AGAIN ABOUT THE TRAFFICKING IN HUMAN BEINGS

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ABSTRACT: One of the major problems of the last decade, at a national and international level, is the trafficking in human beings which is often linked to the illegal immigration, and is constantly growing. The trafficking in human beings is a serious crime which harms the human rights, with deep economical and social immixtures, due to the difficulty in controlling this phenomenon. The trafficking in human beings, mainly affects young women who are sexual exploited but over the last few years has been redirected towards vulnerable men and young boys who are subject to labour exploitation or forced to commit crimes or beg in the benefit of the traffickers.

KEYWORDS: trafficking in human beings, illegal migration, the fundamental human rights

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1. THE TRAFFICKING IN HUMAN BEINGS, A PERMANENT PRESENT TIME PHENOMENON

Also associated with the denomination of modern slavery, the trafficking in human beings represents a threat to the freedom, physical and mental integrity and life of those who are victimized by this form of criminality which brings about millions of human tragedies all over the world. No matter how paradoxical the juxtaposition of the two terms “trafficking” and “human beings” may seem for the third millennium, it is a real one, so that all over the world there are human beings reduced to the state of merchandise, sold again and again as mere objects and exploited under ways which remind us of slave trade1.

The trafficking in human beings is more than just an occasional or periodical problem; it is a dynamic phenomenon whose negative effects have repercussions at a social level, turning into a national and international problem, proving the serious infringement of the fundamental human rights.

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1 I. Lascu- “Incriminations regarding the trafficking in human beings”, Penal law magazine no.3/2002;
The statistics show that the trafficking in human beings represents one of the most “profitable” criminal offences, following the trafficking in weapons and drugs. The phenomenon is recognized as one of the most serious forms of organized criminality, encouraged by multiple factors and bringing about negative effects upon both the individual and society, being closely related to the complex socio-economic situation of the origin countries but also the existence of a “market” (demands) in the destination countries. The criminal groupings are trying to take the most advantage of what they consider to be their asset, but which affects people’s health, well-being and security.

Women, the category of persons the most frequently affected by this phenomenon, are recruited in a variety of ways and exploited on the prostitution or illegal labour market. Even if some women know and accept the fact that they are going to prostitute themselves, they must nevertheless be considered victims of the trafficking as in all the cases they are victims of the deceit of the procurers who mislead them as to the conditions of the activity they are going to perform.

Yet, more and more often the trafficking actions’ victims are infants, having no defense, no discernment, being accosted in the street, sometimes entrusted to the traffickers by their own parents or by other categories of protectors, transferred to countries where they are forced to beg or commit criminal offences, to prostitute themselves or to sit for infantile pornography lovers etc., the trafficking becoming a threat to the freedom, the physical and mental integrity as well as to the life of those who become a victim of it.

There are also other categories of persons who are potential victims of the trafficking in human beings among whom we can mention the locomotors handicap persons who are exploited with a view to petty theft and begging.

Once recruited, the victims are controlled by different ways of coercion ranging from physical and mental violence up to inducing the drug dependence.

According to the statement given on the occasion of the presentation of the 2009-2010 yearly reports of the American State Department by the USA State Secretary, Hillary Clinton, about 12.3 million people have been victims of the trafficking in human beings throughout the world.

According to the report, one can notice a tendency of growth in the number of women who become victims of the trafficking in human beings, a tendency which exceeds the forced prostitution setting. The victims’ percentage is almost double in Asia, in comparison with the rest of the world.

Referring to Romania The USA State Department report regarding the trafficking of human beings shows that Romania is an origin, transit and destination country for the men, women and children trafficked especially with a view to forced labour as well as for the women and children trafficked with a view to sexual exploitation.

According to the quoted document, persons from Romania are trafficked to Spain, Italy, Czech Republic, Greece, Finland, Germany, Great Britain, Cyprus, Australia, France and the United States of America with a view to forced labour, including forced begging.

2 www.antitrafic.ro
3 U.S.A. State Department Report for 2009 regarding the trafficking in human beings.
At the same time, women and children from Romania are trafficked to Italy, Spain, Holland, Great Britain, Greece, Germany, Cyprus Austria and France, with a view to sexual exploitation. At the same time, according to the report, “men, women and children from Romania are trafficked inside the country with a view to sexual exploitation and forced working, including forced begging and petty theft”.

