

A N C A R A L U C A I U H A S

PREVENTING  
AND COMBATING **HUMAN**  
**TRAFFICKING**  
IN THE EUROPEAN UNION

COOPERATION FROM A LEGISLATIVE,  
INSTITUTIONAL AND LAW  
ENFORCEMENT PERSPECTIVE.

**CASE STUDY ON ROMANIA**



EDITURA  
UNIVERSITĂȚII  
DIN ORADEA



Anca Raluca Iuhas

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## Dedication

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“Speak up for those who cannot speak for themselves,  
for the rights of all who are destitute.  
Speak up and judge fairly;  
defend the rights of the poor and needy.”

Proverbs 31:8-9 NIV

This book would not have been written if it had not been for an answer to a prayer. Therefore, I dedicate this work to God, Jesus Christ, to whom I give all credit. He is the Creator of human rights and the foundation of our most fundamental values. He is also the Defender and Restorer of all those who have suffered oppression and exploitation.

\*

In the summer of 2019, I asked God: 'Lord, what should I do with my life? How can I be of use to you?' That very day, I met a woman who opened up about her experience as a survivor of human trafficking. As I listened, I realised that I had received the answer to my prayer. I am profoundly grateful to her for the courage and trust she demonstrated in sharing such a personal story. While her identity and details remain private, her lived experience has been the inspiration behind this book.



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To my friends, near and far, thank you for your support and for reminding me to find balance and joy throughout this process. Your presence has been a source of resilience.

To everyone who has played a part in this journey, no matter how small, I extend my deepest gratitude.

# List of Acronyms

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ADPARE	Association for the Development of Alternative Reintegration Practices and Education (Romanian NGO)
ANABI	National Agency for the Management of Seized Assets (in Romania)
ANDPDCA	National Authority for the Rights of Persons with Disabilities, Children and Adoptions (in Romania)
ANPDPD	National Authority for the Protection of the Rights of Persons with Disabilities (in Romania)
ANES	National Agency for Equal Opportunities for Women and Men (in Romania)
ANITP	National Agency against Trafficking in Human Beings (in Romania)
ANITP RC	ANITP Regional Centre (in Romania)
ANOFM	National Agency for Employment (in Romania)
ANPDCA	National Authority for the Protection of Children's Rights and Adoption (in Romania)
ANPDPD	National Authority for the Protection of the Rights of Persons with Disabilities (in Romania)
BCCO	Organised Crime Squad (in Romania)
CSO	Civil Society Organisation
CSM	Superior Council of Magistracy (in Romania)
CoE	Council of Europe
DCCO	Directorate for Combating Organised Crime (in Romania)
DGASPC	Directorate-General for Social Assistance and Child Protection (in Romania)
DIICOT	Directorate for the Investigation of Organised Crime and Terrorism of the Public Prosecutor's Office (in Romania)
DRRP	Department for Relations with Romanians Abroad (in Romania)
ECHR	European Convention on Human Rights
ECtHR	European Court of Human Rights

EUROPOL	European Police Office
EU-TRM	EU Transnational Referral Mechanism
GRETA	The Group of Experts on Action against Trafficking in Human Beings
HT	Human trafficking
IGI	General Inspectorate for Immigration (in Romania)
IGPF	General Inspectorate of Border Police (in Romania)
IGPR	General Inspectorate of the Romanian Police (in Romania)
INTERPOL	International Criminal Police Organisation
IO	International organisation
MNIR	National Identification and Referral Mechanism (in Romania)
NGO	Non-governmental organisation
NRM	National Referral Mechanism
OSCE	Organisation for Security and Co-operation in Europe
PICCJ	Prosecutors' office attached to the High Court of Cassation and Justice (in Romania)
SNITP	National Strategy against Trafficking in Human Beings (in Romania)
SELEC	South-East Europe Law Enforcement Centre
TRM	Transnational Referral Mechanism
UNODC	United Nations Office on Drugs and Crime
VOTs	Victims of Human Trafficking



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# Introduction

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In an increasingly interconnected world, the fight against human trafficking is one of the most pressing challenges faced by nations worldwide. Within the European Union, a complex network of legislative measures, institutional frameworks, and law enforcement initiatives has emerged to address this grave violation of human rights. This book is based on a doctoral thesis that explores the multifaceted issue of human trafficking in the EU, with a particular focus on the Romanian context.

Our analysis explores three main components of the EU anti-trafficking system: 1) the legislative and policy framework, 2) institutions and mechanisms, and 3) law enforcement practices. As we explore this phenomenon, our aim is twofold: to contribute to the academic discourse surrounding transnational cooperation in the area of preventing and combating human trafficking within the EU and to offer insights and recommendations that can support policy decisions and law enforcement strategies. Over the following chapters, we navigate these three main components, shedding light on the complexities of cooperation between different actors and entities and the potential for enhancing such cooperation in the fight against human trafficking. In the last two chapters of this book, we have chosen to analyse the complex dynamics of cooperation between Romania – which has been the top source country for victims of human trafficking in the EU in the last ten or more years – and other EU destination countries. Two specific areas of concern have arisen from analysing the literature in the field and case law, which will be explored in more depth in Chapters 4 and 5 of this book: the proactive identification of victims of human trafficking and the investigation of transnational cases, which both engage mainly the law enforcement and judicial authorities, but many other actors at national and EU level.

Based on the most recent EU Report on Trafficking in Human Beings<sup>1</sup>, approximately 37% of all registered victims were citizens of the country in

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<sup>1</sup> European Commission, *Commission Staff Working Document Statistics and trends in trafficking in human being in the European Union in 2019-2020 Accompanying the document Report from the*

which they were registered<sup>2</sup>, indicating that the remainder of 63% of cases involve a transnational element. This highlights the need for an improved cross-border approach at the EU level. The report emphasises that victims are often subjected to short-term exploitation in multiple countries as they are moved around. Additionally, traffickers engage in “sex tours”, transporting victims to different locations to meet clients in rented accommodations. Likewise, the reports of the Romanian National Agency against Trafficking in Persons (ANITP) highlight that the average percentage of Romanian victims trafficked across borders during the period 2011-2021 is 52% (see *Table 4.5* in Chapter 4), revealing the need for increased cooperation at EU level to combat transnational trafficking properly.

Furthermore, according to the latest report by UNODC<sup>3</sup>, there has been a decrease in the global identification of human trafficking victims. One reason is that sexual exploitation is increasingly taking place online at all stages, from recruitment to exploitation. The report emphasises that in 2020, only 53,800 victims of human trafficking were officially identified worldwide<sup>4</sup>. When compared to the estimate provided by the International Labour Organization (ILO), which states that approximately 50 million individuals<sup>5</sup> are currently subjected to some type of human trafficking, it becomes evident that less than 1 in 1000 (0.1%) victims of trafficking are identified globally. These figures represent conservative estimates.

In the context of the revision of the EU Anti-Trafficking Directive, Directive 2011/36/EU, a highly anticipated and needed action, we will interview anti-trafficking experts and practitioners from Romania and the EU to specifically explore two of the six priorities outlined by the Commission in

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*Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Report on the progress made in the fight against trafficking in human beings (Fourth Report) (COM(2022) 736 final)*, Brussels, 19.12.2022, p. 9, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0429> (accessed 1 July 2023) [hereinafter, 2022 Commission Staff Working Document].

<sup>2</sup> *Ibidem*, p. 9.

<sup>3</sup> UNODC, *Global Report on Trafficking in Persons 2022*, United Nations publication, New York, 2022, [Online] available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf) (accessed 1 July 2023).

<sup>4</sup> *Ibidem*, p. 11.

<sup>5</sup> ILO, Walk Free, IOM, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, Geneva, 12 September 2022, [Online] available at: [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_854733/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm) (accessed 1 July 2023) [hereinafter, ILO, Walk Free, IOM, *Global Estimates of Modern Slavery*].

its draft proposal<sup>6</sup>, namely: 1) the establishment of a European Transnational Referral Mechanism (EU-TRM)<sup>7</sup>, and 2) the enhancement of EU-wide annual data collection on HT<sup>8</sup>.

There is extensive literature on the subject of preventing and combating human trafficking, not only at the international level but also at the EU level. However, the European Union stresses the need for continuous research and data analysis as a basis for understanding the phenomenon and for improved policymaking both at the EU level and national levels. *The EU Strategy on Combatting Trafficking in Human Beings 2021-2025* (hereinafter, *EU Anti-Trafficking Strategy for 2021-2025*)<sup>9</sup> highlights the priorities to achieve this purpose, such as the exchange of best practices in the field of anti-trafficking, particularly in the area of cross-border, transnational cooperation between law enforcement and judicial entities; the improvement of victim identification and referral mechanisms in the EU and at national level; and the promotion of awareness-raising campaigns, research, and data analysis by encouraging cooperation among relevant national organisations, such as data institutes and observatories<sup>10</sup>.

The degree of effectiveness in preventing and combating human trafficking within the European Union, as viewed from legislative, institutional, and law enforcement perspectives, varies significantly across Member States. Romania faces distinct challenges as a source country in its cooperative efforts with other EU destination countries. The nature of this cooperation is influenced by factors such as legal frameworks, institutional capacities, and law enforcement practices. By examining the case of Romania's cooperation with other EU destination countries, the fundamental thesis of

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<sup>6</sup> *Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels: European Commission, 19.12.2022, p. 14, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732> (accessed 23 June 2023).

<sup>7</sup> *Ibidem*, pp. 2-3, 14-15.

<sup>8</sup> *Ibidem*, pp. 7-8, 15-16.

<sup>9</sup> *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025*, Brussels: European Commission, 14.04.2021, [Online] available at: [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_on\\_combatting\\_trafficking\\_in\\_human\\_beings\\_2021-2025\\_com-2021-171-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_on_combatting_trafficking_in_human_beings_2021-2025_com-2021-171-1_en.pdf) (accessed 20 August 2021) [hereinafter, *EU Anti-Trafficking Strategy for 2021-2025*].

<sup>10</sup> *Ibidem*, p. 5.

this book proposes that the efficacy of cooperation in combating human trafficking depends on the synchronisation and concordance of legislative methodologies, the robustness of institutional cooperation, and the effectiveness of law enforcement strategies, focused primarily on stepping up the proactive identification of victims and *ex-officio* investigation of cases.



### **1.1. Purpose**

This book aims to analyse the anti-trafficking legislative, policy, and institutional frameworks, as well as law enforcement practices, in the EU and Romania and propose recommendations that may enhance EU transnational cooperation in preventing and combating human trafficking.

### **1.2. Objectives**

The objectives of this paper are as follows:

**O1.** Analyse the different concepts in the area of trafficking in human beings and the main IR theories which have led to the development of these main concepts.

**O2.** Describe and analyse the EU anti-trafficking framework and its implications on the Member States.

**O3.** Describe and analyse the phenomenon of human trafficking in Romania, with the aim of proving that Romania is still the top source country in Europe for victims of human trafficking.

**O4.** Describe and analyse the Romanian anti-trafficking framework as compared to the EU anti-trafficking framework.

**O5.** Identify the main issues and potential solutions concerning transnational cooperation between Romania and other EU member states as regards proactive identification of victims of human trafficking.

**O6.** Identify the main issues and potential solutions concerning transnational cooperation between Romania and other EU member states as regards the investigation of transnational cases of human trafficking.

**O7.** Elaborate policy recommendations to enhance EU transnational cooperation in the context of preventing and combating human trafficking, especially targeting proactive identification of victims and investigation of cases.

### **1.3. Hypotheses**

The hypothesis that the author started from before analysing the EU legal framework was the following:

**H1.** *EU legislation is not adequately tailored to international human rights requirements.*

This hypothesis has proven to be mainly false, as the EU legislation is to a large extent in line with the highest requirements of the international legislation on human rights, namely the *Palermo Protocol* and the *CoE Convention*, but it also contains a discriminatory article implying that third-country nationals are not entitled to assistance and residence permits unless they agree to cooperate in the criminal proceedings. (O2)

The hypothesis that the author started from before analysing the EU policy framework was the following:

**H2.** *EU policy is not adequately implemented.*

This hypothesis has proven to be true to a certain extent, meaning that many objectives have been achieved, but also important objectives have been delayed, such as the creation of a European Transnational Referral Mechanism (TRM), due to the lack of National Referral Mechanisms (NRMs) in some Member States and also to the political diversity of NRMs where they do exist. Another reason for this is that human trafficking trends evolve from year to year, making it highly challenging to implement a policy in constant need of adaptation. (O2)

The hypothesis that the author started from before analysing the EU institutional framework was the following:

**H3.** *EU Mechanisms are not properly defined and implemented.*

This hypothesis has been proven to be mainly true due to the very diverse political spectrum of the EU Member States and their National Rapporteurs and equivalent Mechanisms (NREMs), and therefore, the lack of coordination and proper collaboration between them and the impossibility of creating the TRM which the *EU Directive* and the Strategies require. (O2)

The hypothesis that the author started from before analysing the phenomenon of HT in Romania was the following:

**H4:** *Romania has been the leading source country for victims of human trafficking, mainly for sexual exploitation and also for labour exploitation in the European Union, in the last 10 years.*

According to statistics published by EUROSTAT, this hypothesis has been proven true. (O3)

The hypothesis that the author started from before analysing the Romanian anti-trafficking framework as compared to the EU anti-trafficking framework was the following:

**H5.** *The Romanian anti-trafficking system (legislative, policy and institutional framework) is not adequately tailored to the EU requirements, and the main consequence of this is the inadequate assistance offered to victims of human trafficking.*

This hypothesis has been proven false to a certain extent, as the Romanian legislation, policy and mechanisms align with the *EU Directive* and the EU Anti-Trafficking Strategies. However, the major issues discovered from the research have been the lack of proper funding and specialised human resources and the need to implement better the mechanisms and instruments set in place. Added to these is the lack of the EU Transnational Referral Mechanism (EU-TRM), which negatively affects Romania in proactively identifying and assisting Romanian nationals, victims of human trafficking. **(O4)**

The hypothesis that the author started from before targeting O5 was the following:

**H6.** *Cooperation between Romania and other EU member states regarding transnational cases of human trafficking is deficient and mainly formal.*

This hypothesis has been proven to be true to a certain extent. While it is true that substantial progress has been made to increase cooperation at this level, we have concluded from interview results that there is still much to do, especially concerning the establishment of an EU-TRM, which has been delayed since 2012, and which has been identified by the majority of respondents as the main cross-cutting priority. **(O5)**

The hypothesis that the author started from before targeting O6 was the following:

**H7.** *Transnational human trafficking cases, especially cases where “the loverboy method” (sexual exploitation) has been used, are difficult to prove because of differing legal models for prostitution adopted across the EU.*

This hypothesis has been proven to be true to a certain extent. Interview results have proven that perspectives vary in this area, with many respondents considering this is true, while others adopting a more neutral stance, considering that investigation and prosecution of cases do not necessarily depend on the legal model of prostitution but rather on specific legal stipulations and their implementations in practice. However, we rather agree with the first category of respondents after corroborating data analysed, case studies, as well as interview results, concluding that both the proactive identification of victims and the investigation of transnational cases of human trafficking for the purpose of sexual exploitation are influenced by the legal model on prostitution. **(O6)**

## 1.4. Research Methods

In reaching the objectives of this work and probing the hypotheses, we intend to use a series of research methods, as follows:

1. **Literature Review:** The existing literature on human trafficking, EU and Romanian legislation, policies, institutions and mechanisms, and cooperation mechanisms will be reviewed comprehensively.

2. **Content Analysis:** We will examine international, EU and national legislative documents, policy reports, and official documents on human trafficking prevention and combat efforts in the EU.
3. **Comparative Analysis:** To identify differences and commonalities, we will compare Romania's legislative frameworks, institutional structures, and law enforcement practices with the EU and other EU Member States.
4. **Statistical Analysis:** We will analyse and compare statistics on human trafficking in the period 2011-2021 found in EUROSTAT reports, TIP Reports and reports of Romania's National Agency against Trafficking in Persons (ANITP) to analyse trends in human trafficking, law enforcement actions, and victim support services.
5. **Case Study Analysis:** We will analyse three transnational human trafficking cases from Romanian case law, which focus on sexual exploitation.
6. **Interviews:** We intend to conduct structured and semi-structured interviews with policymakers, law enforcement officials, judicial bodies and NGO representatives to gather qualitative insights into their experiences, challenges, and perceptions of cooperation.

## 1.5. Analysis of Sources

The sources were selected based on the paper's objectives. We will present here the primary sources used in each chapter and briefly mention the type of secondary sources that we used.

For *Chapter 3. The Legislative, Policy and Institutional Framework of the EU in the area of preventing and combatting Human Trafficking*, the following sources have been used:

### ▪ International and EU Legal Instruments

We started by analysing the international legislation in the anti-trafficking field, namely the *United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* [hereinafter, *Palermo Protocol*]<sup>1</sup>, adopted in 2000, and the *Council of Europe Convention on Action against Trafficking in Human Beings*<sup>2</sup> [hereinafter, *CoE Convention*],

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<sup>1</sup> *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, New York: UN General Assembly, 15 November 2000, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> (accessed 21 August 2021) [hereinafter, *Palermo Protocol*].

<sup>2</sup> *Council of Europe Convention on Action Against Trafficking in Human Beings*, Warsaw: Council of Europe, 16 May 2005, CETS 197, [Online] available at: <https://rm.coe.int/168008371d> (accessed 5 May 2021) [hereinafter, *CoE Convention*].

adopted in 2005. These two legal instruments have been the foundation for the *EU Anti-Trafficking Directive* (hereinafter, *EU Directive* or *EU Anti-trafficking Directive*, depending on the context, to avoid confusion)<sup>3</sup>, adopted in 2011, which was later transposed by all EU Member States. ECtHR case law has also been used for Chapter 3 to provide a context for how principles of international law have been applied in transnational human trafficking cases.

- **Reports and best practice guidelines of international organisations and EU agencies**

Reports and best practice guidelines of international organisations and EU agencies have been used as secondary sources. They provide additional insights into interpreting international and EU legislation in the field, which proved useful in comparing Romanian legislation and its application with international standards.

- **Articles in official journals and magazines**

From articles in official journals and magazines and from other website articles published by various organisations and coalitions of the civil society, mainly from the USA and the EU, we have concluded that the main “bone of contention” in the anti-trafficking field is the issue of sexual exploitation. For all the other types of exploitation (labour exploitation, domestic servitude, debt bondage, forced begging etc.), the international community has reached a consensus, but regarding the issue of sexual exploitation, two main factions have been identified: on the one hand, the faction stating that all prostitution is human trafficking (abolitionism), and on the other hand, the faction stating that “consented prostitution” should be treated as any other type of labour and legally regulated as such (legalisation or decriminalisation). Up to present<sup>4</sup>, this contention is still driving the decision-making processes in the field at the EU level, especially in the context of the revision of the *EU Anti-Trafficking Directive*.<sup>5</sup>

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<sup>3</sup> Council of the European Union, *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA*, 15 April 2011, OJ L. 101/1-101/11; 15.4.2011, 2011/36/EU, [Online] available at: <https://eur-lex.europa.eu/eli/dir/2011/36/oj> (accessed 5 May 2021) [hereinafter, *EU Directive*]. By the time this paper was published, the revised version of the EU Directive was already published, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32024L1712>.

<sup>4</sup> October 2023, at the time of writing this section (A/N).

<sup>5</sup> At the time of writing this section, the plenary vote in the EU Parliament is scheduled for the end of October 2023, followed by the Trilogue Negotiations (A/N), [Online] available at: [https://www.europarl.europa.eu/thinktank/en/document/EPRS\\_BRI\(2023\)740213](https://www.europarl.europa.eu/thinktank/en/document/EPRS_BRI(2023)740213) (accessed 13 October 2023).

### ▪ **EU Policy Instruments**

The EU Strategies were used to analyse the steps taken by the EU to prevent and fight trafficking at EU level, and Progress Reports to compare how strategy objectives have been implemented both by the EU and by Member States. However, the Progress Reports do not provide a very detailed picture of the situation at national level, but rather uses the EUROSTAT statistics to provide a comparative analysis on the number of victims and perpetrators identified, as well as other general particularities provided by each Member State. These policy instruments have been useful not for assessing the situation in Romania, but rather to analyse the EU institutional framework and mechanisms set in place to enhance transnational cooperation between states for the prevention and combat of human trafficking.

For *Chapter 4. The Legislative, Policy and Institutional Framework of Romania in the area of preventing and combatting Human Trafficking*, the following sources have been used:

### ▪ **EUROSTAT and ANITP Reports**

We analysed comparatively the EUROSTAT and ANITP reports for the period comprised between 2011 and 2021 (2021 being the most recent year for which statistics were published at the time of our research), so as to assess the phenomenon of human trafficking in Romania, as compared to other EU Member States (number of victims identified and perpetrators convicted, as well as other aspects). The EUROSTAT reports, however, are based on the official statistics of state authorities (in Romania – ANITP, DIICOT, the Ministry of Justice). In this regard, we could not state specifically how accurate these statistics are, but they are still relevant to some extent when comparing the situation in Romania with other EU countries.

### ▪ **The GRETA (Council of Europe) Evaluation Reports**

The three GRETA (Council of Europe) Evaluation Reports for Romania<sup>6</sup> have also been used, as they provide an in-depth analysis of how Romanian authorities implement and interpret both international and EU legislation in the field. Up to now, the EU has not provided such detailed reports on the EU Member States; therefore, the GRETA reports are a useful monitoring tool, all the more so as they evaluate the implementation of each aspect covered by the *CoE Convention* by Romania. The downside of the GRETA reports, on the other hand, is that they are released every four (or more) years.

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<sup>6</sup> Council of Europe, *Romania*, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/romania> (accessed 10 October 2023).

- **The US Department of State's TIP Reports**

The US Department of State's TIP Reports<sup>7</sup> on Romania also proved to be a valuable source to assess the phenomenon of trafficking in Romania, as they are issued every year and are based on consultations with Romanian state authorities, CSO representatives and other relevant stakeholders in the anti-trafficking field. They capture the official statistics released by the Romanian authorities every year and an evaluation of the three main elements of the 3P paradigm – prevention, prosecution and protection. Moreover, they provide policy recommendations for each state.

- **The Romanian Criminal Code and other related legislation on human trafficking**

The Romanian legislation in the field was compared mainly to the *EU Directive* to assess the terminology used and whether Romania has not correctly transposed any provisions.

- **Recent Romanian Case Law (2021-2023):**

Three case studies were selected from Romanian case law on transnational human trafficking, particularly cases of sexual exploitation, to analyse how Romanian judicial authorities interpret and apply the legislation in the field, and to spot the issues and needs in the investigation of transnational human trafficking cases. We chose three cases: the first – a Decision from 2020 by the Court of Appeal from Oradea (see *Appendix 3*), the second – a Decision from 2021 by the Court of Argeş (see *Appendix 4*), and the third – a Judgment from 2023 by the Court of Suceava (see *Appendix 5*). All cases were based on “the loverboy method” (i.e., based more on non-coercitive means), where the victims were taken from vulnerable backgrounds and taken to Germany to be sexually exploited in brothels. Particularities of the legal model on prostitution (i.e., legalisation) and its connection with human trafficking were also explored in this analysis, as compared to the Equality Model (i.e., abolitionism). We specifically chose recent cases to evaluate the level of knowledge and practice of judicial authorities regarding the fundamental requirements of the legislation in the field (the human-rights, victim-centred, trauma-informed, child-sensitive approach), assuming that recent practice should have evolved since the adoption of the *EU Directive* (i.e., 2011). However, from these few cases, we have discovered significant gaps in the prosecution of transnational trafficking cases in Romania even after 2020.

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<sup>7</sup> US Department of State, Trafficking in Persons Report, [Online] available at: <https://www.state.gov/trafficking-in-persons-report/> (accessed 12 October 2023).

We did not have access to the indictments, which would have enabled us to also analyse how law enforcement in Romania investigates a transnational case and what type of evidence they seek and manage to find. Nevertheless, we aimed to address this limitation by conducting interviews with experts in law enforcement.

For *Chapter 5. European cooperation in transnational human trafficking cases*, the following sources have been used:

- **Interviews with anti-trafficking experts and other practitioners in the field**

From the research and conclusions which we reached in the first chapters of this paper, we chose to conduct targeted interviews with anti-trafficking experts (see more detailed information on the interviewees in section 5.1.2. *Data Collection Method* and 5.2. *Interviewees' Bios*).

The two main topics targeted in the interviews concerned transnational cooperation in the area of proactive identification of victims and the investigation of human trafficking cases, with a focus on cooperation between Romania and other EU countries, specifically on the issue of sexual exploitation, as these were the main issues which we identified from the analysis of sources. The respondents held similar views on the most significant aspects, especially concerning the recommendation for establishing a European Transnational Mechanism, with moderate variation on the actual implementation of such a mechanism.

