
The Evolution of Romanian Law and Mechanism in the Fight against Traf- ficking in Human Beings. A Focus on the Situation of Women

by

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Abstract: This article aims at demonstrating how international law has contributed to improving the condition of the victims of human trafficking in Romania. This European Member State holds the record for the highest number of trafficking victims, with a victimization rate of women above the European average. The intention, thus, is that of highlighting the legislative international and national body of reference, in order to grasp the fundamental aspects that characterise this criminal offence in Romania, so as to analyse the degree of the State's involvement in this fight. It will be necessary to analyse the causes of human trafficking in Romania, especially the factors that make women more vulnerable to trafficking, since they share the highest percentage of trafficked persons. The article will conclude with a report that shows the different steps of the trafficking process of a young girl who has been deceived and trafficked for prostitution. The case study was provided by the National Agency against Trafficking in Persons in order to demonstrate how this institution implements its assistance and protection measures.

Introduction

According to many reports and research, after the demise of communism Romania has become a source and transit country for trafficking in human beings, with Italy, Spain, Germany, France, Greece, Poland, and the UK as main destination countries¹. This is due to the combination of various factors: its geographical position on the line of the two main axes of continental migration (East-West and South-North), its entry into the European Union in 2007, and the consequent freedom of movement of Romanian citizens within the European borders. All these

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¹ Livia Aninosanu-Eva Laszlo-Marcello D'Amico-Laura Sales Gutierrez, *Trafficking for sexual exploitation of Romanian women. A qualitative research in Romania, Italy and Spain*, in "Gender Interventions for the Rights and Liberties of Women and Girls Victims of Trafficking for Sexual Exploitation", 2016, p. 15.

factors have contributed towards attracting human traffickers, who were facilitated in the process of victims' transportation towards other EU countries². Moreover, illegal migration, the prolonged economic crisis, the development of an underground economy, the absence of a just social welfare system, and the expansion of the endemic problem of corruption have all contributed to increase the numbers of both Romanian victims, and of Romanian traffickers.

The prevailing purpose of trafficking is sexual exploitation, followed by labour exploitation and forced begging³. Between 2012 and 2016, the rate of trafficking victims was 4 out of 100,000 people every year; it is demonstrated that, among these, one-third of the victims are children, mostly aged between 14 and 17⁴. From 2011 to 2015, according to the official data provided by the National Agency against Trafficking in Persons (NATP), the total number of identified victims was 4.622, thus, almost 1000 victims every year, with a preponderance of women⁵. In the two-year period between 2016 and 2018, the number of identified victims decreased, registering 757 victims in 2016, 662 in 2017 and 497 in 2018, the lowest number in more than a decade⁶.

While the official authorities celebrate these numbers as a demonstration of the success of their policies⁷, civil society and non-governmental organizations (NGOs) claim that the decreasing numbers reflect a decline in the efforts of identifying victims. In this regard, Pro Refugiu Association, one of the most relevant NGOs in Romania, issued a report based on their experience and on interviews to victims of trafficking. The organization, which protects and promotes the rights of the victims of human trafficking, asylum seekers and other vulnerable persons, illustrated the real situation to which victims are subjected. According to the report, victims do not see their rights implemented for many reasons, such as the lack of application of the reflection period, the low quality of legal aid and representation in court, the lack of necessary state funding for state lawyers, poor training of official authorities, misinformation about the victims' status, rights and relevant judicial administrative procedures or lack of victims' privacy protection⁸.

Although the Government claims its engagement in many training activities for professionals who may enter in contact with victims, this is still not enough when working with cases of trafficking, whose victims accuse insufficient protection, as-

² Anghel Stoica, *Migrația Ilegală La Confluența Cu Traficul De Persoane (Illegal migration at the confluence with trafficking in human beings)*, Editura Pro Universitaria, Bucharest, 2014, p. 18.

³ Claudia Petrescu, *Traficul de femei – o problemă a societății moderna (Trafficking in women: a problem of modern society)*, "Calitatea Vieții", XVII, 3-4, 2005, p.14.

⁴ *Supra* n. 1, p. 14.

⁵ GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania*, Second evaluation Round Report, GRETA, 2016, p. 7.

⁶ US Embassy in Romania, *Trafficking in Persons Report*, 2019.

⁷ NATP, *National Report on the evolution of trafficking in persons in 2018*, MAE, 2019.

⁸ More inconsistencies can be found in the report *Legal Analysis of the Rights of Trafficked Persons ROMANIA*, Association Pro Refugiu, 2013.

sistance and few opportunities for reintegration into society⁹. However, the National Agency is currently implementing its third pluriannual Strategy, which is aimed at combatting trafficking.

The evolution of Romanian law in the fight against trafficking in human beings

Romania started to take its first steps in fighting this phenomenon at the beginning of the millennium. The government adopted a set of legislative measures that aspires to consolidate and strengthen the national mechanism for the implementation of strategies against trafficking in human beings. The main international and European instruments in this field were transposed and adopted.

The first relevant instruments signed and ratified by Romania, which have brought significant changes for the national legal framework, are the United Nations Convention Against Transnational Organized Crime and its two Protocols. They were signed on December 14th, 2000 and ratified on October 16th, 2002 through Law 565/2002¹⁰. After becoming a Signatory Party, the need to adopt a separate legal act in this area became urgent¹¹. Thus, in 2001, for the first time in its history, the Romanian Parliament adopted the first criminal law against trafficking in human beings, namely Law 678/2001 on Preventing and Combatting Trafficking in Human Beings¹². Until that moment, according to Article 329 of the Criminal Code, exploitation of prostitution and trafficking in human beings for the purpose of prostitution were considered similar crimes and involved an equal punishment (from 3 to 10 years of prison¹³). As a result, victims of trafficking were considered prostitutes. Moreover, they were accused of prostitution if they refused to testify against the traffickers, and trials related to trafficking were judged as infringements related to pimping.

