

## ROMANIA<sup>1</sup>

### The phenomenon

In the past few years Romania has become a country of origin and transit for trafficking in human beings. Since 2007, when Romania was accepted in the EU community, migration policies have allowed Romanian citizens to travel freely around the EU. New migration patterns induced the establishment of a legislative framework with the purpose of combating, preventing and protecting the rights of victims of trafficking in human beings.

In 2009, 780 individuals were identified as trafficked persons, of which 145 were internally trafficked and 29 percent were recorded as minors. The gender of trafficked persons is nearly equal, with 54 percent as female and 46 percent as male. Male victims are associated with forced labour exploitation, whilst persons with disabilities or small children are often victims of constraint to committing begging. Young women and girls are generally trafficked for sexual exploitation, producing of pornographic materials and any other sexual related activities. Seldom there are situations in which the victims are exploited in more than one of the forms mentioned above (mixed type exploitation).

From Romania, the most common destinations for trafficked persons are recorded to be Spain, Italy and the Czech Republic. Commonly recruitment is through the false pretence of acquiring employment in legitimate occupations abroad.

For adult victims, the presence of the recruiter during transportation is rare. Individuals usually travel alone or are accompanied by other victims from the same recruiter. The means of transportation are international buses and low-cost company planes. In regards to minors, trafficked persons are most likely to be accompanied by the recruiter or trafficker in a personal vehicle whereby border crossing involved bribing border police, or the use of false documents.

### National anti-trafficking legislation and institutions

Romania has ratified the United Nation's Convention against Transnational Organized Crime with its two Protocols in 2002 and is one of the first member states of the Council of Europe to have signed and ratified the Council of Europe Convention on Action against Trafficking in Human Beings. The provisions of the Conventions entered into force in Romania on February 1<sup>st</sup>, 2008 completing the existing implementation of the anti-trafficking legislation.

Regarding the definition of trafficking in human beings, legislative tools provide a detailed and operational approach: *"It is an offence for anyone who recruits, transports, transfers, harbours or receives a person, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or by taking advantage of that person's inability to defend him-/herself or to express his/her will, or by giving, offering or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation and is punishable by imprisonment for 3 to 12 years and interdiction of certain rights"*.

The main forms of exploitation stipulated in the Romanian law refer to: forced labour, sexual exploitation and organ removal. The Romanian legislative framework is harmonized to the Council of

Europe Convention. In this respect, the anti-trafficking legislative tools are:

- The National Strategy against Trafficking in Persons for the period 2006-2010;
- The National Action plan for the Implementation of the National Strategy against Trafficking in Persons for the Period 2008-2010;
- Law 678/2001 on Preventing and Combating Trafficking in Persons, together with all the modifications and completions;
- The Government Decision no.299/2003 for the Approval of Implementation Regulation of Law 678/2001 dispositions on Preventing and Combating Trafficking in Persons.
- Law 39/2003 on Preventing and Combating Organized Crime;
- Law 211/2004 on Ensuring Protection Measures for Victims of Crime, which provides for the implementation of EU legislation.

At the level of governmental structures, the National Agency against Trafficking in Persons has the tasks of coordinating anti-trafficking activities, of monitoring the implementation of policies in the field of trafficking in persons by the public institutions, as well as those in the field of protection and assistance provided to its victims. The Agency cooperates with governmental and non-governmental organizations within the country and abroad, as well as with inter-governmental organizations with the view of raising the public awareness on the phenomenon and its consequences. Presently, the National Agency against Trafficking in Persons works under the Romanian General Police Inspectorate, subordinated to the Ministry of Administration and Interior.

### Identification, protection of rights, and referral

Romania reports ongoing difficulties with the identification and reintegration of trafficked persons, and the consequential prosecution of perpetrators due to gaps in the capacity of police forces and other authorities.