In total, we consulted 18 respondents: **17 interviews** conducted in person and **one written (partial) response**, as follows:

- a) fifteen interviews with anti-trafficking experts and practitioners in Romania:
  - i) **an anti-trafficking consultant at IOM Romania**, who was a former FBI agent. This interview was conducted in English, bringing a more American-centric perspective and combining realist, liberalist, and constructivist views in his responses. IOM Romania is an essential actor in the repatriation of Romanian victims of transnational human trafficking by funding, planning and managing their safe return and referring them, in collaboration with ANITP, to public or private providers of services;
  - ii) **an advocacy officer at IJM (International Justice Mission) Romania**. This interview also added a more realistic view on the complex issue of transnational cooperation in the field, as the US Department of State funds IJM and closely reflects the American anti-trafficking system and priorities. IJM is a pivotal bridge between



the US Department of State and the US Embassy in Romania on one side and Romanian governmental entities and non-governmental organisations on the other. Given that our research paper encompasses an examination of the US Trafficking in Persons (TIP) Reports on Romania, we deliberately engaged with IJM as a vital participant in the interview to gain further insights into their viewpoint on transnational cooperation in this field;

- iii) **a current IJM case manager** who also brings a wealth of experience from his prior role as a BCCO police officer, particularly in the context of joint investigation teams. His perspective combines the insights gained from his law enforcement background with the expertise of an international NGO specialising in offering training to judicial and law enforcement authorities. Since the two main issues of proactive identification of victims and investigation of transnational cases resulted from Chapters 4 and 5 of this paper, his experience provided an essential source of information when probing our potential solutions for enhancing cooperation in this area;
- iv) **an ANITP regional coordinator with a law enforcement background.** ANITP (the National Agency against Trafficking in Persons) is Romania's National Rapporteur on human trafficking, as per the *EU Directive's* requirement. It was essential to consult a representative of this agency, not only to validate the conclusions we have reached after analysing the ANITP reports and other international reports on Romania but also to find out the "behind the scenes" aspects of cooperation between Romania and EU countries of destination for VOTs;
- v) **a prosecutor at the Directorate for the Investigation of Organised Crime and Terrorism (DIICOT),** Iași Territorial Service, specialised in transnational human trafficking cases by participating in twelve joint investigation teams. His perspective proved to be invaluable for determining the level of cooperation Romania is engaged in with countries of destination, especially Germany since it was the country targeted by our study through the three Case Studies;
- vi) **a police officer in the Organised Crime Squad (BCCO)** in Iași, Anti-Trafficking Service, with ten years' experience in investigating human trafficking cases and having participated in several joint investigation teams. His perspective helped us to explore ways in which cooperation with counterpart police

- forces can be improved and how civil society can be involved in the proactive identification of victims;
- vii) **two former BCCO police officers**, whose responses contributed to a more comprehensive understanding of the involvement of law enforcement in the broader context of transnational cooperation;
  - viii) **seven representatives of Romanian specialised anti-trafficking CSOs**. We targeted only specialised anti-trafficking NGOs in Romania, specifically the ones with a well-established history in the field, which extensively partner or interact with Romanian state authorities, perform advocacy work at national and international levels, and have been involved in the case management of victims exploited abroad. Their experience offered a grassroots view not only of the issues encountered firsthand in the field but also of the solutions they envisage as needed tools to perform their work better;
  - ix) **a written response to the interview guide was added from the General Inspectorate of the Romanian Police**, which only generally and selectively touches upon the interview questions.
- b) two interviews with foreign anti-trafficking experts:
- i) **the First Vice-President of GRETA (Council of Europe)**. We had the privilege of connecting with a GRETA expert through our work in the anti-trafficking field. This interview is specifically valuable to our study, as GRETA is the only monitoring mechanism that performs an in-depth evaluation of the EU member states' compliance with international requirements in the field. It is based on the most human-right based anti-trafficking legal instrument, namely the *CoE Anti-Trafficking Convention*, which we have used as a bench-mark in our paper. Her response to the interview completes the analysis we have made on the GRETA reports, and adds valuable insights concerning issues and solutions related to transnational cooperation;
  - ii) **a representative of a German NGO** in charge of conducting outreach among a migrant group specifically vulnerable to sexual exploitation – namely persons in the prostitution system (i.e., brothels) in Stuttgart. We considered it essential to have at least one anti-trafficking practitioner from a country where prostitution is legalised, as the three Case Studies selected all focus on cases of sexual exploitation where the victims were recruited through “the *loverboy* method”, transported to

Germany, and registered as “sex workers” in brothels across Germany by their “lovers”, or “fiancés”. We intended to obtain more information on the situation of Romanian women engaged in prostitution in this country, and verify with a frontliner, who is weekly in touch with Romanian women through outreach activities in brothels, the extent to which human trafficking might be disguised as “consented prostitution” in these locations.

After two years of experience working in the anti-trafficking field and conducting advocacy work, we are convinced that the interviewees are among the most representative anti-trafficking experts from Romania, and their views and recommendations hold significant value. More comprehensive and possibly diverse conclusions might have been reached if the research had included consultations with experts from other EU Member States.

## **1.6. Presentation of the Chapters**

The book contains four chapters of analysis and research, which will be described below:

### **Chapter 2. Theoretical Framework and Conceptualization of Cooperation in the Area of Human Trafficking**

Chapter 2 aimed to reach objective O1 and serve as a basis for the following objectives. We will analyse the cooperation in the field of preventing and combating human trafficking from the perspective of three main IR theories, namely realism, liberalism and constructivism, as well as the main types of human trafficking and some of the concepts primarily used in this field. This exploration of IR theories further enables a deeper analysis of the legislative, institutional, and law enforcement dimensions in preventing and combatting human trafficking within the EU and helps contextualise the dynamics and motivations that shape cooperation in the field.

### **Chapter 3. The Legislative, Policy and Institutional Framework of the EU in the area of preventing and combatting Human Trafficking.**

Chapter 3 aimed to reach objective O2 and clarify hypotheses H1, H2, and H3 by targeting three primary levels of analysis, as follows:

1) **Analyse the EU legislative framework** through qualitative research, using mainly content analysis and thematic analysis, by analysing official documents, scientific articles, and international organisations' guidelines on human trafficking.

The main legal instruments analysed under this section are the *Palermo Protocol*, the *CoE Convention*, and the *EU Anti-trafficking Directive*,

with the final aim of examining the latter compared to the former. The main themes that have been highlighted are the “4P” paradigm (prosecution of traffickers, protection of victims, prevention, and partnerships), the human rights approach analysed in comparison to the organised crime approach, and the type of language used in legal instruments, namely hard versus soft obligation language.

The levels of analysis employed in this section are:

- Describing the *Palermo Protocol* and its primary approach
- Describing the *CoE Convention* and its primary approach
- Explaining the differences between the *Palermo Protocol* and the *CoE Convention*
- Determining the main implications on states of framing HT as an issue of HR violation
- Identifying the main EU Legal Instruments
- Analysing the *EU Directive* as compared to the *Palermo Protocol* and the *CoE Convention* from a human-rights perspective

2) **Analyse the EU policy framework** through qualitative research, mainly content and thematic analysis, by analysing the anti-trafficking EU strategies, progress reports, and related documents.

The main legal instruments analysed in this section are the two EU anti-trafficking Strategies – for 2012-2016 and 2021-2025 – and the three Progress Reports issued in 2016, 2018, and 2020.

The EU anti-trafficking policy will be analysed in line with the objectives of the *EU Anti-Trafficking Directive*, correlated with other international instruments, such as the *Palermo Protocol*, the *CoE Convention*, and reports and research published by European agencies. Our analysis will follow the same “4P” paradigm of the anti-trafficking policy used in analysing the section on the EU legislative framework, highlighting the EU's main challenges and progress in each case.

3) **Analyse the EU institutional framework** through qualitative research, using mainly content analysis and thematic analysis. Analyse the CoE versus the EU anti-trafficking Monitoring Mechanisms from a human rights perspective and determine the effectiveness of implementing resolutions.

At this level, the EU anti-trafficking monitoring mechanism [namely the informal network of National Rapporteurs and Equivalent Mechanisms (NREMs) and the Transnational Referral Mechanism (TRM)] was analysed in comparison to the CoE monitoring mechanism (GRETA and the Committee of the Parties), to illustrate the effectiveness and impact that it has on EU Member States in comparison to its regional counterpart, as EU MS are bound

both by the requirements in the *EU Anti-Trafficking Directive* and the *CoE Convention*.

The main outline for the analysis of the legislation, as well as of the institutions and mechanisms which the author has used, follows a set of questions:

1. Why and in what context did  $x$  (the legislation/institution/mechanism) appear (history and collaboration of main actors)?
2. Who had the initiative for  $x$ , and who opposed it?
3. What are the main elements of  $x$ ?
4. How effective is it?
5. To what extent is it ineffective?
6. What were the effects of  $x$ ?

Chapter 3 was structured on these three pillars to serve as a conceptual basis and a reference point for subsequently analysing Romanian legislation, policy and institutions in the field and how they comply with international and European requirements. Furthermore, we aimed to identify the shortcomings of the international and EU anti-trafficking frameworks to verify whether there is a need for any significant reformation of the systems set in place to boost cooperation in the field.

#### **Chapter 4. The Legislative, Policy and Institutional Framework of Romania in the area of preventing and combatting Human Trafficking**

Chapter 4 aimed to reach Objectives O3, O4 and O7 and clarify hypotheses H4 and H5 by targeting two primary levels of analysis, as follows:

##### **1) Analyse the scale of the phenomenon of human trafficking in Romania**

At this level, the main reports on human trafficking, such as the ANITP reports, EUROSTAT Reports, the US Department of State's TIP Reports and the GRETA reports on Romania, will be used. For this section, we will analyse statistics from 2011 to 2021 to make a general presentation of the trends in the area of human trafficking in Romania and the EU, aiming to verify whether Romania has been indeed the top source country for victims of human trafficking in the period analysed, and the implications thereof.

The following analysis methods will be used:

- Analyse and compare the ANITP Reports in the last 10 years.
- Analyse and compare the three GRETA reports on Romania.
- Analyse and compare the TIP reports in the last 10 years.
- Analyse and compare the ANITP, GRETA, and TIP reports on Romania with general Eurostat statistics on HT for Europe in the last 10 years.

For this section, quantitative research will be used mainly through **analysis of statistics** found in reports.

## **2) Analyse the Romanian Legislative Framework in the area of preventing and combatting HT**

Under this section, Romania legislation will be analysed mainly through **qualitative research**, using **content analysis** and **thematic analysis**, in comparison to the *EU Directive*, as well as three Case Studies taken from case law focused on transnational human trafficking cases for the purpose of sexual exploitation involving Romanian citizens.

For this section, we will use various levels of analysis to discover the main gaps in the Romanian legislation in the area of human trafficking, as follows:

- Describe the main concepts of the definition of human trafficking in Romanian legislation compared to the three main international legal instruments analysed in Chapter 3.
- Analyse Romanian legislation on HT according to the “4P” Paradigm, following the analysis structure used in Chapter 3
- Analyse the definition of HT in the Romanian legislation according to its three constitutive elements: the “action”, the “means” and the “purpose”, using also three Case Studies based on Romanian case law on the crime of human trafficking to evaluate at a glance how these three main components are proven in court and the main intricacies and obstacles that the judicial bodies encounter in practice.

## **3) Analyse the Romanian Institutional Framework in the area of preventing and combatting HT**

At this level, we will outline the organisational structure of institutional entities tasked with preventing and combating human trafficking in Romania compared to international and EU recommendations in this area. Our aim is to enhance our comprehension of each body's distinct functions and the dynamics of their interrelationships. For this section, qualitative research will be used mainly through content analysis.

Chapter 4 is essential in the overall structure of this paper, as it contains an evaluation of the extent of HT in Romania as compared to the EU, as well as Romania's compliance with international and EU standards, aiming to pinpoint deficiencies in the system, particularly those that impede effective transnational cooperation in cases involving victims sexually exploited abroad. The three Case Studies revealed two significant subjects of concern: the lack of proactive identification of VOTs and the limited cooperation between Romania and countries of destination in assisting VOTs. This chapter also proposes strategies for improving the national legal and judicial system.

## **Chapter 5. European cooperation in transnational human trafficking cases**

Chapter 5 aimed to reach objectives O5, O6, and O7 and clarify hypotheses H6 and H7 by targeting the two main problematic aspects identified in Chapter 4: transnational cooperation in the area of proactive victim identification and the investigation of human trafficking cases, with a focus on cooperation between Romania and other EU countries, specifically for the issue of sexual exploitation.

Given that Romania has the highest number of victims exploited in the EU, this chapter becomes paramount. It enables exploration and the development of solutions with anti-trafficking experts to enhance cooperation and address the identified issues. The chapter examines the necessary reforms required to ensure that more victims of trafficking are identified effectively at the EU level, rather than relying on self-identification, and that law enforcement is better equipped to properly investigate trafficking cases to reduce dependence on victim testimony. Based on solutions proposed by the interviewees, we made a set of recommendations that are all the more relevant as the *EU Anti-Trafficking Directive* is currently<sup>8</sup> in the process of being revised.

Objective O7 was also targeted in the Final Conclusions under the Policy Recommendations section.

### **A. Research Design and data collection method**

For this chapter, qualitative research will be used through interviews. For this purpose, we will interview at least one representative of the main categories of professionals with attributions in the anti-trafficking field, both from Romania and the EU, as follows:

- GRETA experts;
- ANITP representatives;
- National police officers at the local level/local police;
- Prosecuting bodies;
- IOs representatives;
- NGO representatives;
- Officials from embassies and consulates.

The conclusion will contain a reiteration and summarisation of the findings for each chapter, targeting the issues identified and the policy proposals and recommendations made by us and the respondents to the interviews. The overall aim is to identify the main issues concerning

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<sup>8</sup> As of October 2023 (A/N).

cooperation between various actors in the field (within Romania and outside Romania) and propose solutions and strategies for better cooperation so that a victim of human trafficking can be quickly identified as such, benefit from all her rights once she is identified as a victim and ensure that action in the field between actors involved is not doubled or missing due to lack of communication and collaboration.

The interview questions will be based on the literature review and the conclusions retrieved from the data analysis in the previous chapters, including statistics, ANITP reports, EU reports and TIP reports, and questionable aspects emerging from the three Case Studies analysed in Chapter 4.

### **B. Selection of interviewees**

We will use a purposeful sampling technique to select participants for this research based on their relevant knowledge, expertise, and experience related to the research objectives. The author targets individuals who hold critical positions within state institutions, NGOs, and IOs and have a particular level of experience or are known to be experts in the anti-trafficking field.

### **C. Data collection process**

Interviews will be conducted online or in person, depending on the interviewee's preference.

## **1.7. Expected Results**

We will further describe the anticipated outcomes of our research based on the objectives of this book.

### **A. Expected results for legislative and policy framework**

We expect that the Romanian legislation might align with international and EU legislation due to the binding nature of these instruments, of which Romania is a signatory. However, the question is whether and how legislation is implemented and how efficient it is to bring about significant changes in anti-trafficking.

### **B. Expected results for institutional framework**

Regarding the institutional framework of Romania, as compared to the EU, we expect it might also align with EU requirements. Still, we doubt whether the current institutional framework streamlines cooperation between stakeholders at the national and EU levels. The same concern we have regarding cooperation at the EU level between different institutional structures of EU Member States and the EU's capacity to coordinate, monitor and intensify such cooperation.



### **C. Expected results for law enforcement practices**

We expect that law enforcement practices in Romania, as well as in the EU at large, might be more improved and collaborative than before 2011 when the EU Anti-Trafficking Directive was adopted, due to increased support received from EU agencies such as EUROPOL, EUROJUST, FRONTEX and others.

### **D. Expected results for transnational cooperation in the area of proactive identification of victims**

Regarding the proactive identification of human trafficking victims within the context of the EU and, more specifically, within Romania and other destination countries, we expect that there is a significant need for increased bilateral and transnational cooperation since transnational human trafficking cases account for approximately half of the total number of victims in any year in Romanian reports. We aim to explore new sustainable collaborative policies and strategies that might relieve victims from the burden and danger of self-identifying and, at the same time, minimise the burden of costs incurred by states and the EU by adopting such policies and strategies.

### **E. Expected results for transnational cooperation in the area of *ex-officio* investigation of cases:**

As for transnational cooperation in the area of *ex-officio* investigation of cases, we expect to discover multiple differences in the investigation methods employed by EU Member States, considering that criminal policy is not a standard EU policy. Moreover, since the *EU Directive* adopts only soft language concerning cooperation in the investigation of transnational cases, we expect that certain countries might choose not to establish it as a priority. Therefore, we further aim to interview law enforcement, judicial representatives, and other stakeholders responsible in this field to explore feasible ways of stepping up cooperation in this area.

## **1.8. Potential Contributions and Policy Implications**

The expected results and recommendations emerging from this research might contribute to increased cooperation for preventing and combatting human trafficking within the EU by bringing about a stronger cohesion between EU Member States, stemming from specific future legislative changes, institutional reforms, and new law enforcement practices. The final aim of these recommendations will be to increase the capacity of frontliners to identify a higher number of victims, as well as increase access to rights for victims wherever they are identified in the EU, and finally, establish streamlined, time-effective, cost-effective cooperation methods between EU Member States to fulfil these purposes systemically.

## 1.9. Potential Limitations

Below, we expand upon the potential limitations or constraints that could affect the precision and scope of our expected results.

- **Sample Size and Composition:** While our study will involve interviews with experts, a relatively small sample size might limit the generalizability of our findings. Additionally, the respondents' nationality could potentially introduce a bias towards a specific regional perspective.
- **Limited Representation:** Depending on the potential interviewees' availability to participate in the interview, the sample's composition might not fully represent the diverse range of perspectives and practices across all EU member states.
- **Contextual Factors:** Our case study will focus on cooperation between Romania and other EU member states. This might narrow the extent to which our findings can be extrapolated to different regional contexts within the European Union.
- **Subjective Interpretation:** We recognise that the data collected through interviews may be subject to interpretation and bias from the respondents' perspectives and our own as the researcher. This subjectivity could influence the conclusions drawn from the study.
- **Missing Stakeholder Groups:** Our study will target a wide range of experts in preventing and combating human trafficking, as well as representatives from law enforcement agencies and judicial bodies in Romania, but there might be some targeted practitioners who might decline the interview.
- **Temporal Limitations:** Time limitations in terms of data collection might also impact the depth of analysis and prevent a possibly more extensive exploration of the topic.

Nevertheless, we intend to discover from interviews and other research methods employed in this paper the main issues at the EU level, as well as solutions that might be systemically applied to a broader EU context, even though such solutions have been tested at or offered from a regional or national perspective. This book will attempt to employ a mix of constructivist, liberalist, feminist and realist IR theories to fulfil the objectives established.

## Chapter 2.

# Theoretical Framework and Conceptualisation of Cross-Border Cooperation in the Area of Human Trafficking

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### Introduction

This chapter's purpose is to analyse the different concepts in the area of human trafficking and the main IR theories that have led to the development of these main concepts (objective O1).

We will analyse the cooperation in the field of preventing and combating human trafficking (hereinafter, HT) from the perspective of three main IR theories, namely realism, liberalism and constructivism, as well as feminism as a secondary theory and the main types of HT and some of the concepts primarily used in this field.

### 2.1. Cooperation on Human Trafficking within the International Relations Theory

The main focus of this chapter will be the analysis of cooperation in the area of HT at the international and European levels through the lenses of the various theories of international relations (IR theories). We will analyse how *cooperation* in this field has emerged and how it can be perpetuated through the United Nations, Council of Europe, and the European Union, with a closer focus on the leading international legal instruments regulating HT and why states comply with them. We will also try to find out the main ideas, principles, and norms about each IR theory that can sustain cooperation in the long term and help promote compliance with these treaties.

The structure of the analysis will follow three levels—the individual, the state, and the international system levels—for each IR theory to develop a more in-depth perspective on the issue of HT. We will also endeavour to find a confluence between IR theories regarding HT.<sup>1</sup>

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<sup>1</sup> Ana Roldan Oviedo, *Man, the State, and Human Trafficking Rethinking Human Trafficking from Constructivist and Policy Making Perspectives*, <http://web.isanet.org/Web/Conferences/HR2016-NYC/Archive/5d37178d-7c54-4d0f-bc93-be95676ec12b.pdf> (accessed 7 May 2021).

To make our study more specific, we will briefly analyse the context of the most important international and European mechanisms and documents regulating cooperation in the area of HT—first, the Palermo Protocol by the United Nations, the CoE Convention, and subsequently, at a regional level, the *EU Directive*.<sup>2</sup>

The most renowned instruments of international law in the area of preventing and combating HT are the *United Nations Convention against Transnational Organised Crime* and its two related protocols: the *United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children* [hereinafter, *Palermo Protocol*], and the *United Nations Protocol against the Smuggling of Migrants by Land, Sea, and Air*, which entered into force in 2003-2004. These conventions have been created by the United Nations Office on Drugs and Crime (UNODC), which further established the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT) in 2007.<sup>3</sup>

Instruments made to combat HT date back to the abolition of slavery. These instruments include provisions within the *Slavery Convention* (1926) and the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery* (1956). Other instruments of international law that include sections against the trafficking of persons include *The Universal Declaration of Human Rights* (1948), *The International Covenants on Civil and Political Rights* (1966), *The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others* (1949), and *The Convention on the Elimination of all Forms of Discrimination Against Women* (1979). These instruments have been the basic structures from which contemporary conventions on HT have emerged.<sup>4</sup>

Turning our focus from an international level to a more regional level, we will also analyse the European Union and its anti-trafficking instruments. In the last 20 years, the European Union has developed extensive legal and policy instruments strategic documents and resources that address HT at the European level. The Council of Europe and the European Union have drafted the most important of them. Instruments drafted by the Council of Europe are the *Convention for the Protection of Human Rights and Fundamental Freedoms*, better known as the *European Convention on Human Rights (ECHR)*, which entered into force in 1953 with *The Group of Experts on Action against Trafficking in Human*

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<sup>2</sup> *EU Directive*.

<sup>3</sup> Lindsey King, *International Law and Human Trafficking*, in *Human Rights and Human Welfare Journal*, Josef Korbel School of International Studies, University of Denver, 2008, <https://www.du.edu/korbel/hrhw/researchdigest/trafficking/InternationalLaw.pdf> (accessed 05 May 2021)

<sup>4</sup> *Ibidem*.

*Beings (GRETA)* as its independent expert monitoring body, responsible for monitoring the anti-trafficking progress of the Council of Europe's member states; also the CoE Anti-Trafficking Convention<sup>5</sup>, which entered into force in 2008. Most notable instruments drafted by the European Union in this area are *The Treaty on the Functioning of the European Union (TFEU)* (1958), the *Charter of Fundamental Rights of the EU* (2009), *The Stockholm Programme—An Open and Secure Europe Serving and Protecting the Citizens*, adopted by the European Council in 2009, along with its *Action-Oriented Paper (AOP) on Strengthening the EU External Dimension on Action Against Trafficking in Human Beings*, which aims at strengthening the commitment and coordinated action of the EU and its member states to prevent any type of HT.<sup>6</sup>

This legal and policy framework of the Council of Europe and the EU mentioned above is the foundation of the core EU instrument in the area of HT, namely the EU Directive, known by its official name—*Directive 2011/36/EU of the European Parliament and of the Council* of 5 April 2011.<sup>7</sup>

We will start by analysing cooperation in the area of HT from the standpoint of realism, and then we will transition to other IR theories, such as liberalism and constructivism. As the issue of HT is so highly complex and interconnected with multiple fields and areas of society, made even more intricate by its globalised nature, inter-crossing borders and cultures and social statuses, it is imperative to attempt a deeper understanding of this phenomenon by analysing it through the lenses of various IR theories and through multiple disciplines, to seek to find the best solutions and proposals to build and enhance cooperation within the European Union and Member States, with a view to the overall international situation. A 2007 article<sup>8</sup> by Cornelius Friesendorf highlights that HT is an issue that can only be solved within a security governance system, where all macro- and micro-actors need to cooperate efficiently to reach any positive and durable results. According to Friesendorf, there are five governance approaches to which different activities and actors pertain, and all of them should share information and best practices, exchange databases and join efforts according to their specific areas

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<sup>5</sup> *CoE Convention*.

<sup>6</sup> Jonathan Dupont, "The European Anti-Human Trafficking Legal and Policy Framework: The Council of Europe and the EU", in *Acams Today Magazine*, September 4, 2020, <https://www.acamstoday.org/the-european-anti-human-trafficking-legal-and-policy-framework-the-council-of-europe-and-the-eu/> (accessed 5 May 2021).

<sup>7</sup> *EU Directive*.

<sup>8</sup> Cornelius Friesendorf, "Pathologies of Security Governance: Efforts Against Human Trafficking in Europe", in: *Security Dialogue*, vol. 38, no. 3, 2007, pp. 379–402, doi:10.1177/0967010607081518, <https://journals.sagepub.com/doi/abs/10.1177/0967010607081518> (accessed 20 August 2021).

of expertise. The five approaches identified by Friesendorf are legal measures, prosecution, protection, prevention in countries of origin and prevention in countries of destination. There are several actors for each of these approaches, some of which tackle two or more of them simultaneously.<sup>9</sup> The European Union has advocated for a comprehensive approach similar to that presented by Friesendorf; the *EU Anti-Trafficking Strategy for 2021-2025*, as well as the *EU Strategy to Tackle Organised Crime for 2021-2025*,<sup>10</sup> both tackle the issue in a multidisciplinary way, calling for cooperation on all levels and between all actors involved.<sup>11</sup>

### 2.1.1. Realism

Gerald F. Wetherspoon debates in his work *Human Security, IR Theories, and Human Trafficking* (2014)<sup>12</sup> that there is a high level of similarity between the contemporary phenomenon of HT and the colonial conquests of sovereign rulers that exerted control over territories and peoples, and that this similarity is found in domination and coercion, oppression and exploitation aiming for profit.

The IR theory of realism considers that such phenomena are normal, as they originate from the inherently egoistic nature of man, conflicting self-interests and a state of anarchy where no higher sovereign exists, all seen as aspects that cannot be changed. Therefore, realism views domination as a necessary evil for the higher benefit of survival, and from such a point of view, cooperation is not a foundational principle nor an aim to be reached by the international community. Realism's primary focus is not what the world should be but what it is.<sup>13</sup> However, it will be apparent in this study that all cooperation

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<sup>9</sup> *Ibidem*, pp. 379-402.