Law 678/2001 is compatible with the Palermo Protocol and provides a definition of trafficking, measures to prevent trafficking, regulations for punishing infringements and provisions on the assistance and protection of victims. On the one hand, differently from the UN instrument, the law did not initially provide provisions on reintegration and rehabilitation programs, although over the years numer-

⁹ Association Pro Refugiu, *Legal Analysis of the Rights of Trafficked Persons ROMANIA*, Association Pro Refugiu, Bucharest, 2013, p. 27.

¹⁰ Law 565/2002 for the ratification of the UN Organized Crime Convention and its two additional Protocols, entered into force on November 8, 2002.

¹¹ Livia Aninosanu et al. *Sperante, la vanzare. Cercetare calitativă privind traficul în vederea exploataării sexuale în România și Italia, în perioada 2007-2011 (Hopes, for Sale, Qualitative Research regarding Trafficking for Sexual Exploitation in Romania and Italy, from 2007 to 2011)*, "Animanova", CPE – Center for Partnership and Equality, Bucharest, Romania 2012, p. 14.

¹² Law 678/2001 on prevention and fight against trafficking in human beings (hereinafter Anti-Trafficking Law or Law 678/2001), published in the Official Gazette no. 783 of 11 Dec 2001 <https://tinyurl.com/laws04kn>.

¹³ Supra n. 11, p. 23.

ous amendments have supplied it with such measures. On the other hand, punishments are more severe in cases where trafficking results in the victims' death or suicide, and when the involvement of public authorities subsists¹⁴. The latter condition was added to the law only later, since it has been found that many cases of human trafficking are facilitated by representatives of the public authority, but also for harmonizing the internal norms with the European legislation.

As part of the European integration process, Romania fully accepted the *acquis communautaire* according to which one of the implicit conditions to become a member of the European Union was the development of an effective system of action against trafficking in human beings¹⁵. For this reason, Romania started to adopt yearly national plans to fight trafficking. Between 2000 and 2005, international organizations such as IOM, ILO or UNICEF¹⁶ played a major role in the creation and implementation of programmes and strategies. However, in May 2006, following the signature of the Council of Europe Convention on Action against Human Trafficking, Romania established its first national institution for the fight against this phenomenon. The National Agency against Trafficking in Human Beings was created as a specialized body for monitoring, coordinating, and evaluating the national strategies against human trafficking. The creation of the first National Identification and Referral Mechanism (NIRM) followed in 2007¹⁷. These two bodies were established for implementing the measures and provisions contained in the national strategies against trafficking and for having a higher degree of control over the actions contained in the national plans through more attentive monitoring and evaluation protocols. Therefore, in 2006, the first five-year National Strategy against trafficking in human beings was adopted to tackle this problem in Romania from a nationally coordinated institution and to promote EU values such as dignity, freedom, equality, and the respect of fundamental human rights¹⁸.

One of the main European instruments in this field of action is Directive 2011/36/EU on preventing and combatting trafficking in human beings and protecting its victims. It was transposed into Romanian law with no major interventions in the existing national legislative framework, since the majority of Romanian provi-

¹⁴ Law 678/2001, art 13, at para 5.

¹⁵ Geoffrey Pridham, *Romania and EU membership in comparative perspective: A post-accession compliance problem? – The case of political conditionality* in "Perspectives on European Politics and Society", VIII, 2, pp.168-188, 2007, p. 171, doi: <https://doi.org/10.1080/15705850701322491>

¹⁶ Supra n. 11, p. 25.

¹⁷ As established by the OSCE (Organization for security and Cooperation in Europe)'s Action Plan to Combat Trafficking in Human Beings, a National Referral Mechanism has the aim of creating guidelines for the identification persons victims of trafficking by building partnerships between civil society and law enforcement, available at <https://www.osce.org/odihr/13967>, last consulted August 13th, 2020, in Report on the improvement of the national identification and referral mechanism of victims of trafficking in human beings, Bucharest, 2009, p. 3.

¹⁸ Gina Maria Stoian, *Minori traficati si exploatați, între vulnerabilitate si ilegalitate activitatile infractionale fortate ca o noua forma de exploatare in traficul de fiinte umane: cunostinte si practici bazate pe drepturile omului prin intermediul cercetarii pilot, a formarilor multi-agentie si a procedurilor-prototip (Trafficked and exploited minors between vulnerability and illegality)*, Final report, edited by Gina Maria Stoian (ADPARE), Romania, 2003, pp. 18-19.

sions on substantive and procedural law already complied with the Directive. In February 2014, changes to anti-trafficking legislative framework were brought by the entry into force of the new Criminal Code (CC), which transposed Law 678/2001 into its provisions. The CC replaced the Communist Criminal Code, which was in force since 1968. The CC also responded to the practical needs of re-adjusting criminal law and reforming punitive policies. In fact, it was necessary to avoid different interpretations and inconsistent practices in the application of special criminal law texts during prosecution. Lastly, the intent was also that of adapting to European standards. However, the CC encountered widespread criticism for reducing the sanctions for trafficking in human beings (THB) crimes¹⁹. With the entry into force of the new CC, both prostitution and begging were decriminalized, but they still remain administrative offences for which fines may be issued.

Other laws worth mentioning are Law 331/2015, amending Law 122/2006 on asylum and foreign citizens in Romania, which, in the chapter related to vulnerable persons²⁰, also includes victims of trafficking. Law 126/2000, amended by Law 232/2017, regards the protection of Romanian citizens working abroad: it requires strict control of the citizens' activities, thus, increasing the chances for the identification of suspected victims and offenders²¹. In order to implement the provisions contained in Law 202/2002 on Equal Opportunities and Treatment of Men and Women, repeatedly amended over the years, a National Strategy for reaching equality between women and men was adopted for the period from 2014 to 2017, while another is currently ongoing for the period 2018-2021²².

