Moldova has identified increasing numbers of human trafficking victims. In 2016, the government identified 232 victims of human trafficking, growing to 341 in 2019<sup>13</sup>. Furthermore, the number of children being trafficked has increased during that same time period with 67 child victims identified in 2015 and 109 in 2019<sup>14</sup>.

10. Forced labour comprises 66% of the human trafficking in Moldova, with traffickers sexually exploiting the remainder<sup>15</sup>. Of the identified victims, 47% were female, 32% men, and 21% children<sup>16</sup>. Additionally, of those trafficked, 75% are trafficked to other countries such as Russia, Slovak Republic, Spain, Ireland, Portugal, and Turkey<sup>17</sup>, while the rest are trafficked within Moldova<sup>18</sup>.

11. Due to pervasive poverty, Moldova has one of the highest rates of human trafficking in Europe<sup>19</sup>. In the poorest areas in the country, people find it difficult to obtain jobs that pay more than \$2 a day, and even in Chisinau, the capital of Moldova, the average monthly salary is only \$237<sup>20</sup>. As a result, individuals desperate for jobs become easy prey for labour traffickers.

12. In 2018, French officials intercepted a van smuggling ten Moldovan nationals who had counterfeit Romanian identity cards<sup>21</sup>. The leader of the smuggling network was a Romanian who was living in France<sup>22</sup>. This led to the countries of France, Moldova, and Romania forming a joint investigative team with the assistance of Europol and Eurojust in May of 2020<sup>23</sup>. On 22 February 2021, the joint investigative team conducted numerous raids across Moldova, France, and Romania, resulting in thirty-eight arrests (seven in Moldova, twenty-eight in France, and three in Romania)<sup>24</sup>. The criminal network had trafficked forty Moldovan nationals for labour exploitation in the construction industry in France<sup>25</sup>. The traffickers provided the victims with fake Romania identify cards and driving licenses while confiscating their real passports<sup>26</sup>. The victims were forced to work long hours<sup>27</sup> while the criminal network generated an estimated €14 million in illegal profits<sup>28</sup>.

13. Another victim of human trafficking was an 18-year old Moldovan girl who was promised \$180 a month to work at a beetroot farm in Russia<sup>29</sup>. The girl, struggling financially, saw this as an opportunity to make money and provide for herself<sup>30</sup>. However, after being smuggled into Russia with a fake birth certificate, she was physically abused and never received

compensation after working long hours<sup>31</sup>. After ending up in a hospital, the young girl was rescued from her abusive situation<sup>32</sup>.

14. Moldova has partnered with the International Organisation for Migration (IOM) which is an intergovernmental organisation comprised of 174 members, including Moldova, dedicated to maintaining humane migration to monitor migration flows and combat human trafficking<sup>33</sup>. When a victim of human trafficking is identified abroad, IOM helps return the victim to their country of origin. For victims returned to Moldova, they have access to the Centre for Assistance and Protection which helps provides the victims of human trafficking the aid and assistance they need to recover.

15. In 2020, 87 of 116 identified victims of human trafficking were men who were exploited for forced labour<sup>34</sup>. While Moldova has several treatment and rehabilitation centers for women, none existed for men until 2021. Then, in April of 2021, Moldova opened its first shelter specifically for male victims of human trafficking<sup>35</sup>. The IOM Chief of Mission for Moldova, stated:

The vast majority of trafficking victims and survivors, men, women and children, are broken by their experience. They may have illnesses, injuries and deep mental scars. Many come from poor rural communities, where they risk ostracization and ridicule on their return home. Plus they may have lost all their family's savings and return home in debt, jobless and damaged.

For this, they need treatment, rehabilitation and vocational training. There are several shelters where services are offered to female victims and we are delighted that these services can now be offered to men also, in the safe environment of the new shelter which we have assisted the authorities in establishing<sup>36</sup>.

16. In 2018, Moldova began testing a program to help stop child trafficking at the border<sup>37</sup>. Under this program, children are required to scan their eyes or fingerprints which then alerts the children's parents via text message<sup>38</sup>. For the child to be permitted to cross the border, permission from two legal guardians is required<sup>39</sup>. Authorities hope these precautions will help prevent fake documents from being used to illegally transport children across the border<sup>40</sup>.