<sup>10</sup> *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions on the EU Strategy to tackle Organised Crime 2021-2025*, Brussels: European Commission, 14 April 2021, [Online] available at: [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_to\\_tackle\\_organised\\_crime\\_2021-2025\\_com-2021-170-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_to_tackle_organised_crime_2021-2025_com-2021-170-1_en.pdf) (accessed 20 August 2021).

<sup>11</sup> *Trafficking in Human Beings*, European Commission, [Online] available at: [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings_en) (accessed 20 August 2021) [*Trafficking in Human Beings*, European Commission].

<sup>12</sup> Gerald F. Witherspoon, *Human Security, IR Theories, and Human Trafficking*, January 5, 2014, [Online] available at: <https://geraldwitherspoonsr.wordpress.com/2014/01/05/human-security-ir-theories-and-human-trafficking/> (accessed 5 May 2021).

<sup>13</sup> W. Julian Korab-Karpowicz, "Political Realism in International Relations", in: *The Stanford Encyclopedia of Philosophy (Fall 2020 Edition)*, Edward N. Zalta (ed.), [Online] available at: <https://plato.stanford.edu/archives/fall2020/entries/realism-intl-relations/> (accessed 5 May 2021) [hereinafter, "Political Realism in International Relations"].

achieved in the area of anti-trafficking has been done by engaging primarily liberal and constructivist ideas and principles and less the realist theory. Despite this, realism is worth mentioning and analysing in our study, as many of its principles still apply to the overall phenomenon of HT and could help understand the various oppositions and synergies operating in this field.<sup>14</sup>

In this chapter, the concept of HT will be discussed from a realist point of view in three dimensions: the individual, the state, and the international system level.

### **A. The Individual Level**

Realism asserts that conflict and war derive from the imperfect human nature, characterised by the urge to dominate others and the struggle for power between individuals.<sup>15</sup> These, in turn, are incited by the human desire for autonomy, which makes people act inherently selfishly and seek their interests above and beyond everyone else.

Thomas Hobbes (1588–1683), one of the representatives of realism in the seventeenth century, is well known for his work called *The Leviathan*<sup>16</sup>. He stated the idea that humans are inherently individualistic rather than moral or social<sup>17</sup>, which countered the classical view that humans can control their desires by using reason and that they can work for the advantage of others, even when such a decision is not profitable for them. Liberals will later defy this view, as well; John Locke (1632-1704), in his work *An Essay Concerning Human Understanding*<sup>18</sup> (1689) and later John Stuart Mill (1806–1873) in his classical *Utilitarianism*<sup>19</sup> (1861) supported the idea that individuals are led by reason or rationalism, and therefore, human nature has the potential to refine itself and, as a result, create a peaceful and prosperous society. Thomas Hobbes, on the other hand, opposed this belief by also asserting that human nature is subject to a “perpetual and restless desire of power after power, that ceases only in death” (*Leviathan* XI 2), and that determines them to struggle for more and more power. *The Leviathan* came in defiance of the classical view that considered man a moral being, capable of making ethical choices, and stated,

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<sup>14</sup> Gerald F. Witherspoon, *op. cit.*

<sup>15</sup> Arash Heydarian Pashakhanlou, *Comparing and Contrasting Classical Realism and Neorealism, in E-International Relations*, July 23 2009, [Online] available at: <https://www.e-ir.info/2009/07/23/comparing-and-contrasting-classical-realism-and-neo-realism/> (accessed 7 May 2021).

<sup>16</sup> Thomas Hobbes, *Leviathan...*

<sup>17</sup> *Ibidem.*

<sup>18</sup> John Locke and Nidditch, P. H., *An Essay Concerning Human Understanding*, Oxford: Clarendon Press, 1979.

<sup>19</sup> John Stuart Mill, *Utilitarianism*, London: Parker, Son and Bourn, 1863.

in essence, that man will choose what benefits himself rather than what is moral.<sup>20</sup>

This leads us to another essential Hobbesian concept, which is that of the anarchic state of nature, which, in turn, gives rise to a state of war, and “to this war of every man against every man, this also is consequent; that nothing can be Unjust. The notions of Right and Wrong, Justice and Injustice have there no place. Where there is no common Power, there is no Law: where no Law, no Injustice.” (Leviathan XIII 1).<sup>21</sup> In this state of nature, every individual has a right to everything, and any of them may at any time use force to obtain what they want; in such a case, all must be ready, at any moment, to counteract such force with force. The result is that in such a climate, people will swiftly invade one another’s rights to ensure their safety preemptively; seeing anyone as a potential aggressor makes them act first as the aggressor.<sup>22</sup> Consequently, since states are led by individuals, selfish human nature and the anarchic state of nature affect the state level and, hence, the decision-making process.

Realists also see the self-help mindset as a characteristic of human nature, which mainly stems from the conviction that a person cannot trust anybody but himself.<sup>23</sup> Since human nature is seen as inherently self-centred, it is also concluded that self-interest will always prioritise morality. However, classical realism does not deny the need for moral judgment in international politics. What it focuses on, instead, is the need to take into account political realities, as well as political outcomes, with both advantages and disadvantages. In other words, in a situation where a choice needs to be made between commitment to moral judgement and decisions producing advantages, realists would consider the latter more imperative to the state’s welfare.<sup>24</sup> So here, we can see individuals deciding on behalf of the entire state what might be the most profitable course of action for that state. However, realists do not give a clear answer to what or who precisely a state represents: if it represents each and every individual, a particular majority within the entire population of a state, or a specific minority class of high-ranked people, who gets to decide what the interest of the state is.

This question is especially pertinent when deciding on a strategy to fight HT within a state or the international community. The answer to these issues will affect how a specific plan will be defined and the action or lack of action

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<sup>20</sup> Thomas Hobbes, *Leviathan...*

<sup>21</sup> *Ibidem*, p. 98.

<sup>22</sup> W. Julian Korab-Karpowicz, “Political Realism in International Relations”.

<sup>23</sup> Emilie Virgilio, *Sex Trafficking Through IR Paradigms*, September 28, 2014, [Online] available at: <https://gvpt200group5.weebly.com/blog/sex-trafficking-through-ir-paradigms> (accessed 12 May 2021).

<sup>24</sup> Gerald F. Witherspoon, *op. cit.*



to combat HT. If leaders of a state, namely individuals endowed with the authority to make decisions that impact an entire nation or the international community, do not consider that HT is a priority on their agenda, or more precisely said, do not consider this to be in the interest of their state, they will not grant funds for it, nor will they devote other resources to develop a plan to combat it.

Also, according to clauses found in international treaties of human rights<sup>25</sup>, the most notable of which is the Palermo Protocol, the protection of victims of human trafficking (hereinafter, VOTs) is a moral and ethical decision, independent of whether a state has decided this to be a state priority or not. However, the realist view considers that each state is responsible for its own survival, being free to define the state's interests and also to pursue power.<sup>26</sup> Even if state leaders are expected to pursue the interests of their citizens, as well as their security and well-being, the realist theory considers that the interests of state citizens are ultimately what policymakers consider to be durable, necessary, and shared goals within the sovereign state, and they have the right to be amoral in their decisions.<sup>27</sup> According to this view, there are states where leaders consider combating HT a main priority of national security since national security means human security and the security of all individuals within a state. On the other hand, there are states where leaders do not consider HT to be a threat to national security and, consequently, do not allocate much effort or resources to combat it.

The realist view is questionable, as it considers that national security does not necessarily mean human security. Realism even finds war to be a necessary evil when state security is being threatened; therefore, defending the state must be done even with the loss of individual lives. Extrapolating this view to the issue of HT, a situation of warfare that also creates VOTs, either for sexual exploitation, forced labour, or even child soldiers, would be seen as a normal consequence and an inevitable cost worth paying for what is

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<sup>25</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> (Accessed 21 August 2021) [hereinafter, UN General Assembly, *International Covenant on Civil and Political Rights*]; UN General Assembly, *United Nations Convention against Transnational Organized Crime: resolution / adopted by the General Assembly*, 8 January 2001, A/RES/55/25, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> (Accessed 21 August 2021).

<sup>26</sup> Gerald F. Witherspoon, *op. cit.*

<sup>27</sup> Duško Peulić, *Human Trafficking: A Threat to State Security and Human Security*, January 2017, DOI: 10.7251/BPG1701069P, p. 73, [Online] available at: [https://www.researchgate.net/publication/317205202\\_human\\_trafficking\\_a\\_threat\\_to\\_state\\_security\\_and\\_human\\_security](https://www.researchgate.net/publication/317205202_human_trafficking_a_threat_to_state_security_and_human_security) (accessed 12 May 2021).

considered to be a higher purpose: that of protecting the overall security or survival of the state. From a realist point of view, even in the case of a non-warfare situation, as long as HT is not seen as a direct threat to the security or survival of the state, no resources or attention will be allocated to combating it – as resources are scarce, they might be invested in enhancing the military force of that state to prepare for the eventuality of a war. However, the UN Commission on Human Security argues that “human security and state security are mutually reinforcing and dependent on each other”.<sup>28</sup> According to such a declaration, all state leaders and governing organisms should consider the welfare of their citizens and secure their protection from being trafficked, even if this crime does not directly threaten the security or survival of the state itself.

The realist theory can, however, be valid in certain aspects of combating HT. Since traditional realists considered that human nature is the cause of war, meaning that either men were perceived as “evil per se” or as a result of their interaction in society, we can apply this perspective to understand better how to deal with offenders of HT. This view can be seen best in the psychology of the trafficker: a human being selling another human being or profiting from their vulnerability is the “worst side of the human condition – true evil”.<sup>29</sup> What can be retained from this is that traffickers will act for their benefit, mostly without considering morality, and here is where a state or any organisation fighting HT, and even simple citizens, can adopt pre-emptive actions to prevent and combat this phenomenon. The realist view helps us in this case by not thinking and hoping that the situation will change in the future but by actually doing something to deter and avoid it in the present since we already have facts from the past of what can happen when people take advantage of vulnerable people.

### **B. The State Level**

After having analysed the realist concepts regarding the individual, we will continue with analysing the state and its role in the realist perspective, aiming to see which of these concepts can be catalysts or, on the contrary, deterrents of cooperation in the area of combating HT.

First, we will briefly examine the concept of state within the realist theory. Realism views the nation-state as the main actor in international relations, as Mearsheimer exposes in *The Tragedy of Great Power Politics*<sup>30</sup>,

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<sup>28</sup> UN Commission on Human Security, *Human Security Now*, New York, 2003, p.6, [Online] available at: <https://digitallibrary.un.org/record/503749/files/Humansecuritynow.pdf>.

<sup>29</sup> Ana Roldan Oviedo, *op. cit.*

<sup>30</sup> John J. Mearsheimer, *The tragedy of great power politics*, WW Norton, 2014.

Robert O. Keohane in *Neorealism and Its Critics*<sup>31</sup> and Kenneth Waltz in *Theory of International Politics*<sup>32</sup>. While realism does not deny that there are other actors, it considers their power to be limited, be it individuals, international organisations, NGOs or other actors. Moreover, the state is seen as a unitary actor with one voice, especially in times of war. Decision-makers are also seen as rational actors who are bound to make rational decisions based on national interests, having in view one supreme goal: survival in anarchy. At a national level, states have a well-defined government system comprising various organisms, such as police forces, militaries, and courts, that can help in an emergency. On the other hand, there is anarchy at an international level, characterized by the absence of an established hierarchy, which leads states to rely only on themselves.<sup>33</sup> Here, we see another realist concept, that of the anarchic international system, where no higher sovereign rules over states.

In such an anarchic system, war will always be the main threat, as states will act in the same manner as egoistic individuals, namely, constantly seeking their self-interest, which will never be limited to merely living peacefully. Realism assumes that the priority of a state is their survival and the maintenance of the status of sovereignty. Therefore, in a world without higher authority to protect this status, states must rely on themselves to defend it. The actual manner in which they defend it is by seeking power, which allows them to operate in anarchy to detain military power, which, in turn, helps them handle the unpredictability of other states and survive as a state themselves. Of course, seeking power can become a never-ending purpose because once the survival priority is reached, states may be tempted to pursue hegemonic power.<sup>34</sup> Moreover, as we see in Thucydides' masterpiece, *History of the Peloponnesian War*, power triggers the uncontrolled desire for more power if it is unrestrained by moderation and a sense of justice.<sup>35</sup>

In the dialogue between the Athenian envoys and the Melians, we can see some of the most important aspects of the realist theory: fear and mutual distrust between states, the priority of power over justice in international

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<sup>31</sup> Robert O. Keohane, *Neorealism and Its Critics*, New York: Columbia University Press, 1986.

<sup>32</sup> Kenneth N. Waltz, *Theory of International Politics*, Reading, Mass: Addison-Wesley Pub. Co, 1979 [hereinafter, *Theory of International Politics*].

<sup>33</sup> Sandrina Antunes and Isabel Camisão, *Introducing Realism in International Relations Theory*, February 27, 2018, in E-International Relations, p. 1, [Online] available at: <https://www.e-ir.info/2018/02/27/introducing-realism-in-international-relations-theory/> (accessed 5 May 2021).

<sup>34</sup> Donnelly, Jack, *Realism and International Relations*, Cambridge University Press, 2000, pp. 81-106.

<sup>35</sup> W. Julian Korab-Karpowicz, "How International Relations Theorists Can Benefit by Reading Thucydides", in: *The Monist*, Vol. 89, No. 2, 2006, pp. 232-244, *JSTOR*, [www.jstor.org/stable/27903977](http://www.jstor.org/stable/27903977) (accessed 17 May 2021) ["How International Relations Theorists..."].

politics, decision-making based on evidence and prudent calculations, not on idealistic expectations and moral norms being replaced with *raison d'état*, namely state expediency. For the sake of state interests, Athenians considered that in international politics, it is understandable and expected that the strong will always dominate the weak since there is no ruler to impose any law. Even though it cannot be said that Thucydides endorsed such type of aggressive realism, his *History* reflects the strong opposition between realistic and idealistic views. Thucydides' realism resembles that of the twentieth-century Raymond Aron, Reinhold Niebuhr and Hans Morgenthau, who did not deny the necessity of moral judgement in international politics despite placing power and national interests in the highest ranks.<sup>36</sup>

Extrapolating this view to preventing and combating HT, we can benefit from the realist theory by adopting its perspective of pre-emptive action of annihilating criminal activity before it happens. We could say that state officials and other types of workers may, at any point, come into contact with VOTs or traffickers and, therefore, have the right, as well as the responsibility, to adopt an offensive strategy to outmanoeuvre criminal networks and prevent other people from becoming victims. Examples of such strategies involve unexpected police patrols in suspicious areas or homes, bank account checks for tracking criminal financial inflows and outflows, and intensive preventive actions of awareness-raising within society, especially in the most vulnerable areas.

Ascribing to this point of view is another well-known representative of the realist theory, Niccolò Machiavelli (1469-1527), who exposed his view in his work *The Prince* (1532)<sup>37</sup>. The problem with Machiavelli's doctrine of *raison d'état*, especially as regards our subject of collaboration in the area of counter-trafficking, is that as long as there is no common ground referring to what is explicitly good and beneficial for an individual, for civil society, for a state or the international community, the odds are that there will be all types of abuses. According to the Machiavellian perspective, a public authority can decide the course of action for an entire community according to its own internal set of rules and interests, which may or may not benefit the ordinary citizen or another entity. Let us take the instance of a state that is a source territory for VOTs, and let us suppose this state (represented by its state representatives) does not wish to comply with the other states' call for cooperation against HT on the basis that such cooperation would involve assigning funds and resources to an undertaking which is not considered state priority.

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<sup>36</sup> *Ibidem*.

<sup>37</sup> Niccolò Machiavelli and Peter Bondanella, *The Prince*, Oxford: Oxford University Press, 2005.

However, if cooperation in this area is not a priority of national public policies of Romania, or if HT cases will continue to be defined as procuring rather than trafficking cases due to a lack of clarity in both the ethical code and the jurisdiction of Romania, then such cooperation will not be flourishing, or it will be severely hindered. The same argument applies to compliance with international treaties, more specifically, *The Palermo Protocol*<sup>38</sup> and *Directive 2011/36/EU*<sup>39</sup> of the European Union, which is under scrutiny in our analysis. Romania is a signatory of both documents; however, ratification does not automatically mean compliance. This is why Romania has been consecutively on the US's "black list" in the last two years, 2020 and 2021. The question remains as to why a state fails to comply with an international document of which it is a signatory – it might be that, since resources are scarce, they will be assigned only to those purposes and priorities considered essential and urgent for that state. The other question is: who gets to decide the level of importance and emergency of each priority, and on which basis? Therefore, Machiavelli's theory of justified immoral goals and actions cannot be applied to our purpose if we are to see modern slavery abolished. No state priority should be considered too high to eclipse and condone human rights and security, codified and validated by an international community that realists would not consider a valid authority. Nevertheless, this authority still stands.

To further discuss the aspect of Romania's failure to comply with its obligations as a signatory of the Human Trafficking Protocol, we will analyse what „the black list" actually entails. Romania has been on the *Tier 2 Watch List* for 2020-2021, which means it is one of the countries whose governments do not fully observe the *Victims of Trafficking and Violence Protection Act of 2000*<sup>40</sup> minimum standards. It also indicates that the total number of victims of critical forms of trafficking is very high or rising and that there is a lack of evidence of increased efforts to combat HT in the previous year, such as a higher number of investigations, prosecutions and convictions of trafficking cases, more intensive assistance to victims, as well as decreasing evidence of complicity in serious forms of HT from the part of government officials.<sup>41</sup>

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<sup>38</sup> *Palermo Protocol*.

<sup>39</sup> *EU Directive*.

<sup>40</sup> United States of America, *Victims of Trafficking and Violence Protection Act of 2000*, Public Law 106-386 [H.R. 3244], 28 October 2000, (Section 103, para. 4), <https://www.govinfo.gov/content/pkg/PLAW-106publ386/pdf/PLAW-106publ386.pdf> (Accessed on 2 August 2021) [hereinafter, *TVPA*].

<sup>41</sup> "Trafficking", *Know Your Country*, [Online] available at: <https://www.knowyourcountry.com/human-trafficking>, (accessed 21 May 2021).

Returning to our analysis of realism in international relations, we cannot omit the writings of Hegel<sup>42</sup> (1770-1831), whose main intersection with the realist theory was his belief that the state has no higher responsibility than that of preserving itself and that national power is both a nation's right and a duty.<sup>43</sup> These, however, are not his only points reflecting realism. He also stated that "[t]he nation-state is... the absolute power on earth",<sup>44</sup> and this power is expressed through its internal and external sovereignty and autonomy in relation to other states.<sup>45</sup>

Hegel rejects natural law but envisions international law as emanating from the wills of sovereign states<sup>46</sup>. He can be considered a realist, but his theory sees beyond the supremacy of state sovereignty and international anarchy. His vision allows for interdependence among states that leads to mutual recognition, cooperation, and a practical morality created by states, which could define him as a liberal or constructivist. He sees cooperation among states as a system of states where each promotes the interests of all. Still, his theory does not go as far as visualising a global state or an international political community.<sup>47</sup>

Hegel's view of cooperation in the international arena is the nearest to the most recent events in the area of global cooperation. An internationally binding document such as the UN's Palermo Protocol could only come into existence through the cooperation of states who acknowledged their collective interest in combating this phenomenon at the global level and who conceded a part of their sovereignty for agreement and collaboration on an issue that transcends the state level.

Much like Machiavelli, Hans Morgenthau<sup>48</sup> (1904-1980) also believed that society is governed by laws that originate in human nature, but he did

<sup>42</sup> Georg Wilhelm Friedrich Hegel and S. W. Dyde, *Hegel's philosophy of right*, London: George Bell and Sons, 1896; Georg Wilhelm Friedrich Hegel and J. Sibree, *The Philosophy of History*, New York: Dover Publications, 1956; Georg Wilhelm Friedrich Hegel, Arnold V. Miller, J. N. Findlay, and Johannes Hoffmeister, *Phenomenology of Spirit*, Oxford [England]: Clarendon Press, 1979.

<sup>43</sup> W. Julian Korab-Karpowicz, "How International Relations Theorists..."

<sup>44</sup> Hans-Martin Jaeger, "Hegel's reluctant realism and the transnationalisation of civil society", in: *Review of International Studies*, Cambridge University Press, 2002, Vol. 28, No. 3, p. 500, <https://library.fes.de/libalt/journals/swetsfulltext/14058135.pdf>, *apud* Hegel, *Reason in History: A General Introduction to the Philosophy of History*, trans. Robert S. Hartman, Indianapolis: Bobbs Merrill, 1953, p. 15.

<sup>45</sup> *Ibidem*.

<sup>46</sup> Hans-Martin Jaeger, *op.cit.*, *apud* Hegel, *Philosophy of Right*, trans. T.M. Knox, London: Oxford University Press, 1952, pp. 209-340.

<sup>47</sup> *Ibidem*.

<sup>48</sup> Hans J. Morgenthau, *Politics among nations...*; Hans J. Morgenthau, *In Defense of the National Interest: A Critical Examination of American Foreign Policy*, New York: Alfred A. Knopf, 1951.

not uphold the Machiavellian doctrine that anything is justified by reason of state, even if he did believe in the importance of power over morality in issues of state. His background influenced his *Politics Among Nations* (1948), that of a refugee from the Nazis. It was also a fruit of its times, being written in the context of the Cold War, when the USSR was seen as a significant threat to American security and democratic values, and when the balance of power seemed to be a better solution than what liberalism was prescribing.<sup>49</sup> Some of his points of focus were the importance of the national interest over morality in international politics, but not in the sense of renouncing morality altogether, but of choosing the least of the evils, as he explains in another of his works:

“There is no escape from the evil of power, regardless of what one does... Political ethics is indeed the ethics of doing evil. While it condemns politics as the domain of evil par excellence, it must reconcile itself to the enduring presence of evil in all political action. Its last resort, then, is the endeavour to choose, since evil, there must be, among several possible actions, the one that is the least evil.”<sup>50</sup>

Therefore, he believed that evil actions are necessary for politics because of human nature and “the *animus dominandi*, the desire for power”<sup>51</sup>, without rejecting, however, moral judgment in international relations.

According to Morgenthau’s theory, we can identify several evils that states have to battle simultaneously or asynchronously. HT is only one of them, or better said, a result of the total sum of these evils. Some of them are poverty, political instability, civil protests, civil wars, natural disasters, and so on; all of these happen domestically. Therefore, in HT, states have to deal with a multifaceted problem that can only be solved systematically by tackling each of the evils of society to prevent people from becoming potential victims. Apart from the prevention side of this issue, states are also responsible for protecting the identified victims and prosecuting offenders.<sup>52</sup>

Only governments can implement a few solutions at the state level to combat HT. Some of the most important are coordinating policies to help root out criminal networks’ financial operations, revising legislation to clarify the

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<sup>49</sup> Sandrina Antunes and Isabel Camisão, *op. cit.*, p. 2; Robert Jervis, “Hans Morgenthau, Realism, and the Scientific Study of International Politics” in: *Social Research*, Vol. 61, No. 4, 1994, pp. 853–876. JSTOR, [Online] available at: [www.jstor.org/stable/40971063](http://www.jstor.org/stable/40971063) (accessed 19 May 2021).

<sup>50</sup> Robert Jervis, *op.cit.*, *apud* Hans Morgenthau, *Scientific Man versus Power Politics*, University of Chicago Press, Chicago, 1946, pp. 201-2.

<sup>51</sup> *Ibidem*.

<sup>52</sup> Ana Oviedo Roldan, *op. cit.*, p. 7.

issue of HT and applicable punishments, and empowering law enforcement to implement new combating strategies.

### C. The International System Level

Morgenthau's successor, Kenneth Waltz<sup>53</sup> (1924-2013), who was a veteran of World War II and the Korean War, considered that state decision-making and international conflicts do not originate from the inherently egoistic human nature but rather from the structure of the international anarchic system itself. With this theory, he departed from classical realism. He founded the neorealist theory, or "structural realism", in which any state action can be measured by a simple formula: the power and influence of a state compared to those of other states within the international system, an idea closely connected to the zero-sum game.<sup>54</sup>

According to Waltz's explanation of wars, HT occurs because there is no higher authority to prevent it internationally. In other words, no hegemonic power can prevent, prosecute, and protect countries from HT; therefore, each state decides to make its own law and protect its interests.<sup>55</sup>

Contrary to this view, it can be noticed that in the last few decades, the USA has challenged this vision, being more or less a promoter and defender of world order, otherwise called "the world police".<sup>56</sup> This position has been adopted both concerning global conflicts, and HT worldwide, as the USA publishes annually a *Trafficking in Persons Report* where countries are listed according to their level of implication in the fight against HT. The force of this measure lies in the fact that it plays on the reputation of countries, using soft power techniques to pressure governments into complying with international laws on human rights.

In addition to this, presidents of the USA are known to take a stand for human rights worldwide, and as regards combating HT, the administration of George W. Bush can be mentioned here for actively being involved in helping countries fight exploitation, equipping police units, rescuing and restoring victims through various programs, hereby aiming to support his affirmation that absence of societal action is rendered as a moral deficiency. In 2012, President

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<sup>53</sup> Kenneth N. Waltz, *Man, the State, and War: A Theoretical Analysis*, New York: Columbia University Press, 1959; Kenneth N. Waltz, *Theory of International Politics*; Kenneth N. Waltz, *The Spread of Nuclear Weapons: More May Be Better*, London: International Institute for Strategic Studies, 1981.