On that basis, we can conclude by affirming that Romania expressed its engagement in fighting the crime of trafficking in human beings by signing, ratifying, and transposing many international and regional instruments into its domestic law. At a national level, Law 678/2001 inaugurated the establishment of a legislative framework for the coordination of authorities concerned with trafficking in human beings. The law has undergone subsequent amendments, the most important of which was introduced by Law 230/2010, in order to meet the criteria for preventing and combatting this phenomenon at an international and European Union level²³. Undoubtedly, many difficulties may have arisen while attempting to adapt to international and European law. These issues may regard not only the nature of law and its application, but also the historical and socio-cultural environment of a country, which will be hereinafter resumed.

¹⁹ New Criminal Code, Special Part, Chapter VII Trafficking and Exploitation of Vulnerable Persons, Articles 209 – 217. It includes crimes as slavery, pimping and forced labour in the same chapter.

²⁰ Law no. 331/2015 on the modification and competition of normative acts regarding foreign citizens, entered into force on December 24th, 2015.

²¹ Law no. 156/2000, amended by law 232/2017, entered into force on December 5th, 2017.

²² National Agency for equality of chances between women and men, National strategy on chances and treatment equality between women and men and for preventing and combatting domestic violence for the period 2018-2021.

²³ Aurora Elena Gavris, *Aspecte psihosociale si juridice privins traficul de fiinte umane (Psychosocial and legal aspects of trafficking in human beings)*, presa Universitara Clujeana, Cluj, Romania, 2015, p. 47.

Causes, consequences, and correlation between trafficking in women and gender discrimination

Experts have divided the causes for human trafficking into four main pillars, which are migration, vulnerability, crime, and policy and institutional efforts²⁴. The first two factors indicate the characteristics that make people more vulnerable to human traffickers, while the second two indicate which environment favours their proliferation.

The first factor regards migration, a situation according to which people are pushed to leave their country by political, social, and economic instability. Migration flows from Romania started since the beginning of the 90s and experienced an increase in the context of the country's EU integration process. As a matter of fact, Romanian migration numbers raised steadily by about 17% each year from 2000 to 2006, and doubled in 2007. The economic crisis in Europe reduced the trend by almost 40%, but from 2010 to 2016, Romanian flows resumed gradually, with an increase by almost 60%²⁵. Youngsters are the most motivated to leave the country, and their percentage in the Country plummeted by 28% from 2008 to 2016 for migratory reasons²⁶. Migrations are caused by a set of different reasons, mainly economic poverty, lack of job opportunities, and wages below the subsistence level²⁷. The informal economy, and a general lack of trust in the State and its bodies, which are perceived as corrupted and uninterested in the general well-being of the population, have transformed informal work into a livelihood strategy. On the one hand, this enables people to avoid paying taxes and receive social subsidies. On the other hand, though, it encourages irregular working patterns, low quality jobs, unregulated pay levels and no entitlement to social security and trade union protection²⁸. Furthermore, a series of social rights are denied to people: healthcare quality is rudimentary, public services treatment is degrading and the formal educational system encourages illiteracy²⁹. As a consequence, the need of resources for a more prosperous life paved the way for Romanians who desire to leave the country in

²⁴ Seo-Young Cho, *Modelling for Determinants of Human Trafficking*, Social Inclusion 3 (Special Issue "Perspectives on Human Trafficking and Modern Forms of Slavery"): 2-21, 2015, p. 5, available at SSRN: <https://ssrn.com/abstract=2117838> or <http://dx.doi.org/10.2139/ssrn.2117838>.

²⁵ OECD, *Talent abroad: a review of Romanian Emigrants, Recent trends in emigration from Romania, The socio-demographic characteristics of the Romanian diaspora*, Chapter 3.

²⁶ Eurostat, *Youth population on January 1st, ranged by sex, age and country of birth*, available at http://appsso.eurostat.ec.europa.eu/nui/show.do?dataset=yth_demo_060&lang=en.

²⁷ *Ibidem*.

²⁸ European Commission, *Country report Romania 2017. 2017 European semester assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU)*, 2017, p. 20.

²⁹ World Bank, *From Uneven Growth to Inclusive, Development: Romania's Path to Shared Prosperity. Systematic Country Diagnostics*, Washington DC, 2018, pp. 67-69.

search of a presumed social and economic normality³⁰. In many cases, though, future victims of trafficking are not aware, or do not have the mindset for calculating or anticipating the often-dramatic consequences that a job offer abroad may have in store for their lives.

The second factor that plays a fundamental role for human trafficking flows is vulnerability, namely the condition of exposure and susceptibility to some form of harm, such as exposure to food insecurity, hazards, violence, abuse or violations of fundamental rights³¹. Since these factors vary significantly according to personal, social, and structural factors, to the contexts, and to individual responses, and since trafficking in human beings in Romania affects women the most, I will focus on the characteristics fostering women trafficking. However, the main factors that are shared by both women and men are worth mentioning. The first is poverty, Romania being one of the poorest countries in the EU: in 2015, it had the largest share of poor people³², while in 2017 it held the record for the highest percentage of working people at risk of poverty³³. The second is the educational framework, which presents one of the highest European rates of early leavers³⁴. Then there are vulnerability factors at family level, namely families with disorganized, neglectful, or violent attitudes, the absence of contact and emotional connections, as well as the acceptance of corporal punishment as a normal tool for parenting. These issues contribute to increasing the possibilities of falling into the trap of human trafficking. An in-depth analysis follows.

How vulnerability factors reflect on women and children

Values, traditions, and attitudes of Romanian society all share discrimination and stereotypical portrayals of women and girls, who are attributed specific roles in Romanian culture. The society tolerates discrimination and violence against women, and taboos related to sexuality is still one of its trademarks³⁵. The severity attributed to these acts have deep historical roots. According to the Criminal Code, until the year 2000, a rape could be regulated through marriage, because sexuality was an act to consume within the marriage for the general interest of society.