The National Agency, in its position as National Coordinator of anti-trafficking policies and actions, applies the provisions of the National Identification and Referral Mechanism (compatible with the Transnational Identification and Referral Mechanism's structure) regarding the standardised procedures of victim identification and referral, taking into account the constant protection of trafficked person's rights. The National Identification and Referral Mechanism stipulates:

- The identification procedures for victims of trafficking – acknowledging both formal (law enforcement agencies) and informal identification (Diplomatic Missions, consulates, NGOs, by hotlines) by the use of a set of specific indicators and principles.
- The referral procedures – depend on the identification process and require cooperation between all the actors involved.
- Non-Romanian trafficked persons shall be entitled without discrimination to the same support and protection measures as Romanian victims. Therefore, foreign individuals should be informed in a language they can understand about their right to a maximum of 90 days to recover and access specialized support services, including accommodation in specially arranged centres, psychological, medical and social assistance. A temporary residence permit can be

<sup>1</sup> Written by Alexandra Mitroi, Adpare, Bucharest.

granted to foreign nationals in the case in which they accept to cooperate with the Romanian authorities in investigating the trafficking related offences, or by being part in the trafficking trial.

- Repatriation procedures for facilitating a safe return are conducted both for Romanian and foreign citizens exploited on Romanian territory.
- The provision of assistance and protection for Romanian trafficked persons is ensured irrespective of whether they cooperate with the law enforcement or not, by NGOs and GOs and comprises of services such as: residential assistance in closed or semi-closed shelters, material assistance, psychological assistance, social assistance, medical assistance, educational assistance, legal assistance, all free of charge. Depending to the individual's needs, they can be included either in assistance in crisis programme (provided for a 90 days' period – the reflection and recovery period) or in a long term assistance programme with the aim of intensive recovery and complete socio-professional reintegration.
- The manner in which the assistance services are implemented is standardised by a set of good practices, synthesised under the name of The National Assistance Standards for Victims of Trafficking in Persons.

#### **Access to justice**

Each identified trafficked person has the right to be informed about their legal status and the rights deriving from it. Should he/she agree to collaborate with law enforcement authorities, the individual will receive consultancy and information on the legal proceedings and will be provided with a public defendant.

In addition, the law establishes several categories of terms/conditions for granting financial compensation to direct or indirect victims of the given crimes, including also information to the prosecution authorities about the crime committed, within a specified period of time.

In practice, sometimes the specific standards for assistance and protection cannot be fully complied due to the organization's reduced financial capacity to provide integrated long-term assistance services.

Despite the protocols that are signed, the rights of trafficked persons to access free of charge the sanitary, legal and psychological protection on the state's behalf; these rights are not available *de facto*. In practice routine procedures required by state actors are bureaucratic, prolonged and less accessible to beneficiaries in the initial phase of recovery. Usually they can be appealed to outside the context of emergency situations, with the resolutions to the beneficiaries' requests lasting up to one month.

#### **Prevention**

The National Agency against Trafficking in Persons has coordinated the implementation of campaigns such as: "*Your money makes the traffickers rich...Your money kills souls!*" - focused on demand reduction; "*18 October - EU Anti-trafficking Day*" – information campaign; "*The trafficking in persons is there! Take an action TODAY, not TOMORROW*" - sensitization campaign of the trafficking in persons associated risks; "*Labour in the Czech Republic*"- information and prevention campaign.

The most recent training programmes have been conducted with the participation of anti-trafficking foreign experts and focused on involving more stakeholders in the early identification of victims of trafficking and on strengthening inter-institutional

cooperation. As example stands the Training seminar for the representatives of the Romanian Territorial Labour Inspectorate on identification and referral of victims of trafficking in persons – in collaboration with the Romanian Territorial Labour Inspectorate, the Romanian Immigration Office and the International Labour Organization.

Moreover, one initiative of the National Agency against Trafficking in Persons in inter-institutional approach consists in signing several Memorandums of Understanding with governmental actors such as: The Ministry of Labour, Family and Social Solidarity, the Ministry of Health, the Ministry of Education, Research, Youth and Sport. These facilitate access and create a framework for victims of trafficking to access the state social assistance network, labour market, state medical facilities, state education, etc. At civil society level, there have been organized fund-raising activities and social involvement initiatives (exhibitions, fairs, independent film projection, and informal anti-trafficking presentations at the University).

#### **Monitoring and evaluation system**

The Romanian Action Plan for the period 2008-2010 for the implementation of the National Strategy against Trafficking in Persons stipulates specific goals with associated evaluation indicators.

The monitoring process related to the implementation of measures, actions and policies in the field of trafficking in persons is carried out mainly by the National Coordinator – The National Agency against Trafficking in Persons, through the Monitoring, Evaluation and Research Service. The inputs necessary for conducting the monitoring are provided by the local NGOs active in the field of prevention and direct assistance provision to trafficked person. State transit centres for trafficked persons provide data that is transmitted to the Regional Centre in Bucharest in order to be included in the National Victim Database. The inclusion of the collected data in the database as an operational tool helps the NAATIP representatives to gain a complete perspective over the victim's status, provision of assistance services and stage of recovery and reintegration.