<sup>54</sup> Sandrina Antunes and Isabel Camisã, *op. cit.*, p. 2.

<sup>55</sup> Ana Oviedo Roldan, *op. cit.*, p. 8.

<sup>56</sup> Sam Lebovic, "Why Is America the World's Police?", in: *Boston Review*, October 19, 2020, [Online] available at: <http://bostonreview.net/politics/sam-lebovic-stephen-wertheim-tomorrow-the-world> (accessed 25 May 2021).



Obama issued an *Executive Order Strengthening Protections Against Trafficking in Persons in Federal Contracts*. And perhaps more than anything else, the USA has been the leading actor in the formation and leadership of the United Nations, which issued one of the most important international law documents for preventing and combating HT worldwide, the Palermo Protocol.<sup>57</sup>

The European Union has also been a strong voice against HT. In 1997, the ministerial conference under the EU presidency adopted the Hague Declaration, which focused on maximising the collaboration of EU Member States in combating the trafficking of women for sexual exploitation.<sup>58</sup> Since then, the European Union has significantly intensified awareness and collaboration in this area.

Considering all the progress made in international collaboration in this field, Hobbes' social contract theory, according to which individuals agree to yield their natural rights to a sovereign in exchange for security, might suggest a further expansion of this contract at the international level. This would mean states agree to yield their sovereignty to a world hegemon to escape international anarchy and insecurity. However, Hobbes does not see this as a solution.<sup>59</sup>

Eliminating anarchy through a world government (not world governance) is still improbable, as sovereignty continues to be a main functioning principle for states. Nevertheless, there have been voices envisioning this possibility, proposing a new version of the UN or another international organisation that can adopt, implement, and enforce international law on HT. Most specifically, this would mean a situation where states accepted a higher authority to rule their domestic affairs and empower it to prosecute state leaders who fail to comply with international requirements concerning HT.<sup>60</sup> Even if we see this in an embryonic state in the Council of Europe, in the influence exerted by the European Court of Human Rights, and in the creation of GRETA, and on a deeper level in the European Union, by the imposition of a Directive concerning the issue of HT, the core of sovereignty still resides within national authorities.<sup>61</sup> What would be needed to secure a

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<sup>57</sup> Duško Peulić, *op. cit.* p. 75.; *Executive Order - Strengthening Protections Against Trafficking In Persons In Federal Contracts*, The White House – President Barack Obama, September 25, 2012, [Online] available at: <https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe>, (accessed 26 May 2021).

<sup>58</sup> *Ibidem*.

<sup>59</sup> W. Julian Korab-Karpowicz, "How International Relations Theorists..."

<sup>60</sup> Gerald F. Witherspoon, *op. cit.*

<sup>61</sup> *Toolkit to Combat Trafficking in Persons*, Global Programme Against Trafficking in Human Beings, 2<sup>nd</sup> Edition, New York: UNODC, 2008, p. 78, [Online] available at: [https://ec.europa.eu/anti-trafficking/toolkit-combat-trafficking-persons\\_en](https://ec.europa.eu/anti-trafficking/toolkit-combat-trafficking-persons_en) (accessed 13 May 2021) [hereinafter, *Toolkit to Combat Trafficking in Persons*, UNODC].

higher level of compliance with EU provisions on HT would be the adoption of a regulation instead of a directive, which is where we would need the realist stance in this field.

Considering all these things, international anarchy has not been dissolved. Many of the realists' assumptions still apply.

#### **D. Negative aspects of the realist theory against cooperation in combating human trafficking**

Realism contributes in many aspects to the better understanding of the overall phenomenon of HT, but when it comes to international cooperation in combating this globalised phenomenon, the realist theory has more drawbacks than advantages. We will further analyse a few reasons why realism does not support cooperation as we know it today.

Firstly, realism views national security as the most important priority of a state, and to protect it, cooperation is not the answer but prudence led by whatever might be the national interest in the international arena at a given point in history. Moreover, any other state is considered a potential rival or adversary, and the wisest form of cooperation is the balance of power, where a few states agree to become allies to counterbalance the power of a rising state seen as a threat to state sovereignty. The problem here is that realism does not equate national security with human security, meaning that HT and other security threats might not qualify to be defined as threats to state security.<sup>62</sup> Also, in the realist theory, the state is considered morally self-sufficient or amoral, not constrained by ethical principles. In view of this, a decision made by a few state representatives to protect VOTs might be repealed by another political resolution to maintain the political advantages brought about by postponing or ignoring the responsibility to protect.<sup>63</sup>

From a realist perspective, HT is not considered an urgent issue, or at least not on the same level as economic or political issues, and it is not seen as a direct threat to national security. Therefore, most states cannot justify allocating considerable resources and funds to a problem that is not an immediate threat.<sup>64</sup>

Secondly, realists consider the state to be the leading international actor. Even if they admit the existence of other actors, such as IGOs, NGOs, INGOs, third sector, civil society and others, they do not consider them noteworthy and fail to recognise that state sovereignty is constricted or expanded by such

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<sup>62</sup> Stephen James, "The Key Drivers of Human Security Discourse and the Challenge to Realism", 2011, in: *Cornell International Affairs Review*, [Online] available at: <http://www.inquiriesjournal.com/a?id=1228> (accessed 13 May 2021).

<sup>63</sup> Gerald F. Witherspoon, *op. cit.*

<sup>64</sup> Emilie Virgilio, *op.cit.*

non-state agents. Even if the term “state” itself does not get to be precisely defined (as to who exactly is the state, the government, the nation or the nation-state?), realists refuse to submit power to non-state actors, which play a crucial role, both nationally and internationally, in fighting HT. For the same reason, one of the most critical problems in this area, especially in Romania, is the lack of state financial support towards NGOs and other actors involved in anti-trafficking.<sup>65</sup> Moreover, realists overlook not only organisations but also individuals. Realism cannot explain the influence of one individual to trigger an international change, as was the case with the Cold War, which was ended by the actions of ordinary citizens in countries dominated by the Soviet Union.<sup>66</sup> The same applies in the fight against HT. Some highly successful NGOs combating HT at the international level were started by one individual or a small team of individuals striving to end slavery.<sup>67</sup>

Thirdly, realists are mainly preoccupied with military defence and warfare, which paradoxically can trigger state insecurity by spending funds on preparation for war while the state economy suffers from deficits. Resources that could be directed to satisfy basic human needs, such as food, housing, and health, are spent on the military, thus triggering poverty, which in turn fuels exploitation and HT.<sup>68</sup>

Finally, another drawback of realism is the proven consequences of the Machiavellian principles (e.g., the idea that exploitation of all available means is justifiable in war and rulers are not to consider morality in decision-making). Europe has seen the effects of this doctrine tear it down in pieces in two World Wars, in the politics of Lebensraum and the Holocaust.<sup>69</sup>

For all these reasons, the realist theory has proven unfavourable to international cooperation in the area of HT. Nevertheless, realist patterns of thinking still need to be applied to understand other aspects of this phenomenon, such as the psyche of traffickers and abusers and the necessity of employing all possible means of deterrence and retaliation against criminal networks.

As we analyse other IR theories further, it will become self-evident that state-centric traditional security approaches have become obsolete, especially in the multi-dimensional problem of counter-trafficking. New security

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<sup>65</sup> Stephen James, *op.cit.*; Emilie Virgilio, *op.cit.*

<sup>66</sup> Sandrina Antunes and Isabel Camisão, *op.cit.*

<sup>67</sup> For example, *A21 organisation*, founded in 2008 by Christine and Nick Caine, currently operating in 19 countries across the globe and six continents: Europe, North America, South America, Africa, Asia, Australia. [Online] available at: <https://www.a21.org/content/get-to-know-us/grd33s> (accessed 26 May 2021).

<sup>68</sup> Stephen James, *op.cit.*

<sup>69</sup> W. Julian Korab-Karpowicz, “How International Relations Theorists...”

perspectives should be considered, as the state can no longer be the sole or principal actor of the security debate in the area of HT, even if it should not be neglected either.<sup>70</sup>

### 2.1.2. Liberalism

In contrast to the realist theory, liberalism has fundamentally different ideas about the world and how states interact. Not only that, but liberal theory views the nature of the individual and the purpose of the state as significantly different from what realists do. If a realist is convinced that the nature of man is inherently self-centred and self-seeking, a liberal considers that the inherent nature of man is good and well-intended and can be perfected throughout his life. On a state level, as well, liberals fight to restrict the state's power for the benefit of individual citizens. On an international level, they dismiss the realist view that states should be self-sufficient and self-interested and strive for cooperation between states through international institutions and agreements. Therefore, we can see that on an individual, state and international level, liberal theory differs significantly from the realist theory. We will analyse each of these levels separately, and we will seek to understand which of the principles and perspectives of the liberal theory can help enhance cooperation in the area of preventing and combating HT and which ones are detrimental to such cooperation, if any. We will also analyse the impact of liberal theory on other aspects of the phenomenon of HT at large.

Liberal theory has a few essential concepts, such as freedom, authority, autonomy and equality, and these concepts are interpreted in line with theories expressed by famous liberal thinkers, such as Locke<sup>71</sup>, Kant<sup>72</sup>, Rousseau<sup>73</sup>, Mill<sup>74</sup>, Rawls<sup>75</sup> and Leo Strauss<sup>76</sup>. From the common heritage of

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<sup>70</sup> Ana Roldan Oviedo, *op. cit.*

<sup>71</sup> John Locke and Peter Laslett, *Two Treatises of Government*, Cambridge [England]: Cambridge University Press, 1988; John Locke and John W. Yolton, *An Essay Concerning Human Understanding*, London: Dent, 1993.

<sup>72</sup> Immanuel Kant, *Perpetual Peace. A Philosophical Essay*, 1795. London: S. Sonnenschein, 1903; Immanuel Kant, "Idea for a Universal History with a Cosmopolitan Aim", in: *Anthropology, History, and Education*, Cambridge University Press, 2007.

<sup>73</sup> Jean-Jacques Rousseau and Charles Frankel, *The Social Contract*, New York: Hafner Publishing Co, 1947.

<sup>74</sup> John Stuart Mill, *On Liberty*, London: John W. Parker and Son, West Strand, 1859.

<sup>75</sup> John Rawls, *A Theory of Justice*, Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1971; John Rawls, *Political Liberalism*, New York: Columbia University Press, 2005; Rawls, John, *The Law of Peoples: With, the Idea of Public Reason Revisited*, 1999.

<sup>76</sup> Leo Strauss, *The Political Philosophy of Hobbes: Its Basis and its Genesis*, Trans. Elsa M. Sinclair. Chicago: University of Chicago Press, 1952; Leo Strauss, *Natural Right and History*, Chicago:

these theorists, liberalism has come to signify the guarantee of individual rights and freedoms, protected by a constitutional government chosen by the people and subject to mechanisms of restraint and monitorisation. Not only so, but liberalism also militates for a minimal state, where power is divided so it cannot be abused, a state that represents the interests of its citizens not only domestically but also internationally by the signing of agreements and joining institutions whose purpose is to eliminate conflict and war and perpetuate peace. Compared to realism, which considers anarchy and war to be the normal state of nature where states are bound to live, liberalism believes that war can be eliminated, and, to this end, it considers that a certain degree of state sovereignty is worthy of being ceded to strive for cooperation and common goals.<sup>77</sup>

Another significant difference in perspective between the two IR theories is that realism views decision-making based on relative gains, while liberalism focuses on absolute gains. *Relative gains* mean states decide based on who will gain more in the international arena, comparing themselves with other states. They will, therefore, refuse to cooperate if they expect to gain less than their competitors. *On the other hand, absolute gains* mean that states decide based on what will gain them more, irrespective of what other states gain or whether they gain more or less than their rivals. Absolute gains point to a general welfare increase for all actors involved – everybody profits to some degree, though not necessarily equally. In other words, liberalism does not believe in the *zero-sum game*, where if one actor gains something, the others lose something. Instead, liberalism aims at the mutual benefits that all players can get through the concurrence of strategic and economic interests—liberalism also champions free trade and capitalism. Today's world is witnessing proof that a state that can trade efficiently in the international arena can become more powerful than one that resorts to militarism and warfare with other states.<sup>78</sup>

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University of Chicago Press, 1953; Leo Strauss, *Thoughts on Machiavelli*, Chicago: University of Chicago Press, 1958; Strauss, Leo, *The City and Man*, Chicago: University of Chicago Press, 1964; Leo Strauss, *On Tyranny: Revised and Expanded Edition*, Victor Gourevitch & Michael S. Roth, Eds. Chicago: University of Chicago Press, 2000.

<sup>77</sup> Duncan Bell, "What Is Liberalism?", in: *Political Theory*, vol. 42, no. 6, 2014, p. 702, JSTOR, [Online] accessible at: [www.jstor.org/stable/24571524](http://www.jstor.org/stable/24571524) (accessed 25 May 2021).

<sup>78</sup> Scott Burchill, "Liberalism", in: Scott Burchill, *et al.*, *Theories of International Relations*, Third Edition, New York: Palgrave Macmillan, 2005, p. 65, [Online] available at: <http://lib.jnu.ac.in/sites/default/files/ReferenceFile/Theories-of-IR.pdf>; Jeffrey W. Meiser, "Liberalism", in: Stephen Mcglinchey, *International Relations Theory*, Bristol: International Relations Publishing, 2017, p. 25, [Online] available at: <https://www.e-ir.info/publication/international-relations-theory/> (accessed 27 May 2021).

### A. The Individual Level

One illustrative figure in the history of liberal thought was Immanuel Kant (1724-1804), a German philosopher and one of the prominent Enlightenment thinkers. His primary focus in his three Critiques: *The Critique of Pure Reason* (1781, 1787), *The Critique of Practical Reason* (1788), and *The Critique of the Power of Judgment* (1790) – is the individual and his inalienable autonomy.<sup>79</sup> In contrast with realist thinkers, who believed that man is inherently selfish, Kant considered that a proper understanding of morality would secure peaceful relations between individuals and states. His ethics highlights the concept of *autonomy*, which he defines as the capacity to make moral decisions without undue concern for an external authority or internal dispositions. Another concept central to his writings is that of *dignity*, namely the unconditional, invaluable, and incomparable value that not only differentiates a person from an object but also gives each person an equal moral value to any other person.<sup>80</sup> As a consequence of these concepts that elevated both the inalienable rights and responsibilities of individuals, Kant envisioned a world where perpetual peace was possible, based on a network of republican forms of government where leaders were accountable and human rights were respected; war, in such context, would be difficult to imagine, since the ultimate approval for war would depend on the citizens of the state, not on the ruling elites.<sup>81</sup>

The idea of universal human rights originates in the tradition of Natural Law and in the disputes over the “rights of man” that characterised the Age of Enlightenment and the struggles of individuals against the despotic rule of the state. However, the concept of human rights as consecrated today and its evolution from disputes and struggles against state authority to acknowledged international law has been secured through several victories over time. It is well-known that Western culture has evolved from the Greek-Roman heritage and the Judeo-Christian tradition, which has had a significant role in state constitutions and international agreements on human rights. However, more recent developments in the area of what could be considered the infant stage of international law were the *Magna Carta* in 1215, the *English Common Law* and the *Bill of Rights* in 1689, as well as the concept of the law of nations

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<sup>79</sup> Michael Rohlf, “Immanuel Kant”, in: *The Stanford Encyclopedia of Philosophy* (Fall 2020 Edition), Edward N. Zalta (ed.), [Online] available at: <https://plato.stanford.edu/archives/fall2020/entries/kant/>, (accessed 07 June 2021).

<sup>80</sup> Mark D. White, “Defending Kant’s Classical Liberalism”, in: *Cato Unbound, A Journal of Debate*, October 10, 2016, [Online] available at: <https://www.cato-unbound.org/2016/10/10/mark-d-white/defending-kants-classical-liberalism>, (accessed 07 June 2021).

<sup>81</sup> Scott Burchill, *op. cit.*, p. 59, *apud* Immanuel Kant, *Kant’s Political Writings*, ed. H. Reiss, trans H. Nisbet, Cambridge, 1970, p. 100.

developed by Grotius, Rousseau's social contract and Locke's concepts of popular consent and the limits of sovereignty. A step further, the *American Declaration of Independence* in 1776 clearly expressed the inherent, inalienable and universal nature of human rights: "We take these truths to be self-evident, that all men are created equal, and that they are endowed by their Creator with certain unalienable Rights, that amongst these are Life, Liberty and the pursuit of Happiness".<sup>82</sup> The same idea was reiterated by France in the *Declaration of the Rights of Man and the Citizen* in 1789: "All men are born free and equal in their rights".<sup>83</sup>

Consequently, liberal thinkers throughout history have firmly believed that the appropriate use of human reason, the ability of human beings to change and perfect their character, and the respect for human rights constitute the solution that can eradicate war and ultimately bring world peace.

### **B. The State Level**

The fundamental premise that liberals use as a springboard to conclude that war can be eliminated is rooted in a deep sense of morality that considers that rules of ethics are valid for states like they are valid for individuals. Therefore, if it is unlawful and reprehensible for individuals to participate in socially inadmissible and criminal behaviour, then, by extension, it is also unlawful and reprehensible for states. The application of this concept is reflected in the "positive obligation of states to exercise due diligence" in addressing suspicions of human trafficking. Under international human rights law, this obligation requires states to take proactive measures, similar to the responsibility imposed on individuals, to notify state authorities immediately when there is reasonable suspicion of potential human trafficking (see *Section 3.1.3. Comparison between the Palermo Protocol and the CoE Convention*).

This liberal system was put in place for the ultimate goal of ensuring the rights of the individual to life, freedom and property. A radical difference can be seen here between the realist and the liberal theory, with the first one considering the state as the most important actor, while the latter considers the individual to be the reason for the state's existence, as well as its ultimate beneficiary. Liberal theory places the highest value on the welfare and prosperity of individuals, irrespective of their background, gender, age, social status or any other aspect. It considers this the cornerstone of an equitable

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<sup>82</sup> *Declaration of Independence: A Transcription*, National Archives, [Online] available at: <https://www.archives.gov/founding-docs/declaration-transcript>, (accessed 07 June 2021).

<sup>83</sup> *The Declaration of the Rights of Man and of the Citizen*, Élysée, [Online] available at: <https://www.elysee.fr/en/french-presidency/the-declaration-of-the-rights-of-man-and-of-the-citizen>, (accessed 07 June 2021).

political system, which is, by definition, a liberal democracy. On the other side of the spectrum, a monarchy or a dictatorship would be seen as a form of government that is prone to abusing the rights of the ordinary individual since there is no leverage to check power. Therefore, liberals argue that the life and liberty of a citizen are not guaranteed to be protected in a nondemocratic state. The solution to bring about a liberal restructuring of the whole world would be, in such a case, to help build democratic political orders across the globe and establish international institutions that aim to safeguard individual rights and freedoms.<sup>84</sup>

This premise is contradicted by several modern academics studying the correlation between liberal policies and HT. Peksen, for example, argues that reduced governmental control equals reduced social spending, which also implies the cutback or elimination of economic and social safety nets. Such neoliberal reforms, even if able to produce economic growth, also give rise to unemployment and a higher cost of public services, which, in turn, leave unemployed workers vulnerable to labour trafficking. Peksen's second argument against liberal policies is that they are inefficient in implementing anti-trafficking policies, as such policies would require a high degree of state investment and, consequently, more prerogatives and power to interfere in private spheres to discover and neutralise criminal networks.<sup>85</sup> Campbell also advocates for a higher degree of state interference in the economic sector, thus proposing reforming the liberal theory that calls for noninterventionism. He concludes that states "have a vital role to play in ending trafficking and worst forms of child labour", which means that limited state prerogatives imply a reduced state capability of implementing anti-trafficking policies.<sup>86</sup>

In a comparative study on IR theories, Jack Lewis Snyder, a contemporary American political scientist, argues that liberalism must still learn from realist views while attempting to apply its blueprint across continents and cultures. He discusses the idea that countries transitioning to democracy because of their weak political institutions are more likely than other states to get involved in international and civil wars.<sup>87</sup>

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<sup>84</sup> Jeffrey W. Meiser, *op. cit.*, p. 22.

<sup>85</sup> Dursun Peksen, Shannon Lindsay Blanton and Robert G. Blanton, "Neoliberal Policies and Human Trafficking for Labor: Free Markets, Unfree Workers?", in: *Political Research Quarterly*, Vol. 70, Issue 3, University of Utah, 2017, pp. 673–686, DOI:10.1177/1065912917710339.

<sup>86</sup> Brian Campbell, "The Cocoa Protocol: Success or Failure?", in: *International Labour Rights Forum*, June 30, 2008, [Online] available at: <https://laborrights.org/sites/default/files/publications-and-resources/Cocoa%20Protocol%20Success%20or%20Failure%20June%202008.pdf> (accessed 14 June 2021).

<sup>87</sup> Jack Snyder, "One World, Rival Theories", in: *Foreign Policy*, November-December 2004, pp. 57-58, [Online] available at: [www.foreignpolicy.com](http://www.foreignpolicy.com) (accessed 04.06.2021).



However, this is just one of the reasons why the liberal theory cannot be sanctioned as the highest form of political system. Contemporary history has proven that liberalism might not be able to stand the test of time nor be adopted willingly by all cultures around the world. Since the liberal state as we know it today has a relatively short history and, even though it has brought along several freedoms and a high level of prosperity for a large percentage of the population, it still has not found viable solutions to solve some of the most severe issues of humanity, some of which are ethnic conflicts, racism, poverty, and HT. On the contrary, it might seem that as for HT, the subject of our analysis, this phenomenon is not less prevalent in Western democratic countries than it is in Eastern non-democratic states. The question then stems forth as to whether liberals were right to assume that human nature is essentially good and can be improved upon or if it was rather realists who rightfully understood human nature as inherently egoistic and self-indulgent. The answer might be somewhere in between the two perspectives.

With recent events in the United States and Europe, two of the most representative examples of liberal democracy, a wave of anti-liberalism has emerged, pointing out that the root of racism, social unrest, and decadent morals can be found in liberalism's social doctrines, especially secularism and individual rights. Notably, after 2016, the liberal world was taken by surprise by Brexit and Trump politics, giving rise to an illiberal right-wing populism that has emerged to challenge liberal hegemony. In a recent post in an online political journal, Zack Beauchamp analyses the failures of liberalism, from the Great Recession to the Eurozone crisis and the rise of Trump and right-wing extremists. He concludes that liberal ideas are to be blamed for the collapse of American communities and the deterioration of morals.<sup>88</sup> This is rather a radical view, but it still serves, as an illustration to prove that Fukuyama<sup>89</sup> was not absolutely right to assume that liberalism is the ultimate destination for any civilisation.

Another pillar of liberal thought is an open global market, where goods and services can be exchanged without restriction across national boundaries. Liberals advocate for free trade across the globe, which, in their view, has the potential to connect individuals from various cultures, maximise economic prosperity and create an international network between multiple actors that ultimately leads to cooperation. They claim that only competition within the context of capitalism can help promote the most effective use of resources,

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<sup>88</sup> Zack Beauchamp, "The anti-liberal moment", in: *Vox Media*, September 9, 2019, [Online] available at: <https://www.vox.com/policy-and-politics/2019/9/9/20750160/liberalism-trump-putin-socialism-reactionary>, (accessed 08 June 2021).

<sup>89</sup> Francis Fukuyama, *The End of History and the Last Man*, London, 1992.

people and capital. Therefore, “protectionism” is seen as the rival of the kind of prosperity that only free trade can generate. The foundation of this theory is the concept of “comparative advantage”, by which national self-sufficiency, or autarky, is dismantled, and states are encouraged to specialise in goods and services that can be produced within their territory with the highest level of profitability. Then, they can trade their goods in exchange for what other states produce more cheaply elsewhere. In other words, one state’s self-interest represents all states’ general interests.<sup>90</sup>

Based on the same principle, democratic states strive for collaboration via international institutions. Robert O. Keohane and Joseph Nye, both American political scientists and co-founders of the IR theory of neoliberalism, have explained how states can expand their interpretation of self-interest to accommodate cooperation. Their willingness to comply with the regulations of international organisations has a double effect: it discourages the inflexible pursuit of national interests and diminishes the power and attraction of state sovereignty, both of which would be considered devastating by realists but not by liberals, who see such “sacrifices” worth making for the higher purpose of world peace and more effective achievement of common goals.<sup>91</sup>

Perhaps the most unacceptable of the two compromises in the realist view would be the partial surrender of sovereignty. Realist theorists would argue that despite globalisation and the emergence of global governance, the state still occupies a central role in the domestic, as well as the international arena, by that it retains the most important powers, including exclusive control over weapons of war and their legitimate use, the exclusive authority to tax its citizens and the exclusive prerogative and power to constrain the entire nation to compliance with international law.<sup>92</sup> This is where a range of authors agree in the area of counter-trafficking, along with Peksen, that the state is the most appropriate actor, both at domestic and international levels, to implement anti-trafficking policies and impose compliance with anti-trafficking protocols.<sup>93</sup>

### C. The International Level

Kenneth Waltz (1924 – 2013), one of the founders of neorealism, critically analysed, in an essay, some of the foundational principles of liberalism laid out by Immanuel Kant, calling them “false optimism”. He

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<sup>90</sup> Scott Burchill, *op. cit.*, pp. 73

<sup>91</sup> *Ibidem*, p. 64, *apud* Robert O. Keohane and Joseph Nye (eds), *Power and Interdependence: World Politics in Transition*, Boston, 1977.

