

Nichita, Camelia Elena; Mutu, Miruna; Bologa, Gabriela

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Implications of Human Trafficking on the Romanian Society

Camelia-Elena Nichita (Vasile)¹, Miruna Mutu², Gabriela Bologa³

^{1, 2} "Valahia" University of Târgoviște, Doctoral School of Economic and Humanistic Sciences, Str. Lt. Stancu Ion, Nr. 35, Târgoviște, Romania

³Agora University of Oradea, Str. P-ța Tineretului, Nr. 8, Oradea, Romania

E-mails cam3vas3@yahoo.com, mutu.miruna@yahoo.com, gabi_fiat@yahoo.com

Abstract

In order to raise awareness of the phenomenon of trafficking in human beings among different institutions (law enforcement, child protection, NGOs) and to improve the measures they can take, the article aims to identify how severe is the phenomenon of human trafficking in Romania. We also want to identify the repercussions of this phenomenon as well as to identify the solutions at political and legislative level in order to reduce or even combat this phenomenon.

Keywords: trafficking in human beings, victim (designates any natural person who is subjected to trafficking in human beings), sexual exploitation, forced labor or services, slavery, servicing or taking organs.

1. Introduction

Motto: "Ignorance is the mother of all crimes", Honor de Balzac

International conventions ratified at national level define human trafficking in :, recruiting, transporting, transferring, accommodating or receiving a person, through threat, violence or other forms of coercion, kidnapping, fraud or deception, abuse of authority or profiting from the impossibility of that person to defend himself or to express his will either by offering, giving, accepting or receiving money or other benefits in order to obtain the consent of the person who has authority over another person, for the purpose of exploiting that person. Exploitation consists of forced prostitution or other form of sexual exploitation, forced labor or forced services, slavery or similar practices, servitude, or organ removal. ” (Law no. 300 of July 11, 2006 for the ratification of the Convention of the European Council on the fight against trafficking in human beings, adopted on March 3, 2005, signed by Romania on May 16, 2005 in Warsaw).

Also, the defense of human rights and fundamental freedoms is a permanent and common concern of all legal systems.

According to the New Penal Code, art. 210, human trafficking is defined as follows:

(1) recruitment, transportation, transfer, harboring or receipt of a person in order to exploit its committed: a) coercion, abduction, deception or abuse of authority; b) taking advantage of the impossibility to defend or to express their will or particularly vulnerable status of that person; c) offering, giving or receiving money or other benefits in exchange for the consent of a person having control over that person, shall be punished with imprisonment for 3 to 10 years, deprivation of certain rights.

(2) Human trafficking committed by a public official in the performance of their duties shall be punished with imprisonment for 5 to 12 years. (3) trafficking victim's consent is not relevant supporting.

(3) Human trafficking committed by a public official in the exercise of his duties is punished by imprisonment from 5 to 12 years.

(4) The consent of the victim of trafficking is not a justifying cause.

Human trafficking by its forms of manifestation (sexual exploitation, forced labor, forced to beg or committing crimes) continues to be one of the social phenomena with a global coverage that brings significant moral, mental and physical harm to its victims and not only". This phenomenon has become alarming, especially when children fall victim to the networks of traffickers. The most exposed to the recruitment /trafficking for the purpose of exploitation are the children, by the term "child" being named any person under the age of 18 years. Under Article 211 of the New Penal Code, child trafficking involves:

(1) The recruitment, transportation, transfer, harboring or receipt of a child, in order to exploit it, shall be punished with imprisonment from 3 to 10 years deprivation of rights.

(2) The punishment is imprisonment from 5 to 12 years and deprivation of certain rights when: a) the offense was committed under art. 210 par.(1); b) the offense was committed by a public official in the performance of duties; c) the offense endangered the life of a minor; d) the offense was committed by a family member of a minor; e) the offense was committed by a person in whose care, protection, education, protection or treatment is minor or a person having abused their recognized position of trust or authority over the minor.