Presently the monitoring and evaluation of the implementation of anti-trafficking policies and measures are being implemented, not only to assess the adequacy of the actions taken in the past two year period but also to establish new strategic objectives and actions that reflect the changing reality of human trafficking. The reviews will be published in the Romanian Action Plan for the implementation of the National Strategy against Trafficking in Persons for future years.

#### **Recommendations**

The first aspect was the rather reduced general participation of both governmental and nongovernmental bodies in carrying out the research protocol. Thus the recommendations imply:

- ensuring constant cooperation, support, sharing of information and good practices, through official protocols not only between the governmental and nongovernmental side but also among local and national NGOs.

- empowering and supporting the organizational development by redirecting governmental funds to assistance services providers.

- encouraging the state to purchase assistance services for victims of trafficking in persons provided by NGOs.

-facilitating the access conditions and fastening the bureaucratic procedures- presently routine procedures required by state actors are bureaucratic, prolonged and less accessible to beneficiaries in the initial phase of recovery.

Presently the monitoring and evaluation of the implementation of anti-trafficking policies and measures are being developed to establish new strategic objectives and actions, to be attained in the Romanian Action Plan for the implementation of the National Strategy against Trafficking in Persons for the following years.

### **The dynamics of trafficking in persons in Romania (for 2010 and 2011)**

#### The international approach - 2010

According to the US Department of State TIP Report for 2010 Romania is enlisted in Tier 2 as a source, transit, and destination country for men, women, and children subjected to trafficking in persons, mainly in the forms of sexual services, forced labour and forced begging.

->With regard to forced labour and forced begging the destination countries for Romanian victims (men, women, and children) were: Spain, Italy, the Czech Republic, Greece, Finland, Germany, the United Kingdom, Cyprus, Australia, France, and the United States.

->For sexual exploitation, the main destination countries for Romanian victims (mainly women and children) were: Italy, Spain, the Netherlands, the United Kingdom, Greece, Germany, Cyprus, Austria, and France. Domestic trafficking (within Romanian borders) is a phenomenon covering commercial sexual exploitation and forced labour, including forced begging and petty theft, victimizing men, women and children. Romania is a destination country for a small number of women from Moldova, Colombia, and France, exploited through sexual services.

#### The international approach - 2011

According to the TiP Report for 2011 Romania (as a Tier 2 state) remains a source, transit, and destination country for adult and minor victims of both genders. The prevalent exploitation types are: sexual services, forced labour, forced begging and petty crime.

->Forced labour occurs in agriculture and manufacturing. As for the destination countries for Romanian victims exploited through forced labour and forced begging, they are: Spain, Italy, the Czech Republic, Greece, Finland, Israel, Germany, Slovenia, the United Kingdom (UK), Cyprus, Australia, France, Belgium, and the United States.

->A large proportion of the children forced to beg in Western European countries were Romanian victims of Roma ethnicity.

->For international trafficking in persons, through sexual exploitation, the main destination countries for Romanian victims were: Italy, Sweden, Spain, the Netherlands, the United Kingdom, Greece, Germany, Cyprus, Austria, Switzerland, Czech Republic, Denmark, Brazil, Norway, Hungary, Slovenia, and France. It should be noted that there have been identified male victims of sexual exploitation (in a small number).

->Romania is a destination country for a small number of women from Moldova, Colombia, and France who are forced into prostitution and for Honduran men subjected to forced labour.

#### The National statistics<sup>2</sup> approach -2010

Romania is acknowledged mainly as origin country for nationals victimized through trafficking in persons. A total number of 1154 Romanian victims of trafficking in persons were identified during 2010, a brief analysis on the researched population indicated: gender: 56% of the victims were women whereas 44% were men; 27% were minors and 73% were adults; 74% were exploited internationally while 26% of the victims were exploited within Romanian boundaries. Women are indicated to be more exposed to sexual exploitation (through commercial sex and pornography) while men prevail as victims of forced labour and begging. The majority of the victims were living in rural environments (52%) and 48% were urban residents.