<sup>92</sup> Scott Burchill, *op. cit.*, p. 82.

<sup>93</sup> Dursun Peksen, *et al.*, *op. cit.*

doubted Kant's premise that the solution to eradicate war and the insecurity of the international system was to build "a system of international right founded upon public laws conjoined with power, to which every State must submit according to the analogy of the civil or political right of individuals in any one State."<sup>94</sup>

However, the creation of the League of Nations and, consequently, that of the United Nations has demonstrated, at least partially, that Waltz's scepticism was wrong. After the end of the First World War, U.S. President Woodrow Wilson imposed Europeans, in his famous *14 Points*, a new system of solving international disputes, in stark contradiction to what they had been accustomed to for centuries. He replaced the realist concept of "balance of power" that had conducted European foreign affairs for centuries with the liberal concepts of "ethnic self-determination", "collective security", and "open agreements, openly arrived at". In his *Diplomacy* (1998), Henry Kissinger brilliantly contrasts realist and liberal thinking in a comparative analysis of the two American leaders: Theodore Roosevelt and Woodrow Wilson. While Roosevelt embodied the typical Machiavellian leader, "the warrior ruler", Wilson was "the prophet-priest" who believed that America had the moral responsibility to fight for peace by promoting the spread of democratic institutions worldwide.<sup>95</sup> The League of Nations was the fruit of his principles. Even if the League did not succeed in avoiding the outbreak of the Second World War, its successor, the United Nations, was a redefinition of the League, striving to build a world based on democratic principles and uphold the collective security system.

The reason why liberal ideas are essential to our paper is that international agreements and organisations dedicated to the prevention and combat of HT have been initiated on the same ground as the League of Nations. According to the same consideration – that global peace and prosperity would be achieved by uniting states in an international organisation with the aim of reaching common goals for the benefit of all – was the *Palermo Protocol* also adopted – to join states in a collective arrangement to prevent, suppress and punish trafficking in persons worldwide, with the assistance and collaboration of all signatories.

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<sup>94</sup> Kenneth N. Waltz, "Kant, Liberalism, and War", in: *The American Political Science Review*, vol. 56, no. 2, 1962, pp. 337, *JSTOR*, doi:10.1177/0090591714535103, [Online] available at: [www.jstor.org/stable/1952369](http://www.jstor.org/stable/1952369), (accessed 7 June 2021), *apud* Immanuel Kant, "Principle of Progress," p. 65. Cf. "Eternal Peace," pp. 122-123;

<sup>95</sup> Henry Kissinger, *Diplomacy*, Simon and Schuster Rockefeller Center, 1994, pp. 28-29.

In fact, Krasner's definition of international organisations, which he defines as "principles, norms, rules and decision-making procedures around which actor expectations converge in a given issue-area," illustrates our point.<sup>96</sup>

Based on this concept of collaboration, liberals have developed the theory of neoliberal institutionalism. Although it starts from the same premises of neorealism—namely, the importance of the state and the anarchical condition of the international system, as well as the fact that states make decisions based on their interests—neoliberal institutionalism nevertheless has a more optimistic perspective on cooperation.<sup>97</sup> Even if institutions are the creation of states pursuing specific interests, it is more beneficial to channel such interests through international institutions, as opposed to the more dangerous alternative of each state acting autonomously to accomplish those interests. This reasoning is inspired by the concept of social contract, according to which individuals, motivated by their self-interest, deliberately transfer a part of their freedom of action to gain results they could not reach in the state of nature. Similarly, states are willing to deliberately transfer a part of their sovereignty in the context of international institutions to reduce the governance costs collateral to autonomous decision-making. Therefore, since prospects for cooperation are plenty and states can use rational choices and the game theory to predict the actions of other states, international order is achievable even without a hegemon to enforce compliance with international law and protocols. In such circumstances, the insecurity created by anarchy would be mitigated by institutional cooperation that would encourage states to comply and sanction others who fail or refuse to adhere to norms.<sup>98</sup>

The Palermo Protocol, a human rights instrument that facilitates cooperation between states to combat organised crime, functions on the same hypothesis. The responsibilities of states who ratified the Protocol are to enhance their border controls and cooperate with their police enforcement to intercept, punish and prosecute traffickers. Even if there is no official authority or

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<sup>96</sup> Arthur A. Stein, "Neoliberal Institutionalism", in: Christian Reus-Smit and Duncan Snidal (eds.), *The Oxford Handbook of International Relations*, September 2009, p. 202, *apud* Krasner, S. D., "Structural causes and regime consequences: regimes as intervening variables", in: *International Organization*, 1982, Vol. 36, p. 185, DOI: 10.1093/oxfordhb/9780199219322.003.0011 (accessed 27 May 2021).

<sup>97</sup> Alexander Whyte, "Neorealism and Neoliberal Institutionalism: Born of the Same Approach?", in: *E-Intrenational Relations*, June 11, 2012, [Online] available at: <https://www.e-ir.info/2012/06/11/neorealism-and-neoliberal-institutionalism-born-of-the-same-approach/>, (accessed 10 June 2021).

<sup>98</sup> Arthur A. Stein, *op. cit.*, p. 210; Scott Burchill, *op. cit.*, pp. 64-66

instrument to punish defectors, non-compliance with the *Palermo Protocol* is not without consequences. For instance, the Trafficking in Persons Report presented by the United States annually penalises those governments ranked as Tier 3 or 2 by withholding or withdrawing nonhumanitarian or non-trade-related foreign assistance. Correspondingly, states that comply with the protocol are financially and non-financially incentivised to continue to do so.<sup>99</sup>

Further explaining the foundational concepts of neoliberal institutionalism, contemporary political scientist G. John Ikenberry<sup>100</sup> studied methods to establish international order after conflicts and highlighted that even the most potent hegemon needs to collaborate with the defeated or weaker states by providing a mutually advantageous peace arrangement if they aim for a durable peace. Such an arrangement would be an international constitutional order, as the Bretton Woods system after World War II and democratic states would be the best examples to create such an order because their belief system would make such an arrangement dependable. Consonant with the democratic peace theory, neoliberal institutionalism is based on the core liberal-democratic beliefs, such as human rights guaranteed constitutionally, the rule of law and equality before the law, individual freedom and political freedom, justice, global economic networks created by market capitalism, peace and collaboration promoted by international organisations aiming for the welfare of humanity, all of which are to be spread globally through globalisation.<sup>101</sup>

These core beliefs are promoted by three main instruments that represent the pillars of liberalism. The first instrument is international law and agreements, regulated by international organisations, such as the United Nations, which bases its legitimacy on shared goals (such as combating HT, for instance) and on the consent of signatories to act upon these goals on behalf of them all. A second instrument is free trade and capitalism, used by powerful liberal nations and international organisations, such as the World Trade Organisation, the International Monetary Fund, and the World Bank, to establish an international economic system based on an open global market. This would, in turn, create a network of peaceful relations worldwide since all nations would strive to keep peace to maintain and boost trade benefits. The

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<sup>99</sup> Savanne Estourgie, *The fight against Human Trafficking. Why do countries ratify, but not all comply with the Palermo Protocol?*, Radboud University Nijmegen, March 2016, p. 3, [Online] available at: [https://theses.ubn.ru.nl/bitstream/handle/123456789/1710/Estourgie%2C\\_Savanna\\_1.pdf?sequence=1](https://theses.ubn.ru.nl/bitstream/handle/123456789/1710/Estourgie%2C_Savanna_1.pdf?sequence=1), (accessed 25 May 2021).

<sup>100</sup> Ikenberry, John G, "After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major Wars", Princeton University Press, 2001.

<sup>101</sup> *Ibidem*.

third instrument of liberal international order is international norms, by which the whole system is held in place, and this brings us back to the first instrument. Norms protect international laws comprising human rights, democracy, the rule of law, and international cooperation. When states fail to comply with these norms, they can suffer various costs, as previously mentioned.<sup>102</sup> In more serious cases, such as a war of aggression prohibited under international law, states can either individually or as part of a collective body, such as the UN, impose economic sanctions or step militarily against the offending state. Moreover, the aggressor might also lose the benefits of peace, such as the proceeds from international commerce, foreign aid and diplomatic recognition.<sup>103</sup>

Compliance with international norms is a sensitive issue for liberals, who are divided between interventionists, those who justify the intervention of an international organisation in the internal affairs of a state for the higher purpose of promoting ethical principles, and non-interventionists, those who consider the preservation of state sovereignty to be supreme. Perhaps nowhere in the world, as noted by Arthur A. Stein and Scott Burchill, is the decline of sovereignty more evident than in Europe, where member states have accepted unprecedented levels of involvement by the Union in their domestic affairs based on the principle of subsidiarity.<sup>104</sup>

This situation is also apparent in anti-trafficking, where the main legal and policy document, the *EU Directive*, prescribes the main goal for all states (except for Denmark) to combat HT and protect its victims, but without imposing the means to achieve it. However, the EU has established a monitoring and reporting mechanism to increase compliance with the Directive. To this end, the EU requires European member states to set up national rapporteurs or equivalent mechanisms (NREMs) responsible for monitoring the implementation of anti-trafficking policy at the national level, and these, in turn, have the responsibility to report to the EU Anti-Trafficking Coordinator (EU ATC). Finally, the EU ATC prepares the European Commission's progress reports, following bi-annual meetings with the NREMs and civil society, which highlight the progress made in anti-trafficking and propose key issues that EU member states need to address as a priority. In this case, ensuring compliance with the *EU Anti-trafficking Directive* requires a certain level of intrusiveness in state affairs, which might be considered a soft type of interventionism.<sup>105</sup>

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<sup>102</sup> Jack Snyder, *op. cit.*, pp. 56-59; Jeffrey W. Meiser, *op. cit.*, pp. 24-25.

<sup>103</sup> Jeffrey W. Meiser, *op. cit.*, pp. 23-24.

<sup>104</sup> Arthur A. Stein, *op. cit.*, p. 217; Scott Burchill, *op. cit.*, pp. 69-70.

<sup>105</sup> Jonathan Dupont, *op. cit.*

We live in an international system designed by the liberal world order after the Second World War (1939-1945). Most of the international laws, agreements, institutions, and norms of this world order are based on liberal principles.

After the First World War, as the League of Nations was created, the IR theories focused on international organisations. However, the failure of the League to block aggression in the 1930s and the outbreak of the Second World War changed the emphasis from liberal theories to a more realist approach centred on power and war. Despite this shift of focus, the end of the Second World War brought along even more intense endeavours to build international organisations. Thus, the United Nations Organisation, the World Bank, the IMF, and others were created. Furthermore, the project of European unification was initiated on the continent that had been the starting point of the two World Wars, and European states were shifting their focus from the balance of power to the process of European integration and the development of the European Economic Community, based on their shared interest in trade as an incentive to build peace. From that moment on, the focus of international relations, at least in the Western world, has been to escalate interdependence between states and create and improve international organisations in all areas where the international community might have a common interest.<sup>106</sup>

Some of the most important international legal codes and institutions were created after the Second World War. Some of the legal codes are the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966) etc. As for institutions, aside from the UN and EU, other organisations emerged in various fields, especially in the area of economics, justice and security: the International Labour Organisation (ILO), the International Court of Justice (ICJ), the Nuclear Non-Proliferation Treaty (NPT), the International Atomic Energy Agency (IAEA), the Trade-Related Aspects of Intellectual Property Rights (TRIPS), the Missile Technology Control Regime (MTCR), the Shanghai Cooperation Organization (SCO), the Association of Southeast Asian Nations (ASEAN), the Organization of the Petroleum Exporting Countries (OPEC), the Asia-Pacific Economic Cooperation (APEC), the North Atlantic Treaty Organization (NATO), the Gulf Cooperation Council (GCC), and so on.<sup>107</sup>

In combating HT, the United Nations and the European Union have taken the majority of initiatives on the international level so far. The most

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<sup>106</sup> Arthur A. Stein, *op. cit.*, pp. 203-204; Scott Burchill, *op. cit.*, p. 64.

<sup>107</sup> Arthur A. Stein, *op. cit.*, p. 202.

important organisations and agencies, founded either by the UN or the EU, with responsibilities in this area are the International Labour Organisation (ILO), created in 1919 as part of the Treaty of Versailles that put an end to the First World War; later, in 1946, the ILO became a specialised agency of the United Nations.<sup>108</sup> Then, in 1951, to help resettle persons displaced during the Second World War, the International Organisation for Migration (IOM) was established as the Intergovernmental Committee for European Migration (ICEM); IOM is now the leading inter-governmental organisation in the field of migration and works closely with governmental, intergovernmental and non-governmental partners. As of September 2016, IOM became affiliated with the United Nations.<sup>109</sup> The Organization for Security and Co-operation in Europe (OSCE), the world's largest security-oriented intergovernmental organisation, also plays a vital role in combating HT. It was founded in 1975 at the Conference on Security and Co-operation in Europe (CSCE) held in Helsinki, Finland.<sup>110</sup> Then, in 1997, the United Nations Office on Drugs and Crime (UNODC) was established by joining the United Nations International Drug Control Program (UNDCP) and the Crime Prevention and Criminal Justice Division in the United Nations Office at Vienna. All these organisations have added various responsibilities to their central objectives in preventing and combating HT.<sup>111</sup>

After the Second World War and especially in the post-Cold War period, free trade agreements and organisations emerged, as well. The North American Free Trade Agreement (NAFTA), Asia Pacific Economic Cooperation (APEC), and the growing influence of international organisations such as the G8, the International Monetary Fund (IMF) and the World Bank are proof of the widespread impact of neoliberal principles and policies. Neoliberals consider these powerful transnational bodies the only solution for developing countries to overcome poverty and improve their economies. Critics, however, see such organisations, for example, NAFTA and WTO, as impostors trying to profit from the lack of opportunities and the severe hardships these states suffer from by luring them into agreements (or debts) which force them to renounce their protectionist policies and adopt the liberal model imposed by the developed countries. The IMF and the World Bank, on the other hand, provide finance (or, more precisely, “debt”) to developing states provided that they unilaterally

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<sup>108</sup> ILO: *International Labour Organization*, [Online] available at: <https://www.un.org/youthenvoy/2013/08/iilo-international-labour-organization/> (accessed 10 June 2021).

<sup>109</sup> *What is the OSCE*, [Online] available at: <https://www.osce.org/whatistheosce> (accessed 10 June 2021).

<sup>110</sup> “About IOM”, IOM, [Online] available at: <https://iom.by/en/about-iom> (accessed 10 June 2021).

<sup>111</sup> *The United Nations Office on Drugs and Crime (UNODC)*, [Online] available at: <https://www.unodc.org/unodc/en/unodc.html> (accessed 10 June 2021).



accept the free market regulations for their economies – the so-called “structural adjustment policies (SAPs).<sup>112</sup>

John Stuart Mill<sup>113</sup> (1806-1873), a political economist and one of the most influential thinkers of classical liberalism, considered free trade the perfect instrument to end war. He envisaged unrestricted and unparalleled prosperity on the background of the spread of markets and the industrial revolution. By the mutual dependence that commercial exchanges across borders could create between individuals and organisations, he saw that allegiance to the nation-state would gradually diminish along with the attraction of territorial conquest and colonial expansion. In his perspective, interdependence was about to replace national competition.<sup>114</sup> While Mills’ hypotheses seem to have proven generally true regarding the concept of democratic peace, liberal core beliefs, such as free trade and global markets, have triggered several other negative aspects, especially concerning HT.

From a more contemporary standpoint, Peksen believes that, even though liberalism has brought along certain economic advantages, it has also created conditions favourable for HT, and more specifically, labour trafficking, positing that a competitive environment is very likely to ignore the protection of the poor and vulnerable, especially women and children.<sup>115</sup> Aduhene-Kwarteng agrees with Peksen when he affirms that the globalisation of neoliberal reforms has produced the phenomenon of HT in both developed and developing countries due to the pull and push factors. He explains that, due to their interest in maximising profits, multinational corporations have moved some of their factories to developing Asian countries to use the comparative advantage in goods and cheap labour. This high demand for cheap labour can be met only in countries where the population is high, and the government has no resources for social interventions; in such countries, citizens are constrained to accept any job they can find, and so they are less inclined to resist exploitative and abusive situations.<sup>116</sup> Kara also quotes the “cataclysmic results” of International Monetary Fund (IMF) programs that focus on the accelerated

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<sup>112</sup> Scott Burchill, *op. cit.*, pp. 75-76.

<sup>113</sup> John Stuart Mill, *Principles of Political Economy and Chapters on Socialism*, Oxford University Press, 2008.

<sup>114</sup> *Ibidem.*

<sup>115</sup> Seo-Young Cho, “Integrating Equality: Globalization, Women’s Rights, and Human Trafficking”, in: *International Studies Quarterly*, 2013, Vol. 57, No. 4, pp. 683–697, *JSTOR*, <http://www.jstor.org/stable/24014642>; Dursun Peksen, *et al.*, *op. cit.*

<sup>116</sup> Kwame Aduhene-Kwarteng, “The Influence of Globalization on Human Trafficking”, in: *Research Gate*, January 2018, [Online] available at: [https://www.researchgate.net/publication/320753277\\_The\\_influence\\_of\\_globalization\\_on\\_Human\\_trafficking](https://www.researchgate.net/publication/320753277_The_influence_of_globalization_on_Human_trafficking) (accessed 14 June 2021).

development of a free-market environment as an essential cause of the expansion of HT in the former Soviet Republics and East Asia.<sup>117</sup>

From a more feminist perspective, Layla Abi-Falah<sup>118</sup> considers that neoliberal reforms imposed by GATT/WTO in the least developed countries (LDCs) of the Global South after the 1980s through debt relief policies have aggravated the acute situations of poverty, unemployment, and underdevelopment, leading to the so-called phenomenon of “feminisation of poverty”, which anti-liberals blame on globalisation. She considers that in countries of the Global South, the economic growth promised by the IMF and the World Bank has not created the promised increase in employment opportunities but instead has brought forth the modern slave trade. This liberal side-effect has pushed women and vulnerable populations into the informal economy (sex trafficking and labour trafficking, as well). Moreover, Abi-Falah asserts that the IMF and the World Bank have unofficially legitimised sex tourism in these countries by encouraging the development of tourism and entertainment industries.<sup>119</sup> Devin Brewer also posits that the rapid growth of HT worldwide is partly due to the spread of globalisation, calling it a matter of demand and offer.<sup>120</sup> However, he sees globalisation as both a negative and positive aspect in fighting this phenomenon: negative due to the impact of free trade and its subsequent side effects, and positive due to the potential of cooperation between various actors in the international arena in countering trafficking.<sup>121</sup>

### 2.1.3. Constructivism

#### A. Definition

Constructivism is an IR theory advocated by Alexander Wendt that considers, as both realism and liberalism do, that the self-interested state is the key actor in international politics. However, while realism states that the sovereign nation-state must rely on its capacities to maintain and gain power

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<sup>117</sup> Dursun Peksen, *et al.*, *op. cit.*, *apud* Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery*, 2009, New York: Columbia University Press.

<sup>118</sup> Layla Abi-Falah, “The Female Burden and the International Political Economy of Sex Trafficking”, *International Affairs Forum*, [Online] available at: [https://www.ia-forum.org/Content/ViewInternal\\_Document.cfm?contenttype\\_id=5&ContentID=8609](https://www.ia-forum.org/Content/ViewInternal_Document.cfm?contenttype_id=5&ContentID=8609), (accessed 25 May 2021).

<sup>119</sup> *Ibidem*.

<sup>120</sup> Devin Brewer, “Globalization and Human Trafficking”, in: *Topical Research Digest: Human Rights and Human Trafficking*, University of Denver, 2008, pp. 46-48, [Online] available at: [https://www.unodc.org/e4j/data/\\_university\\_uni/\\_globalisation\\_and\\_human\\_trafficking.html?lng=en](https://www.unodc.org/e4j/data/_university_uni/_globalisation_and_human_trafficking.html?lng=en) (accessed 15 June 2021).

<sup>121</sup> *Ibidem*.

in the anarchical international arena, and while liberalism promotes cooperation between states and the creation of institutions to maintain global order and protect human rights, law, justice and prosperous economies, constructivism, on the other hand, argues that states act based not on anarchy but on the various ways that states socially construct and then take for granted interpretations of reality, and later respond to the meanings given to reality; as such interpretations change, constructivists allow for the evolution of conflictual or cooperative practices.<sup>122</sup>

Constructivism as an IR theory appeared after the end of the Cold War. As neither realists nor liberalists were able to predict the disintegration of the Soviet Union, constructivist thought emerged to explain what these two theories had failed to recognize: the initiative and impact of ordinary individuals who managed to overthrow a strong political system without the help of states or international organisations. Constructivists also indicated that the peaceful conclusion of the Cold War was due to Mikhail Gorbachev's *new thinking* on national security issues, which led to a new type of foreign policy. Starting from this point of reference, constructivists stressed that actors continuously create and develop international relations through their actions and interactions.<sup>123</sup> Much like the institution of slavery, any domestic or international practices are merely social constructs developed and maintained through human agreement.<sup>124</sup> And since the totality of social reality is constructed intersubjectively through the actions and interactions that result in human agreement, states and international politics are also social constructions subject to a set of man-made norms; such norms are, in turn, the result of ideas, identity and culture to which human beings assign different meanings. And since meanings are not permanent, the entire system can change depending on actors' ideas and convictions. Therefore, state practices and international politics are subject to change depending on how and when such ideas, identity, culture and norms change.<sup>125</sup>

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<sup>122</sup> Charles Kegley, "Theories of World Politics", in: Charles William Kegley, Shannon Lindsey Blanton, *World Politics. Trends and Transformation*, Cengage Learning, 2010–2011 Edition, p. 39; IJ Benneyworth, "The 'Great Debates' in International Relations Theory", *E-International Relations*, May 2011, [Online] available at: <https://www.e-ir.info/2011/05/20/the-'great-debates'-in-international-relations-theory/> (accessed 18 June 2021).

<sup>123</sup> Sarina Theys, "Constructivism", in: Stephen Mcglinchey, *et al.* (eds.), *International Relations Theory*, International Relations Publishing, Bristol, 2017, pp. 36-41, [Online] available at: <https://www.e-ir.info/publication/international-relations-theory/> (accessed 27 May 2021).

<sup>124</sup> Charles Kegley, *op. cit.*, pp. 40-41.

<sup>125</sup> Arthur A. Stein, *op. cit.*, p. 208; Yu-tai Tsai, "The Emergence of Human Security: A Constructivist View", in: *International Journal of Peace Studies*, Vol. 14, No. 2, 2009, pp. 21-22, JSTOR, [Online] available at:

This conception is best comprised by constructivist theoretician Nicholas Onuf, who affirmed that “people make society and society makes people”.<sup>126</sup> He was the first to coin the term “constructivism.” However, constructivist theory has deeper roots. Italian philosopher Giambattista Vico, in the eighteenth century, explained the world in constructivist terms, namely, that the natural world is made by God, but the historical world is made by human beings, and that states, as well as history, are products made by men and women, and they have the power to change them if they want to.<sup>127</sup> Another forerunner of constructivism was Immanuel Kant, who argued that it is through human consciousness that we apprehend the world, and our apprehension and knowledge are always subjective. Ian Hacking, a contemporary constructivist, explained that once we can demonstrate that something is socially constructed, we can also demonstrate that it is not immutable and can therefore be changed.<sup>128</sup> This concept is most useful for our paper since it helps us understand that the HT phenomenon is socially constructed and that, no matter how insurmountable it might seem, it can be eradicated through the agency of actors involved in combating it.<sup>129</sup>

Constructivism is divided into two main schools: conventional and critical constructivism. We will tackle the first one, whose most prominent representatives are Alexander Wendt, Peter Katzenstein, Christian Reus-Smit, John Ruggie, Emanuel Adler, Michale Barnett, Ted Hopf, and Martha Finnemore. Even though the most important voices in the development of constructivist thought have been American, Europe has also had an increasingly significant role through the *European Journal of International Relations* and the process of European integration, which has followed a constructivist path.<sup>130</sup>

## **B. Main Constructivist Concepts and Their Application in the Area of Human Trafficking**

The idea that agents and structures mutually constitute each other is a fundamental element in constructivist thought. Still, it was also asserted by realist Kenneth Waltz in *Theory of International Politics*, where he suggested that

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[www.jstor.org/stable/41852991](http://www.jstor.org/stable/41852991) (accessed 16 June 2021).

<sup>126</sup> Charles Kegley, *op. cit.*, p. 40.

<sup>127</sup> “Giambattista Vico”, in: *Stanford Encyclopedia of Philosophy*, August 2018, [Online] available at: <https://plato.stanford.edu/entries/vico/> (accessed 24 June 2021).

<sup>128</sup> Brendan Larvor, *Mind*, Vol. 109, No. 435, 2000, pp. 614–618, *JSTOR*, [Online] available at: [www.jstor.org/stable/2659945](http://www.jstor.org/stable/2659945). (accessed 18 June 2021), book review on *The Social Construction of What?*, by Ian Hacking, Cambridge, MA: Harvard University Press, 1999.

<sup>129</sup> Tijana Simonovska, *Social Construction of Human Trafficking in Canada: Diagnostic and Prognostic Framing of Anti-Trafficking Efforts at the Federal Government Level*, Ottawa, 2019, pp. 9–10, [Online] available at: <http://dx.doi.org/10.20381/ruor-24104> (accessed 21 June 2021).