(3) Trafficking victim's consent is not relevant supporting. There are few cases in which vulnerable people get into the hands of people for whom nothing is more important than the prospect of financial gains resulting from their exploitation. ”

2. Recruitment of victims

Human trafficking, beyond the particular aspects registered at the individual level, is generally manifested through a succession of three stages: recruitment, transport and exploitation. Recruitment arises from the Romanian state, respectively one of the main countries of origin of the victims of trafficking exploited in the European countries.

Recruitment is materialized by the proposal made to the victim in the initial phase of the trafficking process, by the person trafficking. Finally, this proposal is usually a false promise regarding the object or nature of the work, the destination of the victim's trip, the conditions in which he will be, will be kept or will work, or the place of the activity. Recruitment can be done by a company, either directly or through a notice, through the media or the Internet or by one or more persons, through different methods.

Recruitment, can be done by force or threat, or other coercive forms, by kidnapping, fraud, deception, abuse of power, exploitation of a vulnerability, by offering money or benefits, in order to obtain the consent of one person over another, all with the purpose of the exploitation”.

In general, the article aims to contribute to the understanding of the trafficking phenomenon in Romania, which, on the one hand, would allow the prevention and awareness campaigns to be targeted, effective anti-trafficking actions, and the specialists who contact the victims (prosecutors, judges, police officers, social workers, etc.) to establish the support measures in an effective way. In this regard, at present, experts in the field of anti-trafficking measures confirm the difficulties created by stereotypes (traditional opinions and perceptions of how trafficking works, who are the victims of this phenomenon and how to respond to this challenge), including the fact that trafficking is understood as sexual exploitation / prostitution, ignoring the complexity of the definition of trafficking which includes exploitation through work, begging, trafficking for the purpose of committing criminal activities.

2.1. Main factors favoring

At present, in Romania, the main factors favoring human trafficking situations are: economic difficulties (poverty and unemployment), rural / urban disparities, migration, education and information level, deficiencies in the support provided by the community and in

infrastructure, ethnic differences, family (its disintegration and neglect of children), alcoholic parents, violence and abuse in the family or in institutions of protection, entourage. None of the above factors can explain or generate alone the phenomenon of human trafficking, they only work in concentrated.

Romania has been, in recent years, a country of origin for victims of human trafficking, in a condition of increased vulnerability of some segments of the population, in search of better living conditions. To the same extent, western countries have continued to maintain the status of exploitation countries for Romanian people drawn into exploitation and trafficking situations, where there is the right context for tolerating begging, an increased demand for cheap labor.

Also, in the states where the legislation is permissive or where prostitution is tolerated or legalized, the demand coming from the consumers of sexual services, they are elements of encouragement for the vulnerable people, looking for more or less explicit sources of income, legal or illicit.

3. National / international legislative instruments

Romania's constitution, in the first article, guarantees as supreme values as human dignity, the rights and freedoms of citizens, the free development of human personality, justice and political pluralism.

Human trafficking is defined in art. 12 and art. 13 of Law no. 678/2001 for the prevention and combating of human trafficking, with modifications and completions, the definition used at national level being in line with that of the Protocol on the prevention, repression and punishment of human trafficking, especially of women and children.

For the purpose of regulating the national networks of services and protection of victims of human trafficking, the services provided and their quality, measures regarding ensuring an optimal environment for the victims of human trafficking, ensuring the necessary qualified personal and its continuous improvement was adopted Decision no. 1.238 of October 10, 2007 regarding the approval of specific National Standards for specialized services of assistance and protection of victims of human trafficking.

A legislative instrument with the purpose of protecting the victims of crime is Law no. 211/2004 regarding some measures to ensure the protection of victims of crime by regulating measures to inform victims of crime about their rights, as well as psychological counseling, free legal assistance and financial compensation by the state. Specific rules are provided for minors, in the sense that they are not obliged to set up an injured party or to make a criminal complaint, and the period of legal and psychological assistance is 3 months longer than for adults.