³⁰ Catalin Ghinaru - Mariska Van der Linden, *Trafficking of migrant workers from Romania: Issues of labour and sexual exploitation*, Cornwell University International Labour Office School. Geneva, 2004, p. 2.

³¹ UNODC, *Global initiative to Fight for Human Trafficking, an introduction to human trafficking: vulnerability, impact and action*, New York, 2008, p. 3.

³² *Ibidem*.

³³ European Commission, *EUROPEAN SOCIAL POLICY NETWORK (ESPN) Social Europe In-work poverty in Romania*, 2019, available at <https://tinyurl.com/112k7yfe>.

³⁴ European Commission, *Education and Training Monitor 2018 Romania*, Luxembourg, 2018, available at <https://tinyurl.com/8wsm09wd>.

³⁵ Sebastian Lăzăroiu, *Trafic de femei – o perspectivă sociologică (Trafficking in women. A sociological perspective)*, in "Sociologie românească", XI, 2, 2012, p. 62, retrieved from <https://revistasociologieromaneasca.ro/sr/article/view/1243>.

Therefore, this institution could have helped resolving the “conflicts” between victim and aggressor, while in this way the rapist was actually given an opportunity for further abuse. The woman, instead, was left with no possibility to request law protection. Women’s sexuality and virginity still represent a strong concern. As a matter of fact, they are the most precious assets a girl owns. Many times, the loss of virginity equals the loss of the possibilities to get married, one of the highest “achievements” of a girl. Therefore, families try to reduce the possibilities for young women to lose virginity by marrying them in early age or by imposing strict conditions and limiting their freedom as means protection, all measures that result in another kind of gender discrimination³⁶. In order to be able to seduce a man, girls are taught that femininity is about beauty and appealing bodies on the one hand, and about the maintenance of traditional roles on the other. Mass-media, social media, and society at large convey and spread these ideas together with the profile of the “normal” girl, who should be kind, weak, patient, submissive, and with a strong ability to understand and forgive³⁷.

The role conferred to women finds its roots into the communist era and has been passed on into the current society through the Orthodox beliefs. During communism, the leader Nicolae Ceausescu desired equality between women and men, thus promoting their professional and political integration. This has had a detrimental effect on women since they still had to maintain their domestic role³⁸. Women had to cope with three different “jobs” during the day: taking care of the household, working in factories or in agriculture, and being active in politics. The image of the communist woman was that of a strong independent and caring woman; thus, they had to learn not to disappoint expectations.

In order to have more labour force for the victorious project he had for Romania³⁹, the Romanian dictator wanted a demographic increase. Therefore, in 1966 he promulgated Decree 770, according to which women were not allowed to abort or to use contraceptives. This decree paved the way for imprisonment for women who “illegally” caused abortions and for those who helped them⁴⁰. The figures about women who died due to illegal abortions reflect the consequences of this decree. The official data reports that almost 10,000 women died for this reason. However, since according to the “superior instructions”, the cause of many women’s deaths was registered as “severe septicaemia” or “kidney issues”, it can be affirmed that

³⁶ Livia Aninosanu-Eva Laszlo-Marcello D’Amico-Laura Sales Gutierrez, *Trafficking for sexual exploitation of Romanian women. A qualitative research in Romania, Italy and Spain*, in “GIRL Gender Interventions for the Rights and Liberties of Women and Girls Victims of Trafficking for Sexual Exploitation”, 2016, p. 41.

³⁷ Livia Aninosanu,-Daniela Martis-Gina Stoian-Marcello D’Amico-Laura Sales Gutierrez, *Victims of Trafficking for sexual exploitation, Why is gender an important factor in the process of trafficking for sexual exploitation?* in, “GIRL Gender interventions for the Rights and Liberties of Women and Girls”, 2016, pp. 15-16.

³⁸ Petruta Cirdei, *Communist woman between reality, doctrine and propaganda*, in “Annals of the University of Bucharest / Political science series”, XIV, 2, 2012, p.83, <https://tinyurl.com/wn4jfk2v>.

³⁹ A.I, *Romania, a history of abortions*, “Ziare”, 27 January 2015, available at <https://tinyurl.com/a9pn8ih1>.

⁴⁰ Supra n. 38.

the true numbers are more dramatic⁴¹. The female emancipation in the labour market facilitated the control of the regime over women, which would have been harder to achieve if they had stayed in the house. A way to practice abortion control were monthly gynaecological examinations in the factories where they worked⁴².

Forty years of communism and strict impositions cannot be cancelled so easily. The specific roles of women remained deeply rooted, especially when, after the fall of communism, Church-State relations expanded significantly, giving religious education a fundamental role in the Romanian civil society⁴³. Abortion was decriminalized in 1996 by the Criminal Code through Law 140, thus women are now allowed to practice abortion until their 14th week of pregnancy. However, it is not rare to find conscientious objectors, who in fact are very numerous and often hold religious motives⁴⁴. As a matter of fact, the Orthodox majority has become the most trustable and reliable institutional organization for Romanians, replacing the communist era and laws. Nowadays, the Romanian Orthodox Church still holds its position against abortion and contraception, but despite this, the country currently registers a large number of abortions⁴⁵.

According to the official data, Romania holds the record for the highest number of children born to mothers who are under 15 years old⁴⁶. For the time being, a National Strategy on Public Health is being implemented with the aim of improving women's sexual and reproductive health and of developing family planning services, especially for vulnerable people⁴⁷. Also, young Romanians can access condoms, oral contraceptives, or intrauterine devices for free. Unfortunately, the success of this initiative depends very much on access to information. There are several causes that lead to a limited use of contraceptive methods. Mainly, they are associated with lack of knowledge around the existing types and the fear of side effects⁴⁸. The low level of education leads people to adopt a behaviour which is incapable of coping with the complex circumstances of reality. Many Romanian women who fall into the hands of human traffickers are not able to take lucid decisions

⁴¹ Lavinia Beta. *Anti-abortion Decree, prostitution and "Decreteii"*, "Historia", available at <https://www.historia.ro/sectiune/general/articol/decretul-antiavort-prostitutia-si-decreteii>.