<sup>130</sup> Jack Snyder, *op. cit.*, pp. 59–60.

two states interacting in anarchy are “not just influencing the other” by their actions, but “both are being influenced by the situation their interaction creates”.<sup>131</sup> Later, constructivists developed this idea in more detail. J. G. Ruggie affirmed that the actors of the international community and the structure of the international order exist in a reciprocal relationship of interdependence, which impacts the evolution of the international system.<sup>132</sup> Ian Hurd later reiterated the same idea: States shape institutions and norms through their actions and cooperation, and those same institutions and norms define, socialize, and influence states. Mutual constitution happens in this two-way process, where both states and institutions can be redefined and reconstructed.<sup>133</sup>

Other central elements of social constructivism are ideas and norms. Constructivism would suggest that how a certain concept is understood and interpreted will significantly determine the action or lack of action that will be taken in the area defined by that specific concept. For example, how the concept of HT is viewed across various regions worldwide, and more specifically, what HT is considered to be or not to be, will determine the actions undertaken by various actors to combat or disregard it. Therefore, the most successful strategy in fighting trafficking, from a constructivist perspective, is first to define the way we want HT to be understood, then convince other actors to uphold our definition and vision, and then undertake actions based on that vision.

To be more explicit, if HT is understood as including any type of prostitution, be it constrained or not, as the abolitionist Coalition against Trafficking in Women (CATW) understands it, then this is a socially constructed idea that will determine actors to adopt policies based on it, as Sweden has done. If, on the other hand, HT is defined in terms of excluding consensual prostitution, as GAATW defines it, this is also considered by constructivists to be a socially constructed idea with the same power to influence policies, legislation and implementation.<sup>134</sup> Consequently, as

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<sup>131</sup> Kenneth N. Waltz, *Theory of International Politics*, p. 74.

<sup>132</sup> J. G. Ruggie, “Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis”, in: *World Politics*, Vol. 35, Issue 2, 1983, pp. 261–285, DOI:10.2307/2010273, [Online] available at: [http://journals.cambridge.org/abstract\\_S0043887100005268](http://journals.cambridge.org/abstract_S0043887100005268) (accessed 220 June 2021).

<sup>133</sup> Ian Hurd, “Constructivism”, in: *The Oxford Handbook of International Relations*, edited by Christian Reus-Smit and Duncan Snidal, Oxford University Press, Oxford, 2008, pp. 298–316, [Online] available at: <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199219322.001.0001/oxfordhb-b-9780199219322-e-17> (accessed 21 June 2021).

<sup>134</sup> Mikail Usman Usman, “Trafficking in Women and Children as Vulnerable Groups: Talking Through Theories of International Relations”, in: *European Scientific Journal*, June 2014 edition, Vol. 10, No.17, [Online] available at: <https://www.researchgate.net/publication/335082817> (accessed 19 June 2021).

Alexander Wendt and Nina Tannenwald expressed it, “ideas always matter”<sup>135</sup>. Ideas thus determine the various ways material resources are mobilised and for what purpose.

Tannenwald defined ideas as “mental constructs held by individuals, sets of distinctive beliefs, principles and attitudes that provide broad orientations for behaviour and policy”.<sup>136</sup> Jeffrey Legro explained that “ideas are not so much mental as symbolic and organisational; they are embedded not only in human brains but also in the ‘collective memories,’ government procedures, educational systems, and the rhetoric of statecraft.”<sup>137</sup> Therefore, when constructivists affirm that ideas matter, they mean that they have the power to influence the course of history and that it is, in fact, ideas that are the starting point of anything that happens throughout history. However, realists refuse to attribute the same kind of importance to ideas, and their main queries are related to how constructivists can demonstrate that ideas matter, and more specifically, whether changes in ideas always precede changes in material conditions or whether ideas influence policy or they are mere explanations for policy.

Neorealists also criticise constructivists’ perspective on change. Robert Jervis argues that constructivism fails to explain “how norms are formed, how identities are shaped and how interests are defined as they do”.<sup>138</sup> He mainly questions constructivist premises by wondering what precisely determines the rise and fall of different ideas and theories over time, as well as how, when, and why changes in shared knowledge occur.<sup>139</sup>

On the same idea, constructivist Legro criticises realist Hedley Bull for “ignoring one of the primary sources of change in international life—the collective ideas of major powers.” He also criticises international relations experts since the Second World War for having “marginalized [collective ideas of nations] as ‘cheap talk,’ a side product of more central causes, or post hoc

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<sup>135</sup> Alexander Wendt, *Social Theory of International Politics*, Cambridge University Press, 1999, pp. 92-138; Nina Tannenwald, “Ideas and Explanation: Advancing the Theoretical Agenda”, in: *Journal of Cold War Studies* 2005; Vol. 7, Issue 2, p. 19, [Online] available at: <https://doi.org/10.1162/1520397053630619>, <https://direct.mit.edu/jcws/article/7/2/13/12734/Ideas-and-Explanation-Advancing-the-Theoretical>, (accessed 18 June 2021).

<sup>136</sup> Nina Tannenwald, *op. cit.*, p. 15.

<sup>137</sup> Jeffrey W. Legro, *Rethinking the World: Great Power Strategies and International Order*, Cornell University Press, Ithaca, 2005, p. 6, DOI:10.7591/9781501707322, [Online] available at: <https://www.semanticscholar.org/paper/Rethinking-the-World%3A-Great-Power-Strategies-and-Legro/fe43ee4261503967f57e13f41d1572e31ea7c68f> (accessed 21 June 2021).

<sup>138</sup> Robert Jervis, “Realism in the Study of World Politics”, in: *International Organization*, Vol. 52, No. 4, 1998, pp. 974, *JSTOR*, [Online] available at: [www.jstor.org/stable/2601364](http://www.jstor.org/stable/2601364) (accessed 25 June 2021).

<sup>139</sup> Charles Kegley, *op. cit.*, pp. 42-43.

justifications.”<sup>140</sup> Legro gives the example of the disintegration of the League of Nations due to the absence of major powers such as Germany, Japan, and Italy and the non-participation of the United States. The question remains as to why some states choose to be part of the collaborative international order while others pursue their interests by choosing to separate themselves from that society. This question also applies to our area of analysis: why have certain states ratified the Palermo Protocol but have not complied with its requirements, as well as why some states have chosen not to ratify the Protocol at all?

One possible solution to our dilemma could be to consider all theories and combine all perspectives to find the best answers to tackling the issue of HT worldwide in its complexities. Policy-makers should consider the realist perspective as well as the liberal and constructivist ones.

Another question regarding constructivist thinking is what makes an idea matter or what defines it as a truth worth pursuing. To this question, constructivists answer that there is no notion of objective truth or “final truth” that can be applied to any individual or society across time or space. Price and Reus-Smit explained this best when affirming that constructivists make “truth claims about the subjects they have investigated... while admitting that their claims are always contingent and partial interpretations of a complex world”.<sup>141</sup>

Therefore, we might ask what justifies and legitimises the option of Sweden for a legal model that criminalises the buyer of sexual services and not the prostitute, while the Netherlands legalises prostitution altogether. The Swedish model is based on the conviction that all forms of prostitution are exploitation and abuse and, therefore, should be judged as HT, while the Netherlands considers that consensual prostitution is to be considered and treated as any form of legal work. But what are the ideas behind these two types of radically different conceptions, and what is the correct one? According to Price and Reus-Smit’s constructivist thinking, none of them is superior, but they are correct to the degree the actor considers them to be correct and appropriate to their context.

Compared to ideas, social norms emerge from ideas broadly accepted as justifiable and normal. Katzenstein defines norms as “a standard of appropriate behaviour for actors with a given identity”. Therefore, actors who conform to a specific identity are expected to adhere to the norms associated with that identity.<sup>142</sup>

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<sup>140</sup> Jeffrey W. Legro, *op. cit.*, pp.1-6.

<sup>141</sup> Richard Price and Christian Reus-Smit, “Dangerous Liaisons?: Critical International Theory and Constructivism”, in: *European Journal of International Relations*, 1998, Vol. 4, Issue 3, pp. 259-294, DOI: 10.1177/13540666198004003001 (accessed 18 June 2021).

<sup>142</sup> Sarina Theys, *op.cit.*, pp. 36-41, *apud* Peter J. Katzenstein, ed, *The Culture of National Security: Norms and Identity in World Politics*, 1996, p. 5.

Martha Finnemore explained in her book *National Interests in International Society* (1996) that not only are norms shaped by actors of the international community and the international environment in general, but also the identities of actors are shaped by norms and the international organisations that uphold them. Therefore, the behaviour of any actor is defined by identity and interest, and in turn, identity and interests are defined by international forces. Norms of international society shape national policies by “educating” states on their interests. Finnemore gives the example of UNESCO, which successfully promoted the idea that having a science policy bureaucracy was necessary to be a “modern civilised” state.<sup>143</sup>

Following Finnemore’s rationale, it can be said that anti-trafficking norms and protocols have been created by states and other actors that hold certain interests in this area, and, in turn, those norms and protocols shape the behaviour of actors involved in the anti-trafficking network. In conclusion, the anti-trafficking international norms promoted by the UN and the European Union and other actors, such as NGOs and even individuals through advocacy and other coercive tools, can significantly influence national guidelines by pushing states and other decision-makers to adopt these norms in their national policies. Consequently, changes in the anti-trafficking movement cannot be explained by the realist theory, namely by mere national interest in power-maximization – they need to be explained by a constructivist logic, that is, the central role of norms in the international community.<sup>144</sup>

Concerning state sovereignty and cooperation between states in the area of counter-trafficking, Ana Olviedo Roldan has expounded that, in an anarchical international system, the action of every state is meaningful; therefore, she affirms to overcome the numerous obstacles of HT, states need to build a “consolidated cooperative international system regarding human trafficking”, that takes into consideration the discrepancies between various domestic legal systems, the complexities of detecting organised crime groups in a globalised world and the obstacles in the way of cross-border cooperation. Roldan has also detected, as one of the most crucial difficulties in cooperation, the absence of political will in enacting and enforcing appropriate and efficient anti-trafficking laws and policies at the local level. Mentioning the United Nations Inter-Agency Project on Human Trafficking, Roldan advocates for

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<sup>143</sup> R. Dixon, book review of *National Interests and International Society* by Martha Finnemore, in: *Millennium*, 1997, Vol. 26, Issue 1, pp. 170-172, DOI:10.1177/03058298970260010313 (accessed 18 June 2021).

<sup>144</sup> Robert Jackson and Georg Sørensen, “Introduction to International Relations. Theories and Approaches”, Third Edition, in: *Oxford University Press*, 2007, p. 170.



„national, bilateral, and regional anti-trafficking plans, policies and guidelines”, which all require advanced cooperation at multiple levels.<sup>145</sup>

These things considered, it can be stated that to formulate the best anti-trafficking policies and build cooperation at various levels and between various actors, one needs to consider all theories expounded and take into consideration as many aspects as possible. One theory will not be able to satisfy all concerns and obstacles in this area, as the issue of HT has multiple complexities and needs to be tackled as such.

#### ***2.1.4. Difference between realism, liberalism and constructivism***

As previously discussed, constructivism emerged as an alternative theory to realism and liberalism, explaining what the two traditional theories could not do. While realists stress the balance of power and liberals the power of international trade and democracy, constructivists consider that discussions about ideas are the fundamental components of international relations. Jack Snyder explains the difference between the three theories in a simple yet clarifying way when he says that the power of constructivism lies in empowering individuals and groups and awakening them to the influence they can exert on the international area by only being able to convince others to adopt their ideas. Unlike realists, constructivists find absurd the idea that “national interest” is a given or immutable.<sup>146</sup> Furthermore, while both realists and liberalists stress the importance of material factors such as military power and economic prosperity in inter-state relations, constructivists give priority to non-material factors, such as social ideas and shared understandings, that actually impact international relations. As long as we can be aware of the ways that our understandings of the world have been shaped by social pressures, we can also acknowledge what is unchangeable and what can be reconstructed.<sup>147</sup>

The realist E. H. Carr himself highlighted the weaknesses of both realism and liberalism and by this, foresaw the need for another theory that could supplement the two. He said that “the complete realist, unconditionally accepting the causal sequence of events, deprives himself of the possibility of changing reality. By rejecting the causal sequence, the complete utopian deprives himself of the possibility of understanding either the reality he seeks to change or the process by which it can be changed”.<sup>148</sup>

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<sup>145</sup> Ana Roldan Oviedo, *op. cit.*, p. 10.

<sup>146</sup> *Ibidem.*

<sup>147</sup> Charles Kegley, *op. cit.*, pp. 39-40.

<sup>148</sup> E. H. Carr and Michael Cox, *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations*, Houndmills, Basingstoke, Hampshire: Palgrave, 2001.

Of the two theories, liberalism is closer to constructivism in the sense that, after the Cold War ended, it began to highlight the importance of ideas. Francis Fukuyama promoted the role of ideas, particularly liberal ones, and his ultimate aim was to see democracy spread all over the world. Compared to Fukuyama's specific goal, constructivists only aim to comprehend the role of ideas in general in shaping world politics and changing the status quo. This change, according to them, is triggered by the endeavours of intellectual entrepreneurs who promote new ideas and "name and shame" those actors who do not comply with acknowledged norms. Therefore, constructivists focus on the role of transnational activist networks, such as Human Rights Watch, or, in our field of study, various international feminist movements, such as ECPAT and GAATW whose strategy is to expose and publicise information about abuses or breaches of legal or moral standards. This publicity is then used to exert pressure on governments to redress the issues; consequently, the ability to press influential actors to implement change according to accepted norms in various areas of interest is what constructivists consider power.<sup>149</sup>

In the area of transnational activism for combating HT, the two critical international NGOs we mentioned, ECPAT and GAATW, best exemplify the nature of this power and the ways to exert it to see anti-trafficking legislation implemented. First, the NGO headquartered in Bangkok, Thailand, named End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes (ECPAT), started from a 1990 campaign to eradicate sexual exploitation of children in Asian tourism and has grown into an international network of more than 110 civil society organisations in over 100 countries. ECPAT has been working with NGOs in Western Europe, the United States, and Australia to reach its final goal of seeing "every child's right to live free from sexual exploitation and abuse."<sup>150</sup> The second NGO, Global Alliance Against Traffic in Women (GAATW), was founded at the International Workshop on Migration and Traffic in Women held in Thailand in 1994, and since then, has grown into a movement consisting of more than 80 non-governmental organisations from Africa, Asia, Europe, LAC and North America, as well as individuals all over the world. Their goal is to empower women rather than see them as victims, and one of the ways they aim to do this is by involving grassroots women.<sup>151</sup>

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<sup>149</sup> Robert Jackson and Georg Sørensen, *op. cit.*, pp. 162-164; Jack Snyder, *op. cit.*, pp. 59-60; Charles Kegley, *op. cit.*, p. 42.

<sup>150</sup> "About ECPAT", ECPAT, [Online] available at: <https://www.ecpat.org/> (accessed 25 June 2021).

<sup>151</sup> Andrea M. Bertone, "Transnational Activism to Combat Trafficking in Persons", in: *The Brown Journal of World Affairs*, Vol. 10, No. 2, 2004, pp. 13-14, JSTOR, [Online] available at:

## 2.2. Analysis of Concepts Concerning Cooperation in the Area of Human Trafficking

### 2.2.1. The concept of human trafficking as defined in the main instruments of international law

As discussed in the theoretical analysis, the two most important international documents in anti-trafficking are the *Palermo Protocol* and the *EU Directive*. The definition of HT as a concept has been explained in the *Palermo Protocol* and has generally been accepted worldwide. However, there have been activist groups who have tried to change the meaning of the concept as defined in the Protocol, as we will expound later in the chapter.

The *Palermo Protocol* defines the term “trafficking in persons” as follows:

“(a) ‘Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used; ... (art. 3).”<sup>152</sup>

An earlier definition of trafficking in persons can be found in Article 1, paragraph 2 of the *Slavery Convention*<sup>153</sup>, signed by the League of Nations at Geneva on 25 September 1926, where the term “slave trade” can be applied to the modern phenomenon of trafficking in persons, considering that the elements of the definition are similar to the *Palermo Protocol* definition:

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[www.jstor.org/stable/24590517](http://www.jstor.org/stable/24590517) (accessed 25 June 2021); “Who we are”, *Global Alliance Against Traffic in Women*, [Online] available at: <https://www.gaatw.org/about-us> (accessed 25 June 2021).

<sup>152</sup> *Palermo Protocol*, p. 2.

<sup>153</sup> *Convention to Suppress the Slave Trade and Slavery*, New York: League of Nations, 25 September 1926, 60 LNTS 253, Registered No. 1414, [Online] available at: <https://www.ohchr.org/Documents/ProfessionalInterest/slavery.pdf> (accessed 2 August 2021).

“All acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged and, in general, every act of trade or transport in slaves”.<sup>154</sup>

A more recent document of the United Nations released in 2014 gives a briefer definition of HT, highlighting the fact that it is not necessary for victims to be transported across borders or from one place to another in order for the crime to be considered HT. The document explains that it can be simply understood “to refer to the process through which individuals are placed or maintained in an exploitative situation for economic gain. Trafficking can occur within a country or may involve movement across borders. Women, men and children are trafficked for a range of purposes, including forced and exploitative labour in factories, farms and private households, sexual exploitation, and forced marriage. Trafficking affects all regions and most countries of the world.”<sup>155</sup>

The same 2014 document highlights the three main elements that must be present for a situation of trafficking in persons (adults) to exist: the first is *the action* (namely the recruitment, transportation, transfer, harbouring or receipt of persons); the second one is *the means* (the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person), and the third one is *the purpose* (exploitation). An exception to this definition is applied in the case of trafficking in children (i.e., persons under 18 years of age). The United Nations, as well as the European Union have officially established that the element of “means” is not required in this case. It is necessary to prove only that an “action”, such as recruitment, buying and selling, has been involved and that this action was done for the specific purpose of exploitation.<sup>156</sup>

The same year that the UN Protocol was adopted (2000), the United States of America also issued the *TVPA*, where HT is clearly defined as “a modern form of slavery”. Article 1 declares that even in the 21<sup>st</sup> century, “the degrading institution of slavery continues throughout the world. Trafficking in persons is a modern form of slavery, and it is the largest manifestation of

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<sup>154</sup> *Ibidem*.

<sup>155</sup> United Nations, *Human Rights and Human Trafficking. Fact Sheet No. 36*, United Nations Human Rights, Office of the High Commissioner, New York and Geneva, 2014, p. 1 [hereinafter, United Nations, *Human Rights and Human Trafficking. Fact Sheet No. 36*].

<sup>156</sup> *Ibidem*.

slavery today.” Article 2 further explains that the majority of victims “are trafficked into the international sex trade, often by force, fraud, or coercion. The sex industry (...) involves sexual exploitation of persons, predominantly women and girls, involving activities related to prostitution, pornography, sex tourism, and other commercial sexual services.” In Article 3, forced labour is also mentioned as a form of HT.<sup>157</sup>

Except for the United Nations and the United States of America, which have been the most prominent promoters and defenders of human rights in the area of anti-trafficking international law, the European Union has also joined the ranks after 2000.

The official website of the European Commission asserts that HT is “a grave violation of fundamental rights, prohibited by the EU Charter of Fundamental Rights - Article 5.3, and defined by the Treaty on the functioning of the European Union as a particularly serious form of organised crime - Article 83, with links to immigration policy - Article 79.”<sup>158</sup>

However, Article 5 of the Charter of Fundamental Rights does not explain the concept of HT but merely states that it is forbidden. Under Article 5, named *Prohibition of Slavery and Forced Labour*, there are three articles which briefly condemn the crime: “1. No one shall be held in slavery or servitude. 2. No one shall be required to perform forced or compulsory labour. 3. Trafficking in human beings is prohibited.”<sup>159</sup> However, the definition of HT, as explained in the Palermo Protocol, is considered a formal reference point in all official documents enacted by the international community.

*Directive 2012/29/EU on establishing minimum standards on the rights, support and protection of victims of crime*<sup>160</sup> gives reference to the UN definition without reiterating it. This Directive, on the other hand, establishes the minimum rules regarding the definition of criminal offences and sanctions, the general provisions to consolidate the protection, assistance and support of victims, as well as prevention, and the key actors to fight against the crime.<sup>161</sup>

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<sup>157</sup> TVPA, Section 102.

<sup>158</sup> *Trafficking in Human Beings*, European Commission.

<sup>159</sup> *Charter of Fundamental Rights of the European Union (2007/C 303/01)*, European Union: Council of the European Union, 14 December 2007, C 303/1, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT> (accessed 25 June 2021) [hereinafter, *Charter of Fundamental Rights of the European Union*].

<sup>160</sup> *Directive 2012/29/EU of the European Parliament and of the Council of October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*, European Union: Council of the European Union, 14 November 2012, L 315/57, [Online] available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF> (accessed 25 June 2021).

<sup>161</sup> *Trafficking in Human Beings*, European Commission.

In Article 1 of the Directive, HT is simply defined as “a serious crime, often committed within the framework of organised crime, a gross violation of fundamental rights and explicitly prohibited by the Charter of Fundamental Rights of the European Union.”<sup>162</sup>

The 2014 OHCHR document delineates the most important features of the definition of the concept. First of all, as concerns sexual exploitation, it highlights that, even though trafficking was traditionally believed to affect women and girls only, it has now been expanded to include men and women, boys and girls. Second, it acknowledges that the spectrum of potentially exploitative practices connected to trafficking is very ample and complex. Referring to the UN Protocol definition of trafficking, the OHCHR document emphasises that the list of exploitative situations is open-ended, leaving room for new or supplementary exploitative purposes to be identified in the future. Third, it declares that trafficking does not necessarily mean crossing an international border. The definition includes internal as well as cross-border trafficking. Fourth, it states that trafficking does not equal migrant smuggling. While migrant smuggling “involves the illegal, facilitated movement across an international border for profit (...) while it may involve deception and/or abusive treatment, the purpose of migrant smuggling is to profit from the movement, not the eventual exploitation as in the case of trafficking.”<sup>163</sup> The last point the definition refers to, and perhaps the most controversial one is that it is not possible to “consent” to trafficking. International human rights law has established the freedom of a person as an immutable human right, even if the person seemingly might have given their consent to have that freedom taken away from them. In such a situation, the UN Protocol affirms that consent is irrelevant. This understanding is explained clearly by the drafters of the Trafficking Protocol: “once it is established that deception, coercion, force or other prohibited means were used, consent is irrelevant and cannot be used as a defence.”<sup>164</sup>

In conclusion, HT, as understood and defined in the most prominent international legal instruments, is a concept that is still under construction, most notably because the phenomenon itself is a complex and still difficult subject of research. Due to the lack of statistical data and the underground nature of the crime, the subject still requires further in-depth examination and more expertise to thoroughly define the concept and draft the necessary policies to prevent and combat this crime.

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<sup>162</sup> *EU Directive*, Art. 1.

<sup>163</sup> United Nations, *Human Rights and Human Trafficking. Fact Sheet No. 36*, p. 3.

<sup>164</sup> *Ibidem*, p. 4.

### ***2.2.2. Main types of human trafficking as identified in the main instruments of international law***

The *Palermo Protocol* briefly mentions a few of the most important types of exploitation, but it does not limit them to those mentioned as examples. It rather allows for a broad interpretation of the definition of HT, virtually implying that any form of exploitation where we can identify *the action*, namely “the recruiting, harbouring, transporting, providing, or obtaining of an individual”, *the means* “of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”, as well as *the purpose* of exploitation is a case of HT. The Protocol specifies in Article 3, paragraph a), that exploitation can include, “at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs”.<sup>165</sup>

The United Nations Working Group on Contemporary Forms of Slavery (which was replaced in 2007 by its successor – the mandate on contemporary forms of slavery, its causes and consequences<sup>166</sup>) compiled in 2002 a list of human rights violations considered types of HT or modern slavery. The list includes the sale of children, child prostitution, child pornography, child labour, sex tourism, the use of children in armed forces, exploitation of migrant workers, illegal adoption, trafficking in human organs, exploitation of prostitution of others, violence against women, forced marriages and the sale of wives, debt bondage, and forced labour.<sup>167</sup>

The *EU Anti-trafficking Directive* also mentions a few types of HT but does not provide an exhaustive list, nor does it offer any definition of those types of trafficking. Nevertheless, it makes reference to the *Palermo Protocol* and other international law instruments as landmarks for fully comprehending the various aspects of this crime. The Directive mentions a few examples in Recital 11: “exploitation of criminal activities, removal of organs, illegal

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<sup>165</sup> *Palermo Protocol*, p. 2.