In order to guarantee and protect the fundamental rights and freedoms of individuals, in particular the right to intimate, family and private life, regarding the processing of personal data, Law no. 677/2001 for the protection of persons regarding the processing of personal data and the free movement of these data. Thus, all victims of human trafficking, including the minor ones, benefit from these rights right from the moment they are identified.

The UN Convention on Combating Organized and Cross-Border Crime adopted in New York on November 15, 2000, as well as its additional protocol on preventing, combating and punishing trafficking in human beings, in particular women and children, highlights the role of cooperation in the prevention. and of combating the most operative of the organized cross-border crime being ratified at national level by Law no. 565/2002. Aspects regarding the protection of victims of human trafficking and especially of women and children, meticulously analyze preventive actions as well as cooperation which impose the achievement by adapting to the specific social policies in the field are regulated by this convention. Also, Romania, signed the Convention of the Council of Europe on Combating Trafficking in

Persons on May 16, 2005 in Warsaw Convention which was ratified at national level by Law no. 300/2006. The actions of the anti-trafficking structures that target the punishment and the condemnation of the traffickers of persons, refer to the Penal Code, art. 182, art. 210, through which numerous organized criminal groups are destroyed and very high penalties are applied by the courts.

3.1. The visions of the National Agency against Trafficking in Persons vs. the vision of the U.S. Embassy in Romania on anti-trafficking actions

"The National Agency against Trafficking in Persons evaluates and monitors, at national level, the activity carried out in the field of the fight against trafficking in human beings by public institutions and non-governmental organizations, fulfilling the role of national rapporteur".

The national mechanism for identification and referral (MNIR) is a formal framework for cooperation, based on which governmental institutions and intergovernmental organizations fulfill the tasks assigned to protect and promote the rights of victims of trafficking in persons, uniting their efforts in strategic partnership with civil society. MNIR through the institution of the National Rapporteur (National Agency against Trafficking in Persons) records any victim or presumed victim referred to him by one of the institutions or organizations that have responsibilities in applying Order no. 335 of October 29, 2007 for the approval of the National Mechanism for Identification and Referral of Victims of Human Trafficking.

Also, MNIR records the data on persons, victims or suspected victims of human trafficking, which are referred by institutions and organizations outside the country.

The goals of the MNIR involve ensuring that the rights of victims of human trafficking are respected, as well as the implementation of effective victim referral procedures, institutions offering specialized protection and assistance services, as well as monitoring the quality of the services provided.

The analysis carried out by ANITP, both on the basis of their own statistical data, as well as by using the data and information made available by other law enforcement institutions, highlights an overview, doubled by a nuanced presentation, regarding vulnerabilities and the particularities of victims of human trafficking, registered in 2018, in the MNIR.

The analysis reflects the fact that, compared to past years, the characteristics that define the victims of human trafficking for 2018, remain unchanged from previous years.

It is noted that the mechanisms for identifying victims exploited in the country are much more under the control of national institutions.

It was found that significant difficulties arise in identifying victims, Romanian citizens, but especially in the transnational referral, by authorities or organizations in the countries of exploitation. It was observed that the multiannual evolution of the size of the identified victim population retains the general trend registered during the last 11 years. The statistical data in the MNIR indicate a decrease in the number of registered victims, in 2018, (from 662 victims, identified in 2017, to 497, in 2018). The data reflect a tendency recorded in the dynamics of the phenomenon of victimization through human trafficking, in a relevant period of time, over 10 years. It is appreciated that the decrease in the number of victims represents the multiplied result of the efforts of the authorities and civil society, over the last decade.

It is appreciated that in order to be effective in the fight against trafficking in human beings, the correlated efforts of the authorities of the countries of origin with those of the countries where the exploitation takes place are crucial. It is important for Romania to promote and implement demand reduction policies, in parallel with those aimed at reducing supply, in developing policies to reduce the phenomenon of human trafficking in the countries of exploitation. This aspect, well grounded in EU Directive 36 of 2011, must be assumed by both the source countries of victims of trafficking in human beings and by the countries of

exploitation. Romania mobilizes important human and financial resources necessary for the protection and assistance of victims of human trafficking, as well as for the prosecution and punishment of traffickers. The results of the actions taken by the state institutions are reflected on two levels, that of the action of the law enforcement authorities and that of the integrated interventions of the authorities, ONG, as well as other institutions or organizations responsible for assisting victims.