⁴² Petruța Cîrdei, *Femeia comunistă între realitate, doctrină și propagandă (Communist woman between reality, doctrine and propaganda)*, in "Annals of the University of Bucharest", Political science series, XIV, 2, 2012, p. 83, available here: <https://nbn-resolving.org/urn:nbn:de:0168-ssaar-389976>.

⁴³ Gabriel Andreescu-Liviu Andreescu, *Church and State in Post-communist Romania*, "Journal for the Study of Religions and Ideologies", VIII, 24, 2009, p. 23.

⁴⁴ Lina Vdovii-Michael Bird, *Obiectia de constiință. Doctorii romani in lupta miscarii mondiale anti – avort (Conscientious objectors. Romanian doctors fighting with the global anti – abortion movement)*, "Libertatea", 11 July 2019, available at <https://tinyurl.com/2cd3ftyg>.

⁴⁵ Supra n. 43, p. 33.

⁴⁶ National Institute of Public Health, *Analysis of situation, Sexual and reproductive health, rights, development and population*, 2018, p. 9, available at <https://tinyurl.com/qzsgpqqr>.

⁴⁷ Health National Strategy for the period 2014-2020, available at <https://tinyurl.com/4n8um8ef>.

⁴⁸ Supra n. 46, p. 15.

for their own health, and they are not able to navigate in other social contexts⁴⁹. Thus, the countries of destination are often seen as a paradise of opportunities. Finally, the depiction of emancipated women working abroad has fostered the desire for self-accomplishment and has pushed women to accept job offers even from strangers⁵⁰. Being exposed to stories of successful migration increases women's vulnerability as long as they look for any kind of opportunity to improve their life, making them easy prey for traffickers, whose number has increased over the last two decades.

Crime, the third factor that has contributed to the increase in human trafficking, has proliferated significantly after the fall of the communist regime. The deep structural changes that have affected Romania include:

- the decline of public morality and solidarity;
- growing permissiveness after a long period of communist indoctrination;
- a consequent lack of adequate legislation for many new areas of activity;
- the ineffectiveness of the system for coordinating responsible bodies in the fight against crime due to their inadequate technical equipment and specialised staff;
- the permanent ubiquity of bureaucracy, favouritism, nepotism, which is likely to favour the extension of the phenomenon of corruption to all categories of civil servants;
- the creation of favourable conditions for money laundering from the semi-illegal economy, particularly in the privatisation process, in the absence of efficient and adequate control structures for the new system legislative framework⁵¹.

Such a context has been a fertile soil for the proliferation of many organized criminal networks, which have developed the "lover-boy method" as the main practice for recruiting young girls. The system involves acts of deceit, manipulation, and concerns the intentional use of victims' emotional attachment for the ultimate purpose of controlling and inducing them into prostitution⁵².

How Romania manages to support and assist victims of trafficking

Since 2006, when the main anti-trafficking institution, namely the National Agency against Trafficking in Persons (NATP), was created, Romanian institution-

⁴⁹ National Agency against Trafficking in Persons (NATP), *Annual report on victims of human trafficking*, 2018, p. 21.

⁵⁰ Livia Aninosanu-Daniela Martis-Gina Stoian-Marcello D'Amico-Laura Sales Gutierrez, *Victims of Trafficking for sexual exploitation, Why is gender an important factor in the process of trafficking for sexual exploitation?*, in "GIRL Gender interventions for the Rights and Liberties of Women and Girls", 2016, pp. 20-21.

⁵¹ Petre Buneci-Tudorel Butoi-Ioana T. Butoi, *Elemente socio-juridice de control social pe terenul deviantiei (Socio-legal elements of social control in the field of deviance)*, "Fundatia Romania de Maine", Bucharest, 2004, p. 182.

⁵² Cornel Motolea, *Research method of human traffic with the "Loverboy" recruitment method in "Acta Universitatis George Bacovia. Juridica"*, VII, 2, 2018, p. 412.

al actors have been engaged in a fight against trafficking in human beings, starting from the five-year-term National Strategies. This section will try to demonstrate how policies and institutional efforts, the fourth factor of human trafficking according to Potrafke, can tackle the causes of this crime at its roots. In support to this claim, a case study regarding a young trafficked girl will be reported.

As mentioned above, Romanian institutions and organizations responsible for counteracting human trafficking, as well as protecting and supporting victims have intensified their efforts, especially after Romania's integration into the EU and the country's ratification of the Council of Europe Trafficking Convention. This was mainly due to the international cooperation projects implemented through the allocation of European funding and to the reports and suggestions made by the Council of Europe (CoE) Group of Experts on Action against Trafficking in Human Beings (GRETA). Following the GRETA and EU Commission reports, new plans for implementing the provisions contained in the national strategies issued from 2006 have been developed within the NATP.

The NATP is an organ of the specialised public administration within the Ministry of Internal Affairs. It has the aim of monitoring, coordinating, and evaluating the level of policies implementation against trafficking in human beings, including prevention, protection, prosecution, and assistance to victims⁵³. It also has the role of collecting, storing, processing, analysing, and disseminating data and information regarding the situation of trafficked persons. The organ is also in charge of the assistance given to victims of human trafficking and of their reintegration into society⁵⁴. It gathers and evaluates data provided by the authorities, institutions and organizations involved in reducing human trafficking and it participates in establishing indicators and criteria for appreciation of the dimensions and characteristics of this phenomenon.