17. Also in 2018, the Moldovan government adopted the National Strategy for Preventing and Combatting Trafficking in Human Beings (SNPCTFU) for 2018-2023<sup>41</sup>. The SNPCTFU "includes measures to prevent phenomenon, social protection and assistance of victims, prosecution and trial of cases. At the same time, the international cooperation in the field will be developed, national legal framework will be improved, capacities of the human resources will be strengthened and info management will be ensured"<sup>42</sup>. The plan also involves "training border guards and other law enforcement officers to respond effectively to trafficking in human beings" as well as raising awareness to the dangers of human trafficking in secondary school curriculum<sup>43</sup>.

## **Conclusion**

18. Because 75% of human trafficking in Moldova involves smuggling citizens out of the country for labour exploitation, Moldova must ensure the implementation of the SNPCTFU and

provide resources and training for border protection to ensure the quick identification of trafficked individuals. Once caught, the human traffickers must then be swiftly and effectively prosecuted.

19. While Moldova has made strides in combatting human trafficking and providing aid assistance to victims, Moldova should strengthen these efforts and continue to work with other countries to put an end to human trafficking.

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<sup>1</sup> Moldova, THE WORLD FACTBOOK (9 Jun. 2021), <https://www.cia.gov/the-world-factbook/countries/moldova/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Universal Periodic Review – Moldova*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/MDIndex.aspx>.

<sup>4</sup> UPR of Republic of Moldova Thematic List of Recommendations A/HRC/34/12 – Para. 121,

<sup>5</sup> *Id.* at A/HRC/34/12 – Para. 121.

<sup>6</sup> Constitution of Moldova art. 24, [https://www.constituteproject.org/constitution/Moldova\\_2006.pdf](https://www.constituteproject.org/constitution/Moldova_2006.pdf) (last visited July 9, 2021).

<sup>7</sup> *Id.* at art. 43.

<sup>8</sup> *Id.* at art. 44.

<sup>9</sup> The Criminal Code of the Republic of Moldova art. 165, <https://www.legislationline.org/download/id/3559/file/Criminal%20Code%20RM.pdf> (last visited July 9, 2021).

<sup>10</sup> *Id.* at art. 206.

<sup>11</sup> International Covenant on Civil and Political Rights, 16 Dec. 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171 art. 7.

<sup>12</sup> *Id.* at art.8.

<sup>13</sup> *Evaluation Report Republic of Moldova*, GRETA (3 Dec. 2020), <https://rm.coe.int/greta-2020-11-fgr-md-en/1680a09538>.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Scan on Exit: Can Blockchain Save Moldova's Children from Traffickers*, VOA NEWS (19 Jun. 2018), <https://www.voanews.com/europe/scan-exit-can-blockchain-save-moldovas-children-traffickers>.

<sup>20</sup> Emilia Rivera, *10 Facts About Poverty in Moldova*, THE BORGEN PROJECT (1 Aug. 2019), <https://borgenproject.org/10-facts-about-poverty-in-moldova/>.

<sup>21</sup> *Exploitation on the Construction Site: 38 Arrested in France, Romania and Moldova For Abusing Migrant Workers*, EUROPOL (25 Feb. 2021), <https://www.europol.europa.eu/newsroom/news/exploitation-construction-site-38-arrested-in-france-romania-and-moldova-for-abusing-migrant-workers>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> *Scan on Exit: Can Blockchain Save Moldova's Children from Traffickers?*, *supra* note 19.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Preventing Trafficking and Protecting Victims in Moldova*, IOM, <https://www.iom.int/preventing-trafficking-and-protecting-victims-moldova> (last visited July 9, 2021).

<sup>34</sup> *Moldova Opens First Shelter for Male Victims of Trafficking*, IOM – UN MIGRATION (27 Apr. 2021), <https://medium.com/@UNmigration/moldova-opens-first-shelter-for-male-victims-of-trafficking-a3d1e411a8f2>.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Scan on Exit: Can Blockchain Save Moldova's Children from Traffickers?*, *supra* note 19.

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

<sup>41</sup> *Government Approves Strategy of Preventing, Combatting Trafficking in Human Beings*, GOVERNMENT OF MOLDOVA (21 Mar. 2018), <https://gov.md/en/content/government-approves-strategy-preventing-combating-trafficking-human-beings>.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*