The actions of the anti-trafficking structures, from 2001 until now, are reflected in thousands of convictions, hundreds of organized criminal groups destroyed and very large penalties applied by the courts. In this regard, the US Embassy in Romania argues that "the split system of case reporting has affected the efficiency of the police and the coordination with the investigations and the criminal prosecution", "the authorities have accused the suspects of human trafficking for other crimes. , such as pimping ”,“ (29%) of the convicted traffickers received suspended sentences; the rest of the traffickers received penalties with imprisonment between 1 and 10 years ”,“ the lack of prioritization of human trafficking, widespread corruption and major legal and judicial reforms prevented the effective application of the law. Observers reported corruption endemic and supposed complicity in human trafficking offenses of government officials, especially officials who exploited minors in state placement centers and acted in complicity with traffickers ”,“ the small number of dedicated financial investigators prevented investigations financial and unavailability of assets, blocking the collection of evidence in cases of trafficking in human beings to corroborate the statements of witnesses, "a new law that reduces prison sentences for prisoners in improper conditions has led to the early release from prison of more than 500 convicted traffickers During the period covered by the report, "the judges did not treat prostitution and trafficking for sexual exploitation as different offenses, which had negative effects on the penalties imposed on the offenders and on the compensation granted to the victims", "although they mostly used funds In the donations for the training of police officers and prosecutors, the authorities organized, during the period covered by the report, a series of training programs on the topic of combating trafficking in human beings, for 25 members of the border police, ”the police - especially from rural and rural areas. from small cities - they are not aware of the potential for exploitation through prostitution, which has led to the identification of the signs of the use of force, fraud and coercion on persons who practice prostitution, including minors, “many police officers and judges lack the specialized training and sensitivity required in cases of trafficking in persons for the purpose of sexual exploitation and in matters relating to trafficking in persons, including a basic understanding of trafficking in human beings ” [11]. The priority recommendations for Romania presented by the US Embassy, on human trafficking (2019) are:

- According to the legislation in force, it is desired resolution in investigation as well as criminal prosecution in cases of trafficking in persons and punishment of traffickers with prison.
- It is necessary to extend the efforts of investigation, prosecution and conviction of the civil servants accomplices to acts of human trafficking as well as obtaining sufficiently severe sentences, corresponding to the gravity of the crime committed.
- Increase the number of police officers investigating human trafficking offenses but also the number of financial investigators specialized in human trafficking cases.
- Participation in professional development programs for police officers for working with victims, gathering evidence of human trafficking and understanding the phenomenon of psychological constraint.
- Amend the legislation to allow the authorities to sanction the recruitment agencies for crimes related to trafficking in human beings.

- In order to raise awareness of trafficking in human beings and to understand all forms of trafficking, it is necessary to increase the efforts of training of the officials involved in the judicial procedures - especially of the judges, in order to professionally approach the cases of human trafficking and working with the victims.
- Application of the national strategy and the national action plan 2018-2022 as well as the allocation of adequate financial resources.

3.2. The visions of the National Agency against Trafficking in Persons vs. the vision of the U.S. Embassy in Romania on the identification, protection and assistance on the victims.