Through the establishment of fifteen regional centres across the country, coordinated by the central structure in Bucharest, NATP monitors the measures implemented to combat this crime locally. It also cooperates with municipalities and service providers to develop local campaigns for raising awareness on the existence of trafficking, both on a large scale and by focusing on target groups, such as children, Roma children or young girls. A fundamental function of the NATP is the implementation of the National Identification Referral Mechanism (NIRM)⁵⁵ for a better coordination of victim identification. With the establishment of the NATP and the NIRM, the anti-trafficking mechanism has started to work more smoothly.

⁵³ Government Decision 1584/2005, art. 2.

⁵⁴ According to Law 211/2004, amended over time, the NATP guarantees the enforcement of measures to ensure victims of illicit acts from three to six months of psychological assistance. Moreover, the law ensures free legal aid to victims for the same period, available both for victims and for their families.

⁵⁵ As established by the OSCE (Organization for security and Cooperation in Europe)'s Action Plan to Combat Trafficking in Human Beings, a National Referral Mechanism has the aim of creating guidelines for the identification persons victims of trafficking by building partnerships between civil society and law enforcement, available at <https://www.osce.org/odihr/13967>, last consulted January, 2021, in *Report on the improvement of the national identification and referral mechanism of victims of trafficking in human beings*, 2009. p. 3.

The NATP is now the point of reference for trafficked victims, after a preliminary detection and identification process implemented by the NIRM for victims of both cross-border and national trafficking⁵⁶. The NIRM locates and identifies victims and also establishes the modalities of referral according to the actors involved in the identification. This step is crucial for ensuring support and assistance to victims and for reaching out presumed traffickers of persons; otherwise, the crime of trafficking cannot be documented or prosecuted⁵⁷.

As mentioned above, in order to address the problem of human trafficking from a nationally coordinated point of view, different national strategies have been adopted. The main objectives of the first National Strategy against trafficking in human beings for the period 2006-2010⁵⁸ regarded the implementation of campaigns for raising awareness about the dimensions of the phenomenon, its characteristics, and its trends in Romania. It also aimed at improving the national coordination of the anti-trafficking system and ameliorating the coordination around victims' assistance. Thus, the approaches undertaken by the Strategy regarded reducing the amplitude of human trafficking by strengthening the self-protection capacity of citizens and society to its threats⁵⁹.

From the point of view of prosecution, the National Agency against Trafficking in Persons focused on the consolidation of Romania's status as a reliable partner in the global effort to reduce trafficking in human beings. Thus, it promoted national and international cooperation with other Member States or with relevant NGOs, such as IOM or Save the Children. During these years, the Agency has implemented different campaigns in schools or public open spaces, as well as programmes with other countries or international organisations⁶⁰, in order to inform citizens and to comply with the Strategy's provisions.

According to some analysis on the results of the implementation of the strategy, the number of victims of trafficking decreased from 2,285 in 2006 to 1,154 in 2010, while that of persons convicted increased from 187 in 2006 to 203 in 2010⁶¹. According to the Agency, the decline in the number of victims is due to the implementation of prevention campaigns and represents the success and the efforts of authorities and civil society in over a decade of fight against human trafficking in

⁵⁶ Gina Maria Stoian, *Minori traficati si exploatați, între vulnerabilitate și ilegalitate (Trafficked and exploited minors between vulnerability and illegality)*, Final report, edited by Gina Maria Stoian (ADPARE), Romania, 2003, p. 37.

⁵⁷ Ulrike Gatzke-Tretter Hannes-Hans-Dieter Hilke-Douvas George-Vamvakaki Evangelia, *Report on the improvement of the national identification and referral mechanism of victims of trafficking in human beings*, Final Report, Mission Bucharest, 2009, p. 3, available at <https://tinyurl.com/9n7shezv>.

⁵⁸ Government Decision 1654/2006 for the approval of National Strategy against trafficking in human beings, entered into force on December 4th, 2006.

⁵⁹ Anghel Stoica, *Migrația Ilegală La Confluența Cu Traficul De Persoane (Illegal migration at the confluence with trafficking in human beings)*, Editura Pro Universitaria, Bucharest, 2014, p. 19.

⁶⁰ See http://anip.mai.gov.ro/childrenprograms_categories/campanii/page/5/ for a deeper view about other campaigns, information about the implemented ones, the purposes and the strategies to reach the targeted public.

⁶¹ These data have been collected by analysing every annual report of the National Agency against Trafficking in Persons of the years 2006-2020.

Romania. At the same time, some partnerships started with European States on the grounds of EU Commission funding programmes and the efforts to align with European standards helped Romanian institutions to enforce their fight against human traffickers.

Data showed, however, that even if the Government employed more resources in the fight against trafficking compared to the previous years, the numbers of victims stabilised over the years. This showed a limited capacity by the government in implementing an appropriate anti-trafficking response. For this reason, a number of further problems has been identified and framed into a new national strategy: The National Strategy against Trafficking in Human Beings for the period 2012-2016⁶². With purpose of harmonizing with the strategy of the EU, the Strategy aimed at tackling these issues:

- the incomplete and erroneous perception of the severity of the trafficking problem in the population and in the media;
- the financial difficulties that accentuated vulnerabilities for some categories of people;
- the lack of financial resources for funding the anti-trafficking system;
- the acknowledgment of the limitations of the assistance service to victims.

More than a hundred awareness campaigns have been implemented in this period⁶³, financed by the Government or co-financed by the EU in collaboration with other countries⁶⁴. In addition, many training activities dedicated to relevant professionals, such as police officers, judges or magistrates have been financed⁶⁵. A proliferation of training programs for these categories, including community policemen, public order, judiciary policemen, teachers, psychologists, social assistance, priests can be observed from 2011. These programs were funded by the European Commission, in some cases in partnership with other Member States⁶⁶. Between 2015 and 2019, approximately 740 interinstitutional events, seminars, working meetings, round tables, training and working groups were organized. Moreover, the NATP representatives concluded 80 cooperation protocols with both the public and

⁶² Government Decision 1142/2012 for the approval of National Strategy against trafficking in persons for the period 2012-2016 and of the National Action Plan 2012-2014 for the implementation of the National Strategy against trafficking in persons for the period 2012-2016, published in the Official Gazette, entered into force on December 6th, 2012.