2. THE VICTIM AND THE CAUSES OF THE VICTIMIZATION

The trafficking in human beings is closely related to the complex socio-economic situation of the origin countries, as well as to the existence of a “market” in the destination countries. The causes of the trafficking can be related to the three coexistence levels: the trafficking with a view to: sexual exploitation, labour exploitation and organ donation. The trafficking with a view to sexual exploitation remains the greatest and most important form of trafficking, because of the simple reasons that it will always represent the major money source for the traffickers.

The most common method is that of accosting with a view to prostitution under the false promise of the legal providing of a well-paid occupation abroad.

The human being traffickers’ victim most frequently comes from big cities in which there is no such thing as community feeling, in the poor regions of the country. The victim barely communicates with her family and displays a poor feeling of belonging to society. As a rule, her educational level does not exceed elementary primary studies, she thinks about her groups of friends in terms of money and the bond with the Church is frail. On the other hand, she has a strong desire for independence, especially a financial one, which, together with the lack of perspectives, nourish her desire to look for a working place abroad, where she believes to have greater chances of fulfilling herself than in Romania.

In most cases the girls have been deceived by false employers who promised them decent jobs “abroad” such as housekeeping, baby-sitting, tourism-related jobs etc.

The main reason why they are tempted to leave Romania is poverty. After coming back into the country after such an experience, the girls fear the authorities maybe also because of the fact that, in some countries where they were forced to prostitute themselves, some corrupt policemen were “hand in hand” with the traffickers.

They also fear a possible trial in which they will have to play the part of the injured party. That is way it is preferable to give statements after a period of assistance, accompanied by a financial benefit.

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4 Ion Suceava, Florian Coman- “Criminality and international organizations”, Romcartexim Publishing House, Bucharest, 1997;
5 S. Lazaroiu, Monica Alexandru - „Who is next victim? Vulnerability of young Romanian women to trafficking in human beings”, IOM, Bucharest, 2003;
by juridical counseling, in order to succeed in overcoming the initial shock and feel ready for the judicial approaches\(^9\).

Another aspect of the trafficking in human beings is that of the illegal adoption, usually the selling of children is performed by modest families who get important benefits in this way. As most children, parents have a low education level, for the achieving of the adoption procedure there have appeared certain intermediaries, who in exchange for sum important sums of money received from the citizens interested in adopting children from Romania, have set up real networks inside the country.

In many cases, the reason why the children were adopted was that of their organs being taken out. The trafficking of organs can appear under some of the most serious forms. Children and at times new-born children are sold with this aim in view. The phenomenon of the trafficking of organs, tissues and human origin cells does not concern only developing countries, but also industrialized ones\(^10\).

3. THE PLACE AND ROLE OF THE NATIONAL AGENCY AGAINST THE TRAFFICKING IN HUMAN BEINGS (N.A.A.T.H.B)

The process of the reintegration of the victims of the trafficking in human beings is represented by the enforcing of a psychological counseling scheme for the treating of the so – called P.T.S.D (Post Traumatic Stress Disorder). It has been noticed that it is only after the trafficking’s victims reach a hospitable environment with the support of N.A.A.T.H.B. where they are treated respectfully and are offered different assistance services, that their opening and their wish for receiving information and participating in reintegration activities increase significantly. As few of them have ever had access to a social or psychological support, it is essential for a gradual and careful approaching to be enforced in initiating the counseling sessions, thus ensuring the victim’s opening and accepting of middle and long term supportive plans.

Without having the least importance, the Romanian infant repatriation and reintegration with the help of N.A.A.T.H.B. also concerns the Romanian authorities, who have finalized repatriation practices and procedures.

The repatriation of the victims of the tragedy - infants and adults - is achieved with the support of the I.O.M (International Organization for Migration) – the missions from other countries, of the Romanian embassies/ consulates that deal with the repatriation formalities and of the nongovernmental organizations from the destination state\(^11\).