Regarding the second register: identification, protection and assistance of victims, the first formal instrument was designed to identify victims of human trafficking and their referral (2007), with the purpose of adopting a common and integrated response, by all institutions and organizations involved in the identification, protection and assistance of victims, regardless of the institution or organization they came into contact, for the first time - NMIRV (National Mechanism for the Identification and Referral of Victims), a tool that has been refined and adapted throughout time through various tools, proposed by specialists who have encountered certain deficient situations. Also, procedures were developed and introduced regarding the risk assessment and the special needs of assistance and protection of the victims, procedures regarding the assisted voluntary repatriation. At the same time, the procedure for granting the recovery and reflection period (90 days) was regulated, but there were also improved procedures or already existing aspects, which we mention the identification procedure or the indicators of identification of victims of human trafficking. Tools were created to implement the processes described in the procedures, clarifications and standardization of some notions such as the potential victim, the presumed victim, the identified victim, the detection or identification of the victim of human trafficking, as well as establishing clear tasks in the responsiveness of the various institutions were required in the fight against trafficking.

It is worth mentioning that no legal conditioning of the protection and assistance of the victims is established, which will be determined by the time or by the participation of the victims in the criminal process or by their collaboration with the judicial authorities. The protection services for recovery and reintegration are planned being provided on the basis of an individualized and integrated assistance plan made with the participation of the victim, periodically re-evaluated and permanently adapted according to the evolution of the victims situation and the way of meeting the set objectives. This plan is followed by a team of specialists involved, until the end of the case, with the participation and consent of the victim. It is also encouraged the participation of the victims in the judicial proceedings, by granting a period of recovery and reflection of up to 90 days, either by allowing them to recover, either to avoid the influence of the traffickers or to make a decision in knowledge of the case regarding the cooperation with the competent authorities. In this period of recovery and reflection the victims are counseled from the psychological point of view, from the point of view of social assistance, but also with regard to the applicable judicial and administrative procedures.

According to the National Agency against Trafficking in Persons, in 2018, the actions for the prevention of trafficking in human beings followed the national strategic documents (SNITP 2018 - 2022, the National Action Plan 2018-2020 for the implementation of SNITP 2018 - 2022, the National Strategy for Order and Safety publishes 2015-2020 etc). Most of the preventive actions of ANITP were carried out in cooperation with institutions and organizations involved in the fight against trafficking in human beings. Preventive campaigns were initiated and implemented together with institutional and non-governmental partners, all campaigns being adapted to the local and regional traffic specificity, but also to the different

types of exploitation and taking into account the particularities of the target groups of the anti-trafficking message.

Regarding these issues, the US Embassy in Romania argues that: “the Romanian government has reduced its efforts to protect victims of trafficking in human persons... civil servants and ONG have identified 497 victims in 2018, the smallest number in 2018 the last 10 years, decreasing from 662 victims identified in 2017 ”,“ as in previous years, less than half of the victims received assistance ”,“ observers also reported that the authorities have penalized the persons involved in activities of prostitution, even if they were minors, without looking for indications of human trafficking ”,“ The permanent problems of the abuse and neglect of institutionalized children and the lack of early identification in the state institutions put the children in the placement centers in danger of becoming victims of trafficking ”,“ the lack of government funds for ONG assistance and protection services was still a problem ”,“ the law provides for psychological and medical care for all victims ... the government did not offer more than one psychological counseling meeting and did not cover the cost of medical services. The ONG paid the cost of all psychological services to the victims, as a result of the government's refusal to pay the psychologists who provided assistance to the victims and the cost of all emergency medical services, because the government did not provide financial assistance and the payment of medical services was made on the spot. ... In order to have access to medical care, the victims in Romania had to return to their home town in order to obtain identity documents” [11].

The priority recommendations of the US Embassy for Romania regarding human trafficking (2019) are [11]:

- A competent training of police officers and labor inspectors in order to recognize the indications of exploitation in such a way as to preventively identify potential victims, especially from the vulnerable population such as children from state placement centers, migrants and asylum seekers, persons involved in prostitution activities.
- According of psychological counseling to high professional standards and facilitating the access of victims to medical care.
- Creating a formal mechanism for managing the funds and providing financial support to ONG-s for victim services.
- In order to protect witnesses from reprisals and stigmatization and to encourage more victims to get involved in prosecution, it is requested that the names of all victims who testify at lawsuits for protection are not published.
- The granting of protection in court and appropriate legal advice to the victims who attend the prosecution.
- In order to include a minimization of the judicial fees and an increase of the efforts to compensate victims, it is requested to review the retrocession mechanism.