⁶³ European Commission, *Together against trafficking in human beings, Implementation of anti-trafficking policy – Romania*, available at <https://tinyurl.com/2qmekegs>.

⁶⁴ An example of international cooperation could be the Campaign “Work is a right. Exploitation is a crime”, co-financed by the EU, implemented simultaneously in six countries: Romania, Bulgaria, Greece, Cyprus, Hungary and the former Yugoslav Republic of Macedonia.

⁶⁵ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania, First evaluation round (hereinafter GRETA First evaluation round report), published in Strasbourg, May 31st, 2012, at para 127, available at <https://tinyurl.com/3uks4qpc>.

⁶⁶ The example provided by Romanian answer to the Committee of the Parties report regards the project “Reinforcing the French and Romanian authorities’ capacity in combating trafficking in human beings” – HOME/2010/ISEC/AG/057 – REFRACT, carried out with the aim of stimulating and promoting best practices between Romanian and French authorities for adopting the necessary tools for preventing and fighting trafficking in human beings.

private sectors and NGOs. Training and information sessions have been implemented not only for official authorities, but also for civil society personnel and other relevant structures which operate for preventing in and combating trafficking in persons. Hence, cooperation between NATP, public institutions and civil society personnel manifested through the active participation of the NATP in national interinstitutional anti-trafficking teams, where NGOs representatives were also invited to participate⁶⁷.

A project for improving the mechanism that informs victims about their rights and encourages them to use means of protection started in 2017. As a matter of fact, when the victims are identified, they are currently given a form called “informed consent on referral”, which is used to obtain consent for referral and contains the most relevant information about their rights, including the right to a 90-day period of recovery⁶⁸.

Concerning the number of shelters for victims of trafficking in Romania, in 2019 the Government confirmed the existence of only five centres for assistance and protection. This serious breach of law was justified by claiming that NGOs and other private entities are also able to provide social services. The funding for shelters and social services is normally taken from the budget of the counties where the associations operate. However, these institutions may have access to state grants when fulfilling a list of eligibility conditions⁶⁹. The current 2018-2022 National Strategy against trafficking in persons has among its objectives the creation of a Working Group on Victim Assistance who shall work on improving the quality of protection and assistance measures for victims of trafficking by identifying the most appropriate solutions for their provisions⁷⁰.

Although the official figures show some improvement, many NGOs⁷¹ and international institutions claim that Romania did not fully meet the minimum standards to eliminate trafficking or support its victims⁷². As a matter of fact, according to the Pro Refugiu report, protection initiatives are barely considered by the official authorities, which keep relying on NGOs for assisting victims. Even though, according to the law, victims are entitled with psychological and medical assistance, monetary compensation from their traffickers, and legal aid, usually these rights are not respected. A significant lack of government funding for victims' care, as well as governmental refusal to refund NGOs or other actors who had assisted victims, have also been registered. Moreover, during criminal cases, victims are not

⁶⁷ Reply from Romania to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties, Third evaluation round, p. 51, available at <https://tinyurl.com/2w7ylaxu>.

⁶⁸ *Best Practice Model on Assistance for Victims of Trafficking in Human Beings – pilot project*, financed by Norwegian Financial Mechanism and Council of Europe, p. 3.

⁶⁹ Conditions established under Law no. 34/1998.

⁷⁰ National Strategy against trafficking in human beings 2018- 2022, Chapter VII, specific objectives.

⁷¹ Pro Refugiu issued a report illustrating the situation to which victims are subjected, based on interviews and NGOs experience, available here: <https://tinyurl.com/1prd5118>.

⁷² US Embassy, *2019 Country Reports on Human Rights Practices: Romania*, 2019, available at <https://ro.usembassy.gov/2019-country-reports-on-human-rights-practices-romania/>.

provided with adequate support, such as transporting them to Court or providing them professional legal aid. As a matter of fact, lawyers assigned to defend the victims in court often lack experience with trafficking cases. With respect to compensation, NGOs reported that victims rarely received restitution money from the traffickers, and barely had the means to initiate civil trials.

In conclusion, it is interesting to highlight the proliferation of awareness-raising campaigns and projects for the prevention of trafficking in human beings implemented after Romania entered the EU. Protection and assistance measures for victims are hard to implement considering the way Romanian society perceives the phenomenon of trafficking. Many difficulties have been encountered in training authorities to adopt adequate behaviour towards victims, as well as in raising awareness for other relevant professionals who may enter in contact with victims, such as social workers, psychologists, or doctors. However, educational and awareness campaigns have been implemented all over the country, both in public and private premises. They focused on the needs of victims and society to receive assistance for overcoming the trauma of trafficking and reintegrating in the community.

One example of a law that has benefitted victims, was the introduction of the right to privacy, which was completely neglected during legal proceedings before 2015. Formerly, victims' full names and addresses were published on the state case law website, in contrast with the Council of Europe Convention on Action against Trafficking and Convention on Data Protection, the EU General Data Protection Regulation, and the EU Directive on Trafficking⁷³. Finally, during these years, the Governmental organizations have interacted with victims, they have begun to comply with the European acquis, and have started to build an averagely efficient machine. Nevertheless, an Agency which works on fighting this crime and assisting victims has been implemented. In order to demonstrate how the Agency interacts with victims, a case study about a young victim under the NATP observation will be presented in the following section.