<sup>166</sup> OHCHR, *Working Group on Contemporary Forms of Slavery*, [Online] available at: <https://www.ohchr.org/EN/Issues/Slavery/WGSlavery/Pages/WGSlaveryIndex.aspx> (accessed 3 August 2021)

<sup>167</sup> David Weissbrodt, and Anti-Slavery International, *Abolishing Slavery and its Contemporary Forms*, Office of the United Nations High Commissioner for Human Rights, United Nations, 2002, [Online] available at: <https://www.ohchr.org/Documents/Publications/slaveryen.pdf>; Inter-Parliamentary Union and UNODC, *Combating Trafficking in Persons. A Handbook for Parliamentarians N°16*, 2009, p. 18, [Online] available at: <https://www.ipu.org/resources/publications/handbooks/2016-07/handbook-parliamentarians-combating-trafficking-in-persons> (accessed 3 August 2021).

adoption or forced marriage”<sup>168</sup>, as well as in Recital 20: “sexual abuse, rape, slavery-like practices or the removal of organs”.<sup>169</sup> Article 1, paragraph 3, gives a short list of forms of trafficking, similar to what the *Palermo Protocol* mentions in Article 3, paragraph a): “Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.”<sup>170</sup> Apart from what the *EU Anti-trafficking Directive* mentions, there are other types of exploitation, as well; some Member States of the EU refer to further forms of exploitation in their laws, such as trafficking for forced marriage, pornography or the extraction of human tissue.<sup>171</sup>

Interpol, on the other hand, gives a more simplified and structured list of types of trafficking, as follows: trafficking for forced labour, trafficking for forced criminal activities, trafficking in women for sexual exploitation, trafficking for the removal of organs, and people smuggling. It does not give a specific definition of these types of trafficking, but it mentions that one common characteristic of all these forms of exploitation is the abuse of the vulnerability of the victims.<sup>172</sup>

Racine Coalition Against Human Trafficking (RCAHT), an American NGO that in 2017 changed its name to Fight to End Exploitation (FEE), has also compiled a list of types of HT, such as forced labour, sex trafficking, organ trafficking, child soldier, child marriage, debt bondage.<sup>173</sup>

Another NGO, Stop the Traffik<sup>174</sup>, which was founded in 2006 in the UK as a campaign coalition focused on the prevention of HT, mentions a separate

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<sup>168</sup> *Ibidem*, p. 2.

<sup>169</sup> *Ibidem*, p. 4

<sup>170</sup> *Ibidem*, p. 6.

<sup>171</sup> *Working Together to Address Trafficking in Human Beings. Key Concepts in a Nutshell*, European Commission, 4 December, 2018, p. 2, [Online] available at: [https://ec.europa.eu/anti-trafficking/sites/default/files/key\\_concepts\\_in\\_a\\_nutshell.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/key_concepts_in_a_nutshell.pdf) (accessed 3 August 2021) [hereinafter, *Key Concepts in a Nutshell*, European Commission, 2018].

<sup>172</sup> Interpol, *Fact Sheet - Trafficking in human beings*, 2017, p. 1, [Online] available at: <https://www.interpol.int/en/Crimes/Human-trafficking/Our-role-in-fighting-human-trafficking>, [accessed 4 August 2021]; Interpol, *Types of human trafficking*, [Online] available at: <https://www.interpol.int/en/Crimes/Human-trafficking/Types-of-human-trafficking> [accessed 3 August 2021].

<sup>173</sup> Michelle Peterson, *6 Types of Human Trafficking*, *Fight to End Exploitation*, December 2018, [Online] available at: <https://fighttoendexploitation.org/2018/12/28/6-types-of-human-trafficking/> (accessed 28 July 2021).

<sup>174</sup> “About Us”, *Stop the Traffik*, [Online] available at: <https://www.stopthetraffik.org/who-we-are/about-us/> (accessed 3 August 2021).



type of trafficking, namely domestic servitude, which can also be counted as a form of forced labour. With regard to sexual exploitation, they mention several ways in which a person can be exploited sexually: in prostitution, in brothels and also massage/sauna parlours, in escort agencies, in pole/lap dancing venues, stripping on a webcam, on phone sex lines, on internet chat rooms, in pornography production, by way of mail order brides, in sex tourism.<sup>175</sup>

### A. Sexual Exploitation

Caleb Siebel, in his chapter called *Human Trafficking and the History of Slavery in America*<sup>176</sup> names HT “the new slavery” or “modern slavery” while warning that a victim of human trafficking (VOT) is not to be compared to a chattel slave, especially when trying to look for signs to identify victims: those who do not fit the description of “the ideal victim” could be easily ignored and abandoned in a cycle of exploitation if the more hidden signs are not recognised.<sup>177</sup> The US Department of State<sup>178</sup> also refers to HT as “the modern slavery”, as does ILO<sup>179</sup>, IOM<sup>180</sup> and several anti-trafficking NGOs, such as the UK-based NGOs Anti-Slavery International,<sup>181</sup> and Salvation Army<sup>182</sup>, and the US-based End Slavery Now<sup>183</sup> and Polaris Project.<sup>184</sup>

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<sup>175</sup> “Types of exploitation”, *Stop the Traffick*, [Online] available at: <https://www.stopthetraffik.org/about-human-trafficking/types-of-exploitation/> (accessed 3 August 2021).

<sup>176</sup> Caleb L. Seibel, “Chapter 1: Human Trafficking and the History of Slavery in America”, in: “Combating Human Trafficking. A Multidisciplinary Approach” (edited by Michael J. Palmiotto), CRC Press, 2014, p. 7.

<sup>177</sup> *Ibidem*.

<sup>178</sup> US Department of State, Office to Monitor and Combat Trafficking in Persons, *What is Modern Slavery?*, [Online] available at: <https://www.state.gov/what-is-modern-slavery/> (accessed 18 August 2021).

<sup>179</sup> ILO, Walk Free, IOM, *Global Estimates of Modern Slavery*.

<sup>180</sup> Fiona David, Katharine Bryant and Jacqueline J. Larsen, “Migrants and Their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour”, Geneva: International Organization for Migration (IOM), 2019, [Online] available at: <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour> (accessed 18 August 2021).

<sup>181</sup> “What is modern slavery?”, *Anti-Slavery International*, [Online] available at: <https://www.antislavery.org/slavery-today/modern-slavery/> (accessed 18 August 2021).

<sup>182</sup> Salvation Army Modern slavery, [Online] available at: <https://www.salvationarmy.org.uk/modern-slavery> (accessed 18 August 2021).

<sup>183</sup> End Slavery Now, *Slavery Today*, [Online] available at: <http://www.endslaverynow.org/learn/slavery-today> (accessed 18 August 2021).

<sup>184</sup> Polaris Project, *Global Modern Slavery Data Hub Launches*, 28 November 2017, [Online] available at: <https://polarisproject.org/press-releases/global-modern-slavery-data-hub-launches/> (accessed 18 August 2021).

The *Palermo Protocol* briefly mentions in Article 3, paragraph a) what sexual exploitation is, but it does not explicitly define it. It rather gives a general definition of how HT can be recognised, considering the three elements of *the act, the means and the purpose* (see Section 2.2.1).

Following the definition set by The *Palermo Protocol*, *Directive 2011/36/EU* mentions sexual exploitation in Article 2, paragraph 3, but it does not define it, either:<sup>185</sup>

“Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation [...]”

The 2018 document released by the European Commission on concepts related to HT – *Working to Address Trafficking in Human Beings. Key Concepts in a Nutshell*<sup>186</sup> – sets more clear boundaries for the concept of sexual exploitation while specifying that such a definition is not legally binding since sexual exploitation is a highly sensitive topic, which is intertwined with the issue of prostitution, and the European Union does not have competence concerning policies on prostitution; Member States are free to define their own policies on regulating prostitution, which makes legislation in this area extremely complex.<sup>187</sup> The document mentions that sexual exploitation includes “exploitation of the prostitution of others” but except mentioning a few instances where it can be recognised, such as “street prostitution; window prostitution and brothels; strip clubs/bars; pornography industry; escort services, modelling agencies and massage parlours”<sup>188</sup>, it does not further insist on how to identify the difference between “prostitution” and “the exploitation of the prostitution of others”. There is a complex variety of understanding of these concepts within the European Union, both morally and legally, with

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<sup>185</sup> *EU Directive*, p. 6.

<sup>186</sup> *Key Concepts in a Nutshell*, European Commission, 2018, p. 8.

<sup>187</sup> Lena Reinschmidt, “Prostitution in Europe between Regulation and Prohibition. Comparing Legal Situations and Effects”, *Observatory for Sociopolitical Developments in Europe*, Working Paper No. 13, May 2016, [Online] available at: <https://beobachtungsstelle-gesellschaftspolitik.de/f/52b9df1667.pdf> (accessed 13.08.2021); Daniela Danna, “Report on prostitution laws in the European Union”, *La Strada International*, February 2014, <https://documentation.lastradainternational.org/lisidocs/3048-EU-prostitution-laws.pdf> (accessed 13.08.2021); Niall McCarthy, “The Legal Status Of Prostitution Across Europe”, *Statista*, 14 November 2018, [Online] available at: <https://www.statista.com/chart/16090/policy-models-regarding-prostitution-in-the-eu/> (accessed 13.08.2021); Deana Anouk, “Nordic Model Now. Prostitution in the EU, or how the lack of legal harmonization goes against the EU’s values”, *EU Logos Athena*, 29 juillet 2019, [Online] available at: <https://www.eu-logos.org/2019/07/29/prostitution-in-the-eu-or-how-the-lack-of-legal-harmonization-goes-against-the-eus-values/> (accessed 13 August 2021).

<sup>188</sup> European Commission, *Working Together...*, p. 8.

abolitionist countries, such as Sweden, considering that any form of prostitution equals HT, regardless of whether the prostitute has consented to it or not, and the pro-legalisation countries, such as the Netherlands, clearly demarcating the two concepts, based on the controversial issue of consent.<sup>189</sup> Activists from the abolitionist group, such as Berta E. Hernández<sup>190</sup>, consider that all prostitution is inherently coercive and exploitative, which leads to the natural conclusion that the specific facts of the situation are irrelevant.<sup>191</sup> The ambiguity of the concept of “sexual exploitation”, as well as of the concept of “prostitution” in the international anti-trafficking debates, restrict the elaboration of clear and widely accepted definitions. For instance, there are references where “prostitution” is considered an “industry” and, at the same time, an inherently abusive practice.<sup>192</sup> However, notwithstanding its potentially abusive nature, selling sexual services is not illegal in many countries; on the contrary, it is regulated for the purpose of protecting both the prostitutes and the clients.<sup>193</sup> This aspect is what erases the boundaries between HT and prostitution, making it hard for a legislator, for example, to distinguish between a case of HT and a case of prostitution. These aspects are discussed by

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<sup>189</sup> Ronald Weitzer, “Legal Prostitution Systems in Europe” (2nd edition, 2021), in: H. Nelen, D. Siegel (Eds.), *Contemporary Organized Crime, Studies of Organized Crime 18*, 2021, pp. 47–64, DOI: 10.1007/978-3-319-55973-5\_4 (accessed 04.08.2021); Che Post, Jan G. Brouwer and Michael Vols, “Regulation of Prostitution in the Netherlands: Liberal Dream or Growing Repression?”, in: *European Journal on Criminal Policy and Research*, 2019, Vol. 25, pp. 99–118, [Online] available at: <https://doi.org/10.1007/s10610-018-9371-8>; Nicolle Zeegers and Martina Althoff, “Regulating Human Trafficking by Prostitution Policy?”, in: *European Journal of Comparative Law and Governance*, 2015, 2(4), pp. 351–378, doi:10.1163/22134514-00204004 (accessed 04.08.2021); “Briefing - Assessment of Ten Years of Swedish and Dutch Policies on Prostitution”, *European Women's Lobby, Europeen des Femmes*, August 2012, [Online] available at: <http://www.cap-international.org/wp-content/uploads/2017/10/Brief-prostitution-Sweden-and-Netherlands-EN-1.pdf> (accessed 4 August 2021).

<sup>190</sup> Berta E. Hernández-Truyol and Jane E. Larson, “Sexual Labor and Human Rights”, in: *Columbia Human Rights Law Review*, Vol. 37, Issue 2, Winter 2006, pp. 391–446, [Online] available at: <http://scholarship.law.ufl.edu/facultypub/193> (accessed 04.08.2021); Berta E. Hernández-Truyol and Stephen J. Powell, *A New Covenant Linking Trade and Human Rights*, New York University Press, 2009, [Online] available at: <https://doi.org/10.18574/9780814790861> (accessed 4 August 2021).

<sup>191</sup> *Ibidem*.

<sup>192</sup> Janie Chuang, “Redirecting the Debate over Trafficking in Women: Definitions, Paradigms, and Contexts”, in: *Harvard Human Rights Journal*, Vol. 11, 1998, [Online] available at: [https://digitalcommons.wcl.american.edu/facsch\\_lawrev/1541](https://digitalcommons.wcl.american.edu/facsch_lawrev/1541) (accessed 4 August 2021).

<sup>193</sup> *Countries Where Prostitution Is Legal 2021*, World Population Review, 2021, [Online] available at: <https://worldpopulationreview.com/country-rankings/countries-where-prostitution-is-legal> (accessed 13.08.2021).

Cherif Bassiouni in an article published in 2010<sup>194</sup> where he identifies two main problems of the anti-trafficking discourse: “significant definitional uncertainty regarding the crime” and the lack of quantitative and qualitative data concerning the actual situation of trafficking worldwide.<sup>195</sup>

In a paper<sup>196</sup> prepared for the Joint Project Coordinated by the Coalition Against Trafficking in Women (CATW) and the European Women’s Lobby (EWL) on promoting preventive measures to combat HT for sexual exploitation (a Swedish and United States Governmental and Non-Governmental Organisation Partnership), Monica O’Connor and Grainne Healy highlight the fact that psychologically speaking, a person who has suffered abuse in the early stages of their lives has their mental and emotional structures modified by trauma-led patterns, and therefore, the idea of “free choice” or “consent” does not apply to them, as their capacity to deliberate has been heavily impaired by abuses: such persons will “consent” to being sexually used as they have been “trained” to believe that they cannot oppose it.<sup>197</sup> The paper argues that comprehensive anti-trafficking policies on sexual exploitation should take into consideration the background of victims, the contexts which keep them into sexual exploitation or prostitution (which, from their point of view, are the same), the lack of reasonable economic and social alternatives and the influence of consumers and traffickers in sustaining the demand side of the equation. In conclusion, the authors believe that there is no distinction between “forced” and “free” prostitution, considering all prostitution to be HT.<sup>198</sup>

The same perspective was shared by Sigma Huda, Special Rapporteur (between 2004 and 2007) of the United Nations on the human rights aspects of the victims of trafficking in persons, especially women and children. In a

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<sup>194</sup> Cherif Bassiouni, Daniel Rothenberg, Ethel Higonnet, *et al.*, “Addressing International Human Trafficking in Women and Children for Commercial Sexual Exploitation in the 21st century”, in: *Revue internationale de droit pénal*, 2010, Issue 3, Vol. 81, pp. 424-425, DOI: 10.3917/ridp.813.0417, [Online] available at: <https://www.cairn-int.info/journal-revue-internationale-de-droit-penal-2010-3-page-417.htm> (accessed 04.08.2021).

<sup>195</sup> *Ibidem*.

<sup>196</sup> Monica O’Connor and Grainne Healy, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook*, 2006, Prepared for the Joint Project Coordinated by the Coalition Against Trafficking in Women (CATW) and the European Women’s Lobby (EWL) on Promoting Preventative Measures to Combat Trafficking in Human Beings for Sexual Exploitation: A Swedish and United States Governmental and Non-Governmental Organisation Partnership, [Online] available at: <https://catwinternational.org/wp-content/uploads/2019/09/The-Links-between-Prostitution-and-Sex-Trafficking-A-Briefing-Handbook.pdf> (accessed 4 August 2021).

<sup>197</sup> *Ibidem*, pp. 5-9, p. 13.

<sup>198</sup> *Ibidem*, pp. 18-19.

2006 paper<sup>199</sup> prepared for the sixty-second session of the Commission on Human Rights, she expressed her views that “(f)or the most part, prostitution as actually practised in the world usually does satisfy the elements of trafficking.”<sup>200</sup> She further says that “(i)t is rare that one finds a case in which the path to prostitution and/or a person’s experiences within prostitution do not involve, at the very least, an abuse of power and/or an abuse of vulnerability.”<sup>201</sup>

Fourteen years later, Maria Grazia Giammarinaro, in a paper<sup>202</sup> prepared for the seventy-fifth session of the United Nations General Assembly, does not so radically equal prostitution to HT as Sigma Huda was doing in 2006, and does not even mention any connection between the two; however, she does place highlights on “the gender dimension of trafficking”<sup>203</sup>, and the need to consider the causes that lead women into trafficking, such as “pre-existing marginalisation and economic dependency and gender-based violence stemming from patriarchal social norms, including limited access to resources and education, gender discrimination and sexual and domestic violence.” Another important aspect added to the 2020 report is the empowerment of survivors of HT to take active roles in combating HT, as concerns protection, participation and relief and recovery.<sup>204</sup>

With the outbreak of the COVID19 pandemic in 2020, HT has taken new forms; even if physical distancing might have reduced the demand for women and girls trafficked for sexual exploitation, new forms of abuse have appeared online.<sup>205</sup> The European Union Agency for Law Enforcement

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<sup>199</sup> UN Commission on Human Rights, *Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children*, Sigma Huda, 20 February 2006, E/CN.4/2006/62, [Online] available at: <https://www.refworld.org/docid/48abd53dd.html> (accessed 11 August 2021).

<sup>200</sup> *Ibidem*, p. 9 (paragraph 42).

<sup>201</sup> *Ibidem*.

<sup>202</sup> United Nations General Assembly, *The Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, - 20 Years After: Implementing and Going Beyond the Palermo Protocol towards a human rights centred approach*, Maria Grazia Giammarinaro, 17 July 2020, A/75/169, p. 9, (paragraph 25), [Online] available at: <https://undocs.org/A/75/169> (accessed 11 August 2021).

<sup>203</sup> *Ibidem*, Article 25, p. 9.

<sup>204</sup> *Ibidem*.

<sup>205</sup> United Nations General Assembly, *Trafficking in Women and Girls Report of the Secretary-General*, 7 August 2020, A/75/289, p. 8 (paragraph 22), [Online] available at: <https://undocs.org/A/75/289> (accessed 11 August 2021); UNODC, “Impact of the COVID-19 pandemic on trafficking in persons”; Inter-Agency Coordination Group against Trafficking in Persons, “Human trafficking and technology: trends, challenges, and opportunities”, issue brief, 2019; Special Rapporteur on trafficking in persons, especially women and children, “COVID-19 position paper: the impact and consequences of the COVID-19 pandemic on trafficked and exploited persons”, 8 June 2020.

Cooperation has reported increased online activity triggered by the demand for child abuse material as a result of COVID-19.<sup>206</sup> A 2020 article<sup>207</sup> by UNICEF highlights the fact that suspected cases of child sexual abuse have increased during the pandemic in the Republic of Moldova. The same conclusion is shown in a 2020 Europol press release relating how these new forms of abuse take place online even without the incentive of financial gain; the flow of videos of children forced to produce explicit video materials has been on the increase, especially within vulnerable communities, but also within school communities, under the pressure of peers.<sup>208</sup>

### B. Forced Labour

Lee Swepston claims in his 2014 paper – *Forced and Compulsory Labour in International Human Rights Law*<sup>209</sup> – presented at the ILO Conference “Shaping the Definition of Human Trafficking”, that historically speaking, there are two paths that have led to initially autonomous but converging concerns regarding the concept of forced labour: first, the slavery path and, second, the forced and compulsory labour path. He concludes that the International Labour Organization’s (ILO) focus on forced and compulsory labour was partly influenced by the League of Nations’ focus on slavery and its request to the ILO in 1926 to concentrate on how to prevent forced or compulsory labour from developing into conditions analogous to slavery; however, the ILO’s work also developed from the ILO’s attention to abusive forms of labour in colonial circumstances.<sup>210</sup>

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<sup>206</sup> *Catching the virus: cybercrime, disinformation and the COVID-19 pandemic*, European Union Agency for Law Enforcement Cooperation, 3 April 2020, [Online] available at: <https://respect.international/catching-the-virus-cybercrime-disinformation-and-the-covid-19-pandemic/> (accessed 18 August 2021).

<sup>207</sup> UNICEF, *When ‘Home’ Doesn’t Necessarily Mean Safe (EVA)*, 04 November 2020, [Online] available at: <https://www.unicef.org/moldova/en/stories/when-home-doesnt-necessarily-mean-safe-eva>, (accessed 18 August 2021).

<sup>208</sup> Europol, *Exploiting Isolation: Sexual Predators Increasingly Targeting Children During Covid Pandemic*, 19 June 2020, [Online] available at: <https://www.europol.europa.eu/media-press/newsroom/news/exploiting-isolation-sexual-predators-increasingly-targeting-children-during-covid-pandemic>; Joe Lepper, “Pandemic Sparks ‘Perfect Storm’ for Increase in Online Child Sexual Abuse”, in: *Children and Young People Now*, 27 January 2021, [Online] available at: <https://www.cypnow.co.uk/news/article/pandemic-sparks-perfect-storm-for-increase-in-online-child-sexual-abuse> (accessed 18 August 2021).

<sup>209</sup> Lee Swepston (ILO), *Forced and Compulsory Labour in International Human Rights Law*, May 2014, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_342966.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_342966.pdf) (accessed 6 August 2021).

<sup>210</sup> *Ibidem*, p. 5.

After the adoption of the *Slavery Convention*, the League of Nations requested the ILO to adopt what became the *Forced Labour Convention, 1930 (No. 29)*, on the grounds that forced and compulsory labour in colonial situations was possibly a forerunner to slavery, though dissimilar to it.<sup>211</sup> According to Article 2, paragraph 1 of the *ILO Forced Labour Convention, 1930 (No. 29)*<sup>212</sup>, forced or compulsory labour is defined as “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.”<sup>213</sup> A subsequent document by ILO, *Abolition of Forced Labour Convention, 1957 (No. 105)*<sup>214</sup> does not redefine the concept of forced labour but takes as its basis the definition of the concept as set forth in Convention No. 29 and further prohibits the following instances:<sup>215</sup>

- a) forced labour as a means of political compulsion or as a punishment for holding or expressing political beliefs or perspectives as opposed to the established political, social or economic system;
- b) as a method of mobilising and using labour for the aim of economic development;
- c) as a punishment for participation in strikes;
- d) as a means of racial, social, national or religious discrimination.

*Protocol of 2014 to the Forced Labour Convention, 1930*<sup>216</sup> supported by *Forced Labour (Supplementary Measures) Recommendation, 2014 (No. 203)*<sup>217</sup>, which replaced the transitional provisions of the *ILO Forced Labour Convention, 1930 (No. 29)*, set in place new legally binding provisions aiming to promote

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<sup>211</sup> *Ibidem*, p. 6.

<sup>212</sup> International Labour Organization (ILO), *Forced Labour Convention, C29*, 28 June 1930, C29, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms\\_346435.pdf](https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms_346435.pdf) (accessed 3 August 2021).

<sup>213</sup> *Ibidem*, p. 1.

<sup>214</sup> International Labour Organization (ILO), *Abolition of Forced Labour Convention, C105*, 25 June 1957, C105, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_346434.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_346434.pdf) (accessed 6 August 2021).

<sup>215</sup> International Labour Organization (ILO), *International Labour Standards on Forced Labour*, [Online] available at: <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm> (accessed 6 August 2021).

<sup>216</sup> International Labour Organization (ILO), *Protocol of 2014 to the Forced Labour Convention, 1930, P029*, Geneva, 2014 (Entry into force: 9 Nov. 2016), [Online] available at: [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::p12100\\_ilo\\_code:p029](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::p12100_ilo_code:p029) (accessed 2 August 2021).

<sup>217</sup> International Labour Organization (ILO), *Forced Labour (Supplementary Measures) Recommendation, 2014, (No. 203), R203*, [Online] available at: [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no:12100:p12100\\_ilo\\_code:r203:no](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no:12100:p12100_ilo_code:r203:no) (accessed 2 August 2021).

prevention, protection and compensation measures, as well as to accelerate the elimination of all forms of forced labour, including trafficking in persons.<sup>218</sup>

Forced or compulsory labour is also clearly prohibited by the United Nations in Article 8, paragraph 3 of the *International Covenant on Civil and Political Rights*<sup>219</sup> adopted in 1966. The document also mentions what forced labour does not include: “labour [...] imposed as punishment for a crime [...] by a competent court” (subpara. b.); “any work or service [...] normally required of a person who is under detention in consequence of a lawful order of a court” (subpara. i.); “any service of a military character [...]” (subpara. ii.); “any service exacted in cases of emergency or calamity threatening the life or well-being of the community” (subpara. iii.); “any work or service which forms part of normal civil obligations” (subpara. iv).<sup>220</sup>

The UN *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*<sup>221</sup>, adopted in 1990, explicitly prohibits both slavery and forced labour in Article 11:<sup>222</sup>

- “1. No migrant worker or member of his or her family shall be held in slavery or servitude.
2. No migrant worker or member of his or her family shall be required to perform forced or compulsory labour.
3. Paragraph 2 of the present article shall not be held to preclude, in States where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court.
4. For the purpose of the present article the term ‘forced or compulsory labour’ shall not include:
  - (a) Any work or service not referred to in paragraph 3 of the present article normally required of a person who is under detention in consequence of a lawful order of a court or of a person during conditional release from such detention;
  - (b) Any service exacted in cases of emergency or calamity threatening the life or well-being of the community;
  - (c) Any work or service that forms part of normal civil obligations so far as it is imposed also on citizens of the State concerned.”

<sup>218</sup> International Labour Organization (ILO), *International Labour Standards on Forced Labour*.

<sup>219</sup> UN General Assembly, *International Covenant on Civil and Political Rights*, p. 175.

<sup>220</sup> *Ibidem*.

<sup>221</sup> UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158, [Online] available at: <https://www.ohchr.org/Documents/ProfessionalInterest/cmw.pdf> (accessed 6 August 2021).

<sup>222</sup> *Ibidem*, p. 5.



The concepts of prohibiting slavery and forced and compulsory labour are also ingrained in regional human rights standards, which are strongly influenced by universal standards. To take the example of Europe, *The Charter of Fundamental Rights of the European Union* provides in Article 5:

“Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. Trafficking in human beings is prohibited.”