The victims are released consular passports and travel documents. Their receiving into our country is performed by the National Agency Against the Trafficking in Human Beings – The Regional Centre from the jurisdiction area – which has been previously, contacted and informed and which will lead the victim towards the specialized assistance

\(^9\)Gheorghe Tiron, Anghel Stoica – Illegal migration and organized crime, M.A.I Publishing House, Bucharest, 2008;
\(^11\)S. Lăzăroiu, Monica Alexandru - ,,Who is next victim? Vulnerability of young Romanian women to trafficking in human beings”, IOM, Bucharest, 2003;
services, depending on her option. When it comes to the issue of repatriating the Romanian victims of the trafficking in human beings, N.A.A.T.H.B is the first institution that has to be notified.

The main role of regional centers of N.A.A.T.H.B is of coordinating the anti-trafficking regional activity from the jurisdiction areas, having as main responsibilities: the analyses of the phenomenon at a local level and the informing regarding the emergence of new ways of operating, the monitoring of the enforcement of the provisions of the Anti-Trafficking National Plan at a local level, the identifying of the dysfunctionalities and the formulating of proposals for improving the national system of identification and reference, the facilitating of the local and regional communication between the structures involved in the anti-trafficking fight, the supporting of the local anti-trafficking initiatives, the informing of competent authorities for solving the problems with which the trafficking’s victims deal in the assistance and reintegration process.

As part of the Project “The victim’s coordination in the criminal trial”, implemented by N.A.A.T.H.B with the support of the U.S.A Embassy in Bucharest, the personnel of the regional centers provides the supporting of the victims who want to participate in the phases of the criminal trial.

At the same time, the Agency is the binding agent between the victim of the trafficking in human beings and the law enforcing authorities, as well as between them and the N.G.O. in the country which offer services in this field. The agency also cooperates with the Romanian and foreign nongovernmental organizations with a view to making the public opinion aware of the trafficking in human beings phenomenon and its consequences.

The priority objectives of N.A.A.T.H.B are the assistance offered to the victims of the trafficking in human beings and the increasing of the number of victims, out of those identified who cooperate with the Police and Public Prosecutor authorities for the trafficker’s punishing and the solving of the causes of the trafficking in human beings.

It is also recommended that apart from the activities carried out by N.A.A.T.H.B, there should also be an active involvement from other institutions as well (The Ministry of Education, Family and Social Protection) in order for answers to be offered as well to other branches of assistance, such as education and integration.

Within the strategically approach of the issue of the trafficking in human beings based on the extremely rich experience, N.A.A.T.H.B includes, as one of the fundamental dimensions, the fact that “the specific programmes of protection and assistance of children who were victims of the trafficking in human beings must be enforced with high responsibility, taking into consideration the characteristics of this form of trafficking and the children’s particular needs”. These has also been sustained and motivated the necessity of launching and supporting a campaign for preventing women’s sexual exploitation as well as for the improving of the abilities of the personnel in the compartments dealing with the assisting of the adult victims of the trafficking in human beings in coordinating, organizing and monitoring the measures in the field of the assistance of the victims of this phenomenon.

The National Agency Against the Trafficking in Human Beings (N.A.A.T.H.B) was set up as a result of the recommendation of the Member States, point 3.II of the E.U Plan

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12 http://anitp.mai.gov.ro
regarding the best practices, standards and procedures for fighting and preventing the trafficking in human beings (2005/C 31/01).

The Yearly Report of the U.S.A. State Department regarding the trafficking in human beings, given to publicity in June 2006, confirms that Romania “has significantly improved her efforts of fighting the trafficking in human beings and has made progresses in the improving of the coordinating of the anti-trafficking activities by the establishing of the National Agency for Preventing the Trafficking in Human Beings”.

In Romania, by the Programme of Victims’ supporting within the Criminal Trial, out of the 1720 victims of the trafficking in human beings existing under the evidence of the regional centers, in 2008, 1,240 victims being identified during the year, 1654 victims collaborated with the law enforcing institutions (272 did not want to be assisted in their taking steps by the specialists of the regional centers, but they participated in the criminal proceedings)\(^1^3\).

The European Union recommends that when a setting of measures meant for the fighting of serious criminal offences is projected, also including those referring to the trafficking in human beings, adequate measures must be also enforced for the protecting of the justice witnesses and collaborators against intimidation. There must also be ensured the proportion between the nature of the protective measures and the seriousness of the intimidation to which the justice witnesses and collaborators are subject.