Case study

One of the achievements of the Romanian Government is that of providing victims with adequate support from the moment they report the abuse. The NATP has provided information about the case of a young girl, trafficked for sexual exploitation purposes. The ways the Agency interacts with victims will be demonstrated by analysing the official data. The report of the initial evaluation of this trafficking case indicates the victim's personal data, household, as well as her educational and health situation.

⁷³ CoE Convention on Action against Trafficking and Convention, at art. 11; EU Directive on Trafficking, at art. 12; the General Data Protection Regulation (GDPR) Regulation EU 2016/679 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), at Section 2, Security of personal data.

The Agency interviewed the victim and studied the record of her trafficking process, acknowledging that she had been deceived when she was 17 years old, recruited through the lover-boy method, and exploited for approximately three years in Austria, the Netherlands and Belgium. Over the years, she was not permitted to keep the money she earned and she ended up being repeatedly abused, both physically and emotionally, by her recruiter, who also became her partner. When she became pregnant, she returned to Romania during the pregnancy, but after three months, her partner proposed to her to move abroad again in order to practice prostitution.

During their relationship, the victim was abused, manipulated by possessiveness, jealousy, and unmotivated guilt, with the aim of breaking the bond she had with her mother, friends, and acquaintances. Therefore, the victim went through a process of social isolation, adopting a passive and submissive attitude, especially when she was in Belgium. After work, she went straight home, so she would not raise any suspicions that she might have other relationships, which would have generated possible conflicts with her partner.

Moreover, when the victim was in Romania, she was not allowed to leave the house by herself, and preferred to avoid any contact with people nearby, once again to avoid physical aggression. Her only outdoor activity was shopping with the mother of her partner-recruiter. She managed to escape this exploitative situation after being physically assaulted, hit and kidnapped in a private house after she discovered that her partner was cheating on her. Currently, she is suing him in civil court for the custody of their daughter and, according to the NATP, it seems that she is regaining control over her life and her social relationships, even though she has decided to continue living abroad.

Although she is out of the social isolation she experienced during the period of trafficking, the victim does not seem to benefit from a support network. As a matter of fact, she is now accustomed to overcoming obstacles and difficult situations independently and she prefers not to ask for help. Although she shows a good level of adaptability to stressful situations and a high level of resilience, she still goes through periods of anxiety and emotional distress, accompanied by emotional crises. Such discomforts are mainly caused by her daughter being removed from her and by the fact that she is not allowed to be contacted or visited by her partner, for whom she shows to have developed the Stockholm syndrome.

This case study provided by the NATP demonstrates the evolution and implementation of the anti-trafficking law in Romania. First of all, when the victim was in Romania, she has been heard as civil part by the DIICOT, the department of Police on Organized Crime and Terrorism investigation, which has denounced the case to the NATP. Second, the Agency has contacted the victim proposing its legal aid, current observation and help. Thirdly, in the official document contained in her file, the Agency proposes to keep monitoring her case in order to ensure her the right to the reflection and rehabilitation period. The NATP has informed her about her rights, including the assistance services at her disposal. In fact, she mentioned her intention to look for a job in Romania and she was considering getting psychological assistance, as proposed by the NATP. However, she decided to leave Ro-

mania and work abroad. The NATP declares that the person responsible for her case contacted her constantly to monitor her conditions.

Finally, by analysing this case study, it can be deduced that the NATP has taken significant steps forward in offering support and protection to victims, contrary to what many NGOs or Institutions claim⁷⁴. The Agency is keeping this case, and many others, under observation, and has offered support, both psychological and juridical, to this victim. This is also due to the fact that the Agency is currently implementing the National Strategy against Trafficking in human beings 2018-2022, which aims at improving the assistance to victims, the prevention and information campaigns, the international cooperation and the prosecuting mechanism. Step by step, the National Agency against Trafficking in Persons keeps implementing more policies towards the protection and assistance of victims, as demonstrated by the reported case study.

Conclusions

The purpose of the present article was to provide the readers with a general overview of the Romanian legislative framework in the field of human trafficking. It was interesting to note the evolution of its legislative body of reference and the creation of new anti-trafficking mechanisms after ratifying and transposing many international instruments into its law. In order to adapt to the communitarian standards, laws have been changed, the New Criminal Code has entered into force, and national strategies that reflect European and international standards and objectives have been implemented. In order to understand the root causes of trafficking in Romania, it was necessary to draw up a picture of the real economic, social and cultural situation of the country. A particular focus was dedicated to the condition of women, since they are the majority of human trafficking victims in Romania and because the main cause of recruitment is for sexual exploitation. A society tolerant of women's discrimination, its stereotypes towards the role of women, and many other factors increase women's chances to fall into the trap human traffickers.

In the last two decades, Romania has taken many steps forward in the fight against trafficking in human beings: There are certainly still many issues to solve, but tangible and deep changes in society require much more than just twenty years. However, many studies on the role of women in Romanian society had not been previously completed because, without the comparison with other countries, people were unaware of the real situation. Progress is being made and, even though this study reports also conflicting opinions in merit, I claim that the steps forward taken by Romania in the fight against trafficking in human beings, as well as the activi-

⁷⁴ According to the 2019 US Embassy report on human trafficking in Romania, in spite of its efforts, Romania did not fully meet the minimum standards to eliminate trafficking. The increase in suspects indicted is not a proof of further efforts in doing so and officials identifying fewer victims reflects a decline in the prosecuting efforts and assistance and protection measures still need to be ameliorated. The complete 2019 Country Reports on Human Rights Practices: Romania is available at <https://ro.usembassy.gov/2019-country-reports-on-human-rights-practices-romania/>.

ties of specialists in this field, are remarkable. Of course, it would be utopic to completely solve the situation from one year to the other. By studying the deep causes of this crime, it is clear that it takes time to train official authorities and civil society, teach people about their rights and duties, and teach them to respect victims and to fight stereotypes of any kind. It can be easily deduced that being part of a bigger community of States stimulates a single country to take all possible measures to adapt to the international standards, both legally and socially.