4. Conclusions

Conclusions of the US Embassy for Romania, on trafficking in human beings: "The Romanian Government does not fully meet the minimum standards for the elimination of trafficking in human beings, but it makes significant efforts in this regard" ... (priority recommendations of the US Embassy for Romania, regarding trafficking in human beings) (2019).

The conclusions of the article refer to the improvement of the legislation, the extension of the monitoring system of the trafficked victims, also reiterating the need to increase the preventive measures and to increase the quality of the services offered.

The less time the victims spend in human traffic, the more easily they are therapeutically approachable, the occurrence of mental disorders or very serious physical traumas is delayed and the easier the recovery and social reintegration becomes.

The Romanian society of the present day places great emphasis on the material side, on the money. People, generally looking for resources, wealth, average survival, want to, with a minimum of effort, achieve the maximum result. I believe that this principle can also be applied in the above statement. Thus, people want to gain legal or illegal financial benefits with minimal involvement. Victims, most of the time, out of school, abused, vulnerable do not have the capacity to discern between reality and imagination. They fail to believe their own destiny in Romania and choose to go abroad for the most part, not informing themselves in any way or putting their life in the hands of a person known for a short time or at all.

Also the traffickers have observed that they can obtain material advantages from the exploitation of other people, without manifesting any human feeling, the victims becoming objects (products) of consumption, with a view to the rapid enrichment of the traffickers.

I think that today's society presents a moral crisis, which makes people no longer have any moral brake. This moral crisis manifests itself at the level of all stages of the Romanian society. This can be explained by the fact that a state placement director from a city in the south of Romania trafficked children in care, or officials who exploited minors in state placement centers and acted in complicity with traffickers. Thus can be explained the endemic corruption and the alleged complicity in human trafficking offenses of government officials.

In fact, people have forgotten that "work is an opportunity to give me something, to express myself and to achieve it"[13].

I also believe that education is needed for the development of a people, which is transforming children today, into tomorrow's adults. If today we have responsible, conscientious, persevering and correct children, tomorrow's adults will be the same.

I believe that every citizen of this country can contribute in its own way to the creation of a prosperous and modern society, through involvement, proactivity, responsibility, professionalism and the promotion of values.

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[5] Legea nr. 211/2004 privind unele măsuri pentru asigurarea protecției victimelor infracțiunilor;

[6] Legea nr. 677/2001 pentru protecția persoanelor cu privire la prelucrarea datelor cu caracter personal și libera circulație a acestor date;

[7] Legea nr 565/2002 pentru ratificarea Convenției Națiunilor Unite împotriva criminalității transnaționale organizate, a Protocolului privind prevenirea, reprimarea și pedepsirea traficului de persoane, în special al femeilor și copiilor, adițional la Convenția Națiunilor Unite împotriva criminalității transnaționale organizate, precum și a Protocolului împotriva traficului ilegal de migranți pe calea terestră, a aerului și pe mare, adițional la Convenția Națiunilor Unite împotriva criminalității transnaționale organizate, adoptate la New York la 15 noiembrie 2000;

[8] Legea Nr. 300 din 11 iulie 2006 pentru ratificarea Convenției Consiliului Europei privind lupta împotriva traficului de ființe umane, adoptată la 3 mai 2005, deschisă spre semnare și semnată de România la Varșovia la 16 mai 2005;

[9] Ordinul nr. 335 din 29 octombrie 2007 pentru aprobarea Mecanismului Național de Identificare și Referire a victimelor traficului de persoane;

[10] Directiva 2011/36/UE a Parlamentului European și a Consiliului din 5 aprilie 2011 privind prevenirea și combaterea traficului de persoane și protejarea victimelor acestuia, precum și de înlocuire a Deciziei-cadru 2002/629/JAI a Consiliului;

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