The international cooperation in the field of the witnesses’ protection is imposing itself every passing day as a desideratum of the unities specialized in this field due to the becoming more effective of the working methods for the ensuring of a full protection of the witnesses who are in protection programmes.

The witnesses’ protecting improved the way of responding of the judicial system related to the actions of stopping the witnesses’ participation, in the case of serious criminal offences, in the act of justice, reduces the degree of their vulnerability in front of the intimidations and violence of the criminals or of those interested in their not testifying and determines the participation in a greater number of the witnesses to the enforcing of the criminal policy\(^1^5\).

In a survey completed at the request of U.S.A.I.D. and I.O.M.\(^1^6\) it is shown that, as a result of the carrying out of the programme, the percentage of the victims that retract their testimony against the traffickers decreased from 46% (before 2006), to 8%, the programme being considered one of the best examples of practice in Europe.

On 14\(^{th}\) June 2010, in its yearly report regarding the trafficking in human beings, the U.S.A. State Department states that the Romanian Government does not fully comply with the minimum standards for the elimination of the trafficking in human beings and criticizes the reorganizing of the National Agency against the Trafficking in Human Beings, but it

\(^1^3\) http://anitp.mai.gov.ro
\(^1^4\) The European Union Plan regarding the best practices, standards and procedures for the fighting and the preventing of the trafficking in human beings, published in the Official Journal of the European Union on 9th December 2005;
\(^1^5\) Law no. 682/2002 regarding the witnesses’ protection;
CURENTUL JURIDIC

mentions that “yet, the government makes significant efforts in this sense”, in order to go back to a state of normality.

“Although more than half of the victims identified in 2009 were trafficked with a view to forced labour, the government did not succeed that time either in reporting the taking of some significant measures in this direction; more exactly, the government did not elaborate statistics of the cases of trafficking with a view to forced labour and the ones of trafficking with a view to sexual exploitation, thus failing to succeed in establishing the number of investigations, proceeding takings and convictions for the trafficking with a view to forced labour, or the number of the victims assisted by the government in that particular time period”, as the document referring to 2009 emphasizes.

The American State Department takes a note of the reorganizing, in March 2009, of the main agency of fighting against the trafficking in human beings, The National Agency against the Trafficking in Human Beings (N.A.A.T.H.B.), which passed under the orders of the General Inspectorate of the Romanian Police from the Ministry of the Administration and Internals.

The document shows that “The experts signaled that the N.A.A.T.H.B. reorganizing had a negative impact upon the assistance granted to the victims. More exactly, the government collaborated much less with the N.G.O. that fight against the trafficking in human beings and did not grant funds to the N.G.O. for the victims’ assistance and for the programmes of preventing the trafficking in human beings”.

According to the State Department, as a result of this situation around 30 N.G.O. that fight against the trafficking in human beings stopped their activity or directed their efforts towards other domains than the fight against the trafficking in human beings, in order to go on benefiting from budget funds.

As the report shows, “Some of these N.G.O. offered essential assistance to the victims, including shelter, counseling, vocational education and other rehabilitating programmes. The number of victims that benefited from assistance paid by the state has significantly dropped for the second time in a row, and the government identified a lower number of victims as compared to the previous reporting period. The N.G.O. and the international organizations have signaled the fact that as a result of the reorganizing of N.A.A.T.H.B, Romania no longer has a true national agency that could direct the efforts to other ministries that have responsibilities in the field of the fight against the trafficking in human beings”.

The document also mentions that during the time period to which the report refers, the Romanian Government significantly reduced its efforts of protecting and granting assistance to the victims of the trafficking in human beings.

The report shows that “Unlike the year 2008, when the government granted 270.000 dollars to a number of four N.G.O., in 2009 the government did not grant funds to the N.G.O. fighting against the trafficking in human beings and offering assistance to the victims. The lack of the budget funds caused a significant drop of the number of victims that benefited from assistance on the part of the governmental agencies and N.G.O.”.

17 www.antitrafic.ro
18 The U.S.A. State Department for 2009 regarding the trafficking in human beings
19 The U.S.A. State Department for 2009 regarding the trafficking in human beings
The state department also mentions that, in 2009, the Government identified “780 victims (at least 416 victims of the trafficking with a view to forced labour and at least 320 victims of the trafficking with a view to sexual exploitation), a number significantly lower as compared to the number of 1,240 victims identified in 2008”. According to the quoted source, 176 out of the victims identified in 2009 were children, trafficked both with a view to forced labour and to prostitution.