As for the vulnerability factors there can be mentioned: the age between 14-26 years old; the educational level: gymnasium or high school graduated, social inequities. The recruitment strategies are becoming more refined and subtle, the victims being approached personally by acquaintances, friends or partners and are lured into accepting job proposals for better life opportunities in Western European countries.

#### The National statistics<sup>3</sup> approach -2011

In the first 6 months of 2011, 488 Romanian victims of domestic and international trafficking in persons were identified. There are indicators for Romania becoming a destination country for a small number of citizens outside the EU, in this respect being identified 6 foreign victims of trafficking of trafficking (from Bangladesh and the Republic of Moldavia), trafficked for forced labour and sexual services.

A synthetic analysis on the Romanian victims' population for 2011 reveals that: 70% of the victims are women while 30% are men; 34% of the victims were exploited in domestic trafficking and 66% were exploited internationally->as most prominent destination countries, there can be named: Spain, Italy, Germany, Greece the Czech Republic. The distribution according to the type of exploitation indicates that sexual exploitation is more recurrent (54%), being followed by forced labour (around 30%). Forced begging and other types of exploitation are represented in around 14% of the identified cases.

### **The national legislative and institutional trends in tackling trafficking in persons**

- ▶ In 2010, the National Agency against Trafficking in Persons was reorganized as a special structure in the subordination of the Ministry of Administration and Interior, with attributions of national coordination, evaluation and monitoring of anti-trafficking policies and practices.
- ▶ **Law 230/2010** was initiated in 2009 as a model law to modify and complete Law 678/2001 on Preventing and Combating Trafficking in Persons, by the following provisions:

<sup>2</sup> Source of the national statistics: the National Agency against Trafficking in Persons, the Centre for Research and Public Information;

<sup>3</sup> Source of the national statistics: the National Agency against Trafficking in Persons, the Centre for Research and Public Information; **the statistics refer to the first 6 months of 2011.**

- ⊕ It adds forced begging, illegal human tissue and cell removal as types of exploitation;
  - ⊕ It introduces a definition of the notion of victim as a physical person, passive subject of the trafficking in persons offence, irrespective whether they participate in the penal trial as a victimized party or not;
  - ⊕ It directly incriminates the offence of using the services of a person known by the services beneficiary to be a victim of trafficking in persons or trafficking in minors. Such offence is punishable by penal fines or with imprisonment between 6 months and 3 years, unless it represents an aggravated offence;
  - ⊕ It introduces the notion of “protective housing” as a protection measure for victims of trafficking in persons;
  - ⊕ It foresees increased duration of residential assistance provision for victims (from 10 days to 90 days);
  - ⊕ It explicitly states the Romanian victims’ entitlement to a recovery and reflection period
- ▶ **Law 252/2010** on the ratification of the Council of Europe Convention on Child protection against sexual exploitation and abuse (adopted at Lanzarote in 2007), published and entering into force on December, the 29<sup>th</sup>, 2010.
  - ▶ The Labour Inspection has elaborated the Procedure on repeating the control act for employers known to have a history of severe cases of undocumented labour, approved by the **Decision no. 426/2010** of the State General Deputy Inspector. The procedure was instated as a result of the Memorandum of Understanding between the European Community and Romania, as a measure to enforce the exigency of labour controlling measures.
  - ▶ The initiation of a law model on increasing the punishment duration in cases of trafficking in minors, pregnant women, persons with physical and mental disabilities. It was also proposed to be introduced a new provision in Law 678/2001 on considering an aggravated offence the involvement of a family member in trafficking a relative.
  - ▶ At the end of 2010, the Inter-Ministerial Working Group responsible with the coordination and assessment of anti-trafficking measures elaborated the model Governmental Decision for the approval of the National Strategy for trafficking in persons for prevention, combating, and assistance provision to victims for 2011-2015. Presently, the National strategy is yet to be completed and approved.
  - ▶ The National Authority for the Protection of Family and of the Rights of the Child was reorganized as a General Directorate under the name of the General Directorate for Child Protection, subordinated to the Ministry of Labour, Family and Social Protection. The institution is currently working to achieve the following objectives:
    - ⊕ Re-organize inter-institutional coordination structures on preventing child exploitation, child trafficking, and other means of violence against children;
    - ⊕ Harmonize and adjust the monitoring instruments regarding children victims of violence to children victims of trafficking in persons;
- ⊕ Elaborate an integrated National Action Plan and a unitary methodological/conceptual framework to prevent violence against the children and intra-family violence.