The report also shows that “The government did not take active measures to identify the possible victims from the vulnerable categories of victims, including the detention centers for illegal immigrants. Neither the government, nor the N.G.O. have identified victims of another nationality in 2009. Although the government went on administering nine shelters for the victims of the trafficking in human beings, the quality of the conditions from these shelters varied and many victims preferred the shelters administered by the N.G.O.”.

According to the State Department, the local authorities were given the task of offering the victims access to different types of assistance, but the Government did not grant them any funds, programmes of preparation and guiding, so that the local authorities were practically unable to tackle the issue of the trafficking in human beings.

“Although in general the victims’ rights were observed, and the identified victims were not punished for the illegal deeds performed while being trafficked, some judges proved a lack of respect towards the women who were the victims of the trafficking with a view to sexual exploitation, which discouraged the victims in participating in the investigations and trials”20.

The report also stipulates the fact that the victims were encouraged to participate in the investigations and trials started against the traffickers in human beings involved in their own cases. “A number of 158 victims testified in 2009, a number displaying a significant dropping as compared to the 1,053 victims who supported the efforts of the law enforcing in 2008. According to the law, the victims of other nationality receive a period of reflecting of 90 days in order to decide whether they want to cooperate in a criminal proceeding. Nevertheless, in practice, any of the victims of other nationality used this period of reflecting. The law allows the victims of other nationality to ask for a temporary stay permit and remain in the country until the ending of the investigation and of the trial. In 2009, no victim asked for or received a temporary stay permit”.

4. HOW WE CAN AVOID THE TRAPS SET BY THE TRAFFICKERS IN HUMAN BEINGS

The making of the young people aware of the risks they may be subject to in the situations in which they do not get sufficiently informed when they want to obtain a working place in the country or abroad prevents the possibility of their becoming victims of the traffickers in human beings21.

Here are some recommendations made by the authorities in this sense:
Check if the firm which mediates labour carries out its activity on a legal basis. For this, request the following documents from the representative of the firm:

20 The U.S.A. State Department for 2009 regarding the trafficking in human beings
21 www.antitrafic.ro
- the original of the registration certificate, released by the Commerce Register;
- the original of the status of the firm, in which at the section destined for the activity fields there must be specified: services of hiring Romanian citizens abroad, and not only information concerning the employing;
- the original of the contract between the intermediary firm from Romania and the employer from the destination country. To the contract there must be attached the official authorization released by the state authority for labour protection. In the contract with the foreign employer as well as in the authorization the profession, the function for which the Romanian citizen is hired must be stipulated.

In order to work abroad you need a labour contract or an official invitation from an employer from outside Romania. Starting with 2009, the Romanian citizens can work in E.U. without an invitation on the part of an employer.

The labour contract must be drawn up in at least 2 copies and written in a language you know very well (Romanian). Before signing the labour contract, for your safety, consult yourself with a jurist. Never sign a document without knowing its contents. Check if your labour contract is registered at the National Agency for Labour Holding. Check if your passport (identity card) is valid during the whole period of the labour contract. You can legally work abroad only if you have a labour visa, which you can get only from the consular office of the embassy of the destination country, following an interview with the representative of this office. The employer outside Romania or the intermediary firm does not usually cover either the expenses for the obtaining of the passport or of the visa or the transport expenses, so arrangements in the account of the intermediary firm are not accepted. The touristic visa, the visa for studies or any other kind of visa does not give you the right to work legally. Your getting hired on the basis of such a visa is illegal and you can be fined or deported. In this case the employer can manipulate you, forcing you to do whatever he wants to. Get information about the average salary from the country that offers you a labour proposal. Check if the salary you are offered will allow you to cover the expenses you are going to have in that particular country (accommodation, food, clothes).

Learn the language of the country or some common words from the language of the destination country, in order to ask for help in case you need some.

If you have yet made up your mind to leave, leave the following information to the persons you trust:
- let them know with whom you are going to leave the country, where to and how;
- make xerox copies of the passport (identity card) and of the labour contract;
- leave them a recent photo of yours;
- set a password, which you are going to use in your conversations with your family in case you are in trouble.

REFERENCES

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