*The European Convention on Human Rights*<sup>223</sup> further develops these concepts in its Article 4<sup>224</sup>, in a language combining provisions of the *International Covenant on Civil and Political Rights*, the UN slavery instruments and *Convention No. 29*:

“Prohibition of slavery and forced labour

1. No one shall be held in slavery or servitude.
2. No one shall be required to perform forced or compulsory labour.
3. For the purpose of this Article the term ‘forced or compulsory labour’ shall not include:
  - (a) any work required to be done in the ordinary course of detention imposed according to the provisions of Article 5 of this Convention or during conditional release from such detention;
  - (b) any service of a military character or, in case of conscientious objectors in countries where they are recognised, service exacted instead of compulsory military service;
  - (c) any service exacted in case of an emergency or calamity threatening the life or well-being of the community;
  - (d) any work or service which forms part of normal civic obligations.”

Lee Swepston further argues that national labour laws and even criminal laws do not cover the issue of forced labour adequately and in most cases, workers who are victims of forced labour are rarely identified and rescued because labour inspection does not reach the underground system of this crime, as it happens in the situation of domestic workers.<sup>225</sup>

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<sup>223</sup> *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, Council of Europe, 4 November 1950, ETS 5, [Online] available at: [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf) (accessed 6 August 2021).

<sup>224</sup> *Ibidem*, p. 7.

<sup>225</sup> Lee Swepston (ILO), *op.cit.*, p. 19.

### C. Debt Bondage

Another type of exploitation that can be included in the *Palermo Protocol* definition of HT is debt bondage, which is referred to in the *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, adopted by a Conference of Plenipotentiaries convened by Economic and Social Council resolution 608(XXI) of 30 April 1956 and done at Geneva on 7 September 1956.<sup>226</sup>

“The status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and defined.”<sup>227</sup>

Even if the *Palermo Protocol* does not explicitly forbid debt bondage, it does prohibit the use of coercion, force, fraud or deception to exploit people for prostitution “or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, [or] servitude.”<sup>228</sup> Therefore, the *Palermo Protocol* forbids debt bondage in cases where traffickers use deception, threats, or other types of intimidation to coerce women into servitude or prostitution to repay debts that can never be repaid. Consequently, debt bondage is illegal under the Protocol even if the victim initially consented to take part in commercial sexual exploitation but was afterwards trapped in it by fraudulent debt.<sup>229</sup>

Specifications on debt bondage appear in various national and model laws on HT worldwide. For example, the *Supplementary Slavery Convention* definition of debt bondage is incorporated in the 2009 U.N. Office of Drugs and Crime (UNODC) *Model Law against Trafficking in Persons* (“UNODC Model Law”).<sup>230</sup> Debt bondage is explained in a commentary in the UNODC Model Law as “the system by which a person is kept in bondage by making it impossible for him or her to pay off his or her real, imposed or imagined debts.”

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<sup>226</sup> UN Economic and Social Council (ECOSOC), *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, 7 September 1956, Article 1, paragraph a, [Online] available at: <https://www.refworld.org/docid/58c156dc4.html> (accessed 2 August 2021).

<sup>227</sup> *Ibidem*.

<sup>228</sup> *Palermo Protocol*, Art. 3, para. a).

<sup>229</sup> “Debt Bondage”, *Stop Violence Against Women, The Advocates for Human Rights*, [Online] available at: [https://www.stopvaw.org/debt\\_bondage#\\_ednref4](https://www.stopvaw.org/debt_bondage#_ednref4) (accessed 2 August 2021).

<sup>230</sup> UN Office on Drugs and Crime (UNODC), *Model Law against Trafficking in Persons*, Vienna, 5 August 2009, p.13, [Online] available at: [https://www.unodc.org/documents/human-trafficking/Model\\_Law\\_against\\_TIP.pdf](https://www.unodc.org/documents/human-trafficking/Model_Law_against_TIP.pdf) (accessed 2 August 2021).

The U.S. anti-trafficking law, the *TVPA*<sup>231</sup> also defines debt bondage in accordance with the *Supplementary Slavery Convention*. Article 165 of the *Criminal Code of the Republic of Moldova*, revised in 2006, includes debt bondage in the definition of HT: “the threat of use or use of physical or psychological violence non-dangerous for a person's life and health, including through abduction, confiscation of documents and servitude for the repayment of a debt whose limits are not reasonably defined...”<sup>232</sup>

The most recent definition of debt bondage can be found in a *Fact Sheet*<sup>233</sup> on Human Trafficking, released on the US Department of State website. Debt bondage is referred to here as a situation where “traffickers target some individuals with an initial debt assumed willingly as a condition of future employment [...] Traffickers can also manipulate debts after the economic relationship begins by withholding earnings or forcing the victim to assume debts for expenses like food, housing, or transportation. They can also manipulate debts a victim owes to other people. When traffickers use debts as a means to compel labour or commercial sex, they have committed a crime.”<sup>234</sup>

This definition is important to the understanding of the concept and phenomenon of HT happening today, as many victims are lured into a situation of exploitation by means of debt bondage.

#### D. Trafficking in human organs

The *Palermo Protocol* explicitly mentions HT for organ removal as a type of trafficking (Article 3, para. a)).<sup>235</sup> Other international and national legal instruments have also prohibited human organ transplantation performed as part of a commercial transaction and/or without the consent of the donor.<sup>236</sup> For instance, in a document<sup>237</sup> released by the World Health Organisation on the subject of illicit organ transplantation, there is a general definition of what this crime entails, mentioned in Guiding Principle 5: “Cells, tissues and organs

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<sup>231</sup> *TVPA*, Section 103, para. 4.

<sup>232</sup> *Criminal Code of the Republic of Moldova*, No. 985-XV of 18 April 2002, *Official Monitor of the Republic of Moldova*, No.128-129/1012 of 13 September 2002, [Online] available at: <https://www.legislationline.org/documents/action/popup/id/4826> (accessed on 2 August 2021).

<sup>233</sup> US Department of State, *Understanding Human Trafficking. Fact Sheet*, Office to Monitor and Combat Trafficking in Persons, 20 January 2021, [Online] available at: <https://www.state.gov/what-is-trafficking-in-persons/> (accessed on 2 August 2021).

<sup>234</sup> *Ibidem*.

<sup>235</sup> *Palermo Protocol*, p. 2.

<sup>236</sup> Inter-Parliamentary Union and UNODC, *Combating Trafficking in Persons. A Handbook for Parliamentarians N°16...*, p. 19.

<sup>237</sup> World Health Organisation, *Who Guiding Principles on Human Cell, Tissue and Organ Transplantation*, 2010, [Online] available at: [https://www.who.int/transplantation/Guiding\\_PrinciplesTransplantation\\_WHA63.22en.pdf](https://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf) (accessed 6 August 2021).

should only be donated freely, without any monetary payment or other reward of monetary value. Purchasing, or offering to purchase, cells, tissues or organs for transplantation, or their sale by living persons or by the next of kin for deceased persons, should be banned.”<sup>238</sup> Further explanation is given in the Commentary on Guiding Principle 5 on the reason why this crime should be considered an instance of HT: “Payment for cells, tissues and organs is likely to take unfair advantage of the poorest and most vulnerable groups, undermines altruistic donation, and leads to profiteering and HT. Such payment conveys the idea that some persons lack dignity, that they are mere objects to be used by others.”<sup>239</sup> Also, the Council of Europe has explicitly forbidden trafficking for the purpose of organ and tissue transplantation in its *Additional Protocol to the Convention on Human Rights and Biomedicine, on Transplantation of Organs and Tissues of Human Origin*, Article 22: “Organ and tissue trafficking shall be prohibited.”<sup>240</sup>

### **2.2.3. Other concepts associated with human trafficking**

#### **A. The concept of consent**

The issue of consent is the “bone of contention” in the area of HT, especially sex exploitation, with two main factions disagreeing over what consent actually is and the extent to which it can be taken into consideration to distinguish victims from so-called “sex-workers”.<sup>241</sup> For instance, the Coalition Against Trafficking in Women (CATW)<sup>242</sup> considers all prostitution to be HT, whether or not deception or force took place, while the Global Alliance Against Trafficking in Women (GAATW)<sup>243</sup> argues that CATW has a simplistic perspective of sex trafficking since they do not consider the free will or consent of women. On the other hand, CATW blames GAATW for accepting prostitution as a legitimate form of labour, or what they call “consensual commercial work”<sup>244</sup>, and thus sustaining the worst form of female abuse.

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<sup>238</sup> *Ibidem*, p. 5.

<sup>239</sup> *Ibidem*.

<sup>240</sup> *Additional Protocol to the Convention on Human Rights and Biomedicine concerning transplantation of organs and tissues of human origin*, Strasbourg: Council of Europe, 24 January 2002, p. 6, [Online] available at: <https://rm.coe.int/1680081562> (accessed 6 August 2021).

<sup>241</sup> Mikail Usman Usman, *op. cit.*

<sup>242</sup> Coalition against Trafficking in Women (CATW), [Online] available at: <https://catwinternational.org/> (accessed 2 September 2021).

<sup>243</sup> Global Alliance against Trafficking in Women (GAATW), [Online] available at: <https://www.gaatw.org/> (accessed 2 September 2021).

<sup>244</sup> Mini Singh, *The Debate on Trafficking and Sex-Slavery, The Feminist Sexual Ethics Project*, [Online] available at: <https://www.brandeis.edu/projects/fse/slavery/contemporary/essay-trafficking-introduction.html> (accessed 2 September 2021).

The issue of consent is what delineates sex trafficking from prostitution; however, because of the highly controversial aspect of this issue, clear boundaries have not been settled yet. Even if the *Palermo Protocol* and the Directive 2011/36/EU clearly mention that consent is irrelevant when it has been obtained by the means of threat, use of force or coercion, fraud, deception, abuse of power or taking advantage of a person's vulnerability<sup>245</sup>, the issue of consent is a highly sensitive one, since it has not been clearly settled in international law. As a consequence, traffickers take advantage of the legal loopholes in national legislations and use intricate psychological manoeuvres on victims to manipulate them ("the *loverboy* method")<sup>246</sup> into supposedly "consenting to" prostitution, later being able to prove in trial that a case of HT was actually a case of procuring, to which the victim gave her consent.<sup>247</sup> Consequently, traffickers get suspended sentences. This phenomenon has been especially prevalent in Romania after the 1990s and even up to the year 2023.<sup>248</sup>

Jessica Elliott tackles the issue of consent in her book *The Role of Consent in Human Trafficking*.<sup>249</sup> Chapter 4 of this book analyses the legal conditions which make consent "valid", making a distinction between persons who did not provide any form of consent, those who provided initial consent but whose

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<sup>245</sup> *Palermo Protocol*, p. 2 [Article 3, para. (a)]; *EU Directive*, pp. 2, 6.

<sup>246</sup> Simona Chirciu, „Traficul de persoane demistificat. Cum acționează traficanții și ce este metoda loverboy”, in: *Mediafax*, 30 July 2021, [Online] available at: <https://www.mediafax.ro/social/exclusiv-interviuri-traficul-de-persoane-demistificat-cum-actioneaza-traficantii-si-ce-este-metoda-loverboy-cum-ii-protejam-pe-copii-20209635> (accessed 2 September 2021).

<sup>247</sup> Stephanie Mahoney, *Human Trafficking: An Overview of Sex Trafficking*, National Center for Victims of Crime, 13 July 2020, [Online] available at: <https://www.ncvcta.org/post/human-trafficking-an-overview-of-sex-trafficking> (accessed 2 September 2021); U.S. Mission Romania, *Raportul privind traficul de persoane (2020)*, Ambasada SUA în România, 21 July 2020, [Online] available at: <https://ro.usembassy.gov/ro/raportul-privind-traficul-de-persoane-2020/> (accessed 2 September 2021): (“*Authorities have often accused human trafficking suspects of crimes such as pimping. [...] As in previous years, the data provided by the authorities did not differentiate between cases related exclusively to human trafficking and cases involving other crimes, such as pimping.*”)

<sup>248</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA), *Evaluation Report Romania*, Council of Europe, 3 June 2021, pp. 22, 27, 29, 31, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8> (accessed 2 September 2021); Cristian Ștefănescu, *Trafic de persoane sub protecția statului roman*, 27 June 2020, [Online] available at: <https://www.dw.com/ro/trafic-de-persoane-sub-protoc%C8%9Bia-statalui-rom%C3%A2n/a-53963109> (accessed 2 September 2021); Liviu Cojan, *România aplică pedepse prea blânde traficanților de ființe umane și nu plătește despăgubiri pentru victime (raport GRETA)*, Digi24, 3 June 2021, [Online] available at: <https://www.digi24.ro/stiri/actualitate/social/romania-aplica-pedepse-prea-bande-traficantilor-de-fiinte-umane-si-nu-plateste-despagubiri-pentru-victime-raport-greta-1550491> (accessed 2 September 2021).

<sup>249</sup> Jessica Elliott, “The Role of Consent in Human Trafficking”, Routledge, 2015.

consent was later voided due to disinformation, fraud or some other type of deception and those persons who provided full consent to working within the sex industry. The chapter also analyses the controversial aspects of prostitution, legitimacy and sex work.<sup>250</sup>

According to Lee Swepston in his paper<sup>251</sup> “consent is a key element in deciding whether there has been compulsion, but consent can be obtained fraudulently or made inoperative by intervening events. Some categories of persons – notably but not only children – are incapable of giving valid consent to their own exploitation.”<sup>252</sup>

These aspects of consent are tackled in the *Palermo Protocol*, in Article 3, paragraph (b), which notes that the consent of a trafficked person may be considered irrelevant when achieved through improper means.<sup>253</sup>

“The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used (...).”

The same aspect is covered in Directive 2011/36/EU, in Article 2, paragraph 4.<sup>254</sup>

“The consent of a victim of trafficking in human beings to the exploitation, whether intended or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.”

Concerning trafficked children, as we have already mentioned before, the Protocol specifies in Article 3, paragraphs (c) and (d) that the vulnerable status of children totally nullifies consent, regardless of whether any improper means were used or not. Directive 2011/36/EU also mentions clearly, in Recital 11, the special status of children:<sup>255</sup>

“However, when a child is concerned, no possible consent should ever be considered valid.”

Regardless of how clear the concept of consent might be illustrated in the *Palermo Protocol* and Directive 2011/36/EU, its meaning can be easily deconstructed as it involves a highly moral and ethical – and thus debatable

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<sup>250</sup> *Ibidem*.

<sup>251</sup> Lee Swepston (ILO), *op.cit.*

<sup>252</sup> *Ibidem*, p. 3.

<sup>253</sup> *Palermo Protocol*, p. 2.

<sup>254</sup> *EU Directive*, p. 6.

<sup>255</sup> *Ibidem*, p. 2.

and interpretable – aspect. This is where the two factions, CATW and GAATW, diverge. Abolitionists in the Joint CATW-EWL Press Conference in 2005 declared in their Manifesto<sup>256</sup> that HT involves all types of prostitution, regardless of whether there has been any consent or not:

“We, the survivors of prostitution and trafficking gathered at this press conference today, declare that prostitution is violence against women. Women in prostitution do not wake up one day and ‘choose’ to be prostitutes. It is chosen for us by poverty, past sexual abuse, the pimps who take advantage of our vulnerabilities, and the men who buy us for the sex of prostitution.”<sup>257</sup>

On the other side of the spectrum, Lin Lap Chew, one of GAATW’s founding mothers, declared in *Trafficking and Prostitution Reconsidered*<sup>258</sup> about the way her perspective on HT changed at the time: “I [was] convinced that I was not against the women who worked as prostitutes, but that the patriarchal institution or prostitution should be dismantled. But soon, I was to learn, through direct and regular contact with women in prostitution, that [...] the only way to break the stigma and marginalisation of prostitutes was to accept the work that they do as exactly that – a form of work.”<sup>259</sup>

In 2014, UNODC issued a paper on *The Role of ‘Consent’ in the Trafficking in Persons Protocol*<sup>260</sup> and the various situations where consent is deemed irrelevant in international law and policy, as well as in national law and practice. The purpose of this paper was “to assist criminal justice officers in penal proceedings”, clarifying what has proven to be a problematic concept.<sup>261</sup>

In a 2016 study on the issue of consent, *The Limits of Consent: Sex Trafficking and the Problem of International Paternalism*,<sup>262</sup> Sally Engle Merry and Vibhuti Ramachandran expound on the complexities of consent and

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<sup>256</sup> Monica O’Connor and Grainne Healy, *op. cit.*, p. 1.

<sup>257</sup> *Ibidem*.

<sup>258</sup> Kamala Kempadoo, Jyoti Sanghera, and Bandana Pattanaik, *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, Boulder, Colo: Paradigm Publishers, 2005.

<sup>259</sup> *Ibidem*.

<sup>260</sup> United Nations Office on Drugs and Crime (UNODC), *Issue Paper. The Role of ‘Consent’ in the Trafficking in Persons Protocol*, Vienna, 2014, [Online] available at: [https://www.unodc.org/documents/human-trafficking/2014/UNODC\\_2014\\_Issue\\_Paper\\_Consent.pdf](https://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf) (accessed 2 September 2021).

<sup>261</sup> *Ibidem*, p. 6.

<sup>262</sup> Sally E. Merry and Vibhuti Ramachandran, “The Limits of Consent: Sex Trafficking and the Problem of International Paternalism”, in: Michael Barnett (Ed.), *Paternalism beyond Borders* (pp. 224-255), Cambridge: Cambridge University Press, 2016, doi:10.1017/9781316799956.008 (accessed 2 September 2021).

accuse the anti-trafficking and the “modern-day slavery” movements of paternalism, which they understand as a phenomenon that “occurs when one actor interferes in the choices of another without her consent and on the grounds that it is in her best interest”.<sup>263</sup> They reprehend abolitionism for ignoring complex situations where consent and coercion merge and for imposing a policy of care and control in the name of humanitarianism, viewing all women involved in prostitution as victims in need of being saved.<sup>264</sup> To this perspective, the authors adopt a view which is more similar to the Human Rights Caucus, which considers prostitution as legitimate labour and differentiates between forced prostitution and voluntary sex work.<sup>265</sup>

Up to the present, the concept of consent has not been settled yet, leading to contrasting representations in legislation across the world. As of 2021, the concept of consent, as regards especially the area of sexual exploitation, is mentioned as an elemental factor in the laws of just a few European countries. According to a 2018 study by Amnesty International<sup>266</sup>, 12 out of 31 European countries have laws that define rape based on the absence of consent. The rest of the countries define it by other factors, such as violence or threat of violence.<sup>267</sup> *The 2009 Criminal Code of Romania*<sup>268</sup>, amended as of 2021, mentions “consent” under the wording of “expressing the will” in Article 218 - Offenses Against Sexual Freedom and Integrity.<sup>269</sup>

Nevertheless, the proper understanding of both consent and coercion can lead to effective victim identification, not only in the area of sexual exploitation but also in labour exploitation and other types of trafficking, while a deficient understanding of these concepts can lead to intimidation,

<sup>263</sup> Michael Barnett (Ed.), *Paternalism beyond Borders*, Cambridge: Cambridge University Press, 2016, p. 5, doi:10.1017/9781316799956 (Accessed 2 September 2021).

<sup>264</sup> Sally E. Merry and Vibhuti Ramachandran, “The Limits of Consent...”, pp. 227-231.

<sup>265</sup> Elżbieta M. Goździak and Kathleen M. Vogel, “Palermo at 20: A Retrospective and Prospective”, in: *Journal of Human Trafficking*, Vol. 6, No. 2, pp. 109–118, [Online] available at: doi:10.1080/23322705.2020.1690117 (accessed 2 September 2021).

<sup>266</sup> Amnesty International, *Right to Be Free from Rape. Overview of Legislation and State of Play in Europe and International Human Rights Standards*, 24 November 2018, pp. 8-13, [Online] available at: <https://www.amnesty.org/en/documents/eur01/9452/2018/en/> (accessed 2 September 2021).

<sup>267</sup> *Ibidem*, pp. 8-13 (The 12 out of 31 countries are, according to the study: Belgium, Croatia, Cyprus, Denmark, Germany, Greece, Iceland, Ireland, Luxembourg, Malta, Sweden, UK).

<sup>268</sup> “Codul Penal din 2009 (Legea nr. 286/2009), Monitorul Oficial nr. 510 din 2009, cu modificările și completările ulterioare”, *Sintact*, Art. 218, [Online] available at: <https://sintact.ro/#/act/16901302/77?directHit=true&directHitQuery=noul%20cod%20penal&pit=2023-04-14> (accessed 2 September 2021) [hereinafter, *Romanian New Criminal Code*].

<sup>269</sup> *Ibidem*, Art. 218.



secondary victimisation, and even criminalisation.<sup>270</sup> As Dina Haynes put it, those trafficked persons “not found chained to a bed in a brothel,”<sup>271</sup> especially in the area of labour trafficking, may go unidentified and unassisted as long as coercion and consent are not properly defined and delineated.

### **B. The concept of child-sensitive approach**

The rate of child trafficking in the EU is nearly a quarter of all victims in the EU, with 78% being girls and more than 60% of child victims in the EU being trafficked for the purpose of sexual exploitation.<sup>272</sup> At this rate, both the European Union and the international organisations fighting for human rights have developed guidelines and policies focused on a child-sensitive approach.

In a *Joint UN Commentary on the EU Directive*<sup>273</sup> by OHCHR, UNHCR, UNICEF, UNODC, UN Women and ILO in 2011, a child rights approach would entail compliance with the applicable human rights standards, especially the principles set out in the 1989 *UN Convention on the Rights of the Child*<sup>274</sup>, and in its *Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography*.<sup>275</sup> The requirements for the application of special

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<sup>270</sup> Denise Brennan, “Subjectivity of Coercion: Workers’ Experiences with Trafficking in the United States”, in: P. Kotiswaran (Ed.), *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, Cambridge Studies in Law and Society, 2017, pp. 134-154, Cambridge: Cambridge University Press, [Online] available at: doi:10.1017/9781316675809.005 (accessed 2 September 2021).

<sup>271</sup> Dina F. Haynes, “(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act”, in: *Georgetown Immigration Law Journal*, 2007, Vol. 21, pp. 337– 382, [Online] available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=984927](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=984927) (accessed 2 September 2021).

<sup>272</sup> *Commission Third Report on the progress made in the fight against trafficking in human beings*, COM(2020) 661 final and SWD(2020) 226 final, Brussels: European Commission, 20 October 2020, p. 7, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0661&from=GA> (accessed 3 September 2021); Ylva Johansson on behalf of the European Commission, *Parliamentary questions*, European Parliament, 10 March 2021, [Online] available at: [https://www.europarl.europa.eu/doceo/document/P-9-2020-006707-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/P-9-2020-006707-ASW_EN.html) (accessed 3 September 2021).

<sup>273</sup> *Joint UN Commentary on the EU Directive – A Human Rights-Based Approach*, UNODC, OHCHR, UNHCR, UNICEF, ILO, UN Women, November 2011, pp. 48-49, [Online] available at: [https://ec.europa.eu/anti-trafficking/joint-un-commentary-eu-directive-human-rights-based-approach\\_en](https://ec.europa.eu/anti-trafficking/joint-un-commentary-eu-directive-human-rights-based-approach_en) (accessed 3 September 2021) [hereinafter, *Joint UN Commentary on the EU Directive*].

<sup>274</sup> UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, [Online] available at: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed 3 September 2021).

<sup>275</sup> *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*, A/RES/54/263, New York: UN General Assembly, 25 May 2001, [Online] available at: [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11-c&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-c&chapter=4&clang=_en) (accessed 3 September 2021) [hereinafter, *Optional*

protection measures in the case of child victims, as well as the imperative of acting in the best interest of the child, are reinforced in the 2003 *General Comment No. 5 of the Committee on the Rights of the Child on general measures of implementation of the Convention on the Rights of the Child*.<sup>276</sup>

Other relevant international instruments on children are the *Convention on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention No. 182)*<sup>277</sup>, *Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption (Hague Convention No. 33)*<sup>278</sup> and the *EU Action Plan on Unaccompanied Minors*<sup>279</sup>, all of which help to better understand the concept of a child-sensitive approach.

Moreover, both the *Palermo Protocol* and Directive 2011/36/EU specifically mention the special status of children in the protection and prosecution stages of the process of restoring child VOTs.

The paper<sup>280</sup> released by the European Commission in 2018 on key concepts related to HT explains the importance of a child-sensitive approach, namely that children are more exposed to the risk of becoming victims of trafficking and “the trauma caused by this crime can be life lasting and hamper their overall development”.<sup>281</sup> According to the EU agenda, a child-sensitive approach implies special protection for child victims regardless of their nationality or status, including the presumption of childhood in identification procedures. Additional measures include guardianship for unaccompanied children, a tailored approach to support services, and more intensive protection in criminal proceedings.<sup>282</sup>

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*Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*].

<sup>276</sup> UN Committee on the Rights of the Child (CRC), *General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child*, 27 November 2003, CRC/GC/2003/5, [Online] available at: <https://digitallibrary.un.org/record/513415?ln=en> (accessed 3 September 2021).

<sup>277</sup> International Labour Organization (ILO), *Worst Forms of Child Labour Convention*, C182, 17 June 1999, C182, [Online] available at: [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182) (accessed 4 September 2021).

<sup>278</sup> Hague Conference on Private International Law, *Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption*, 29 May 1993, <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69> (accessed 4 September 2021).

<sup>279</sup> European Union: European Commission, *Communication from the Commission to the European Parliament and the Council. Action Plan on Unaccompanied Minors (2010-2014)*, 6 May 2010, COM(2010) 213/3, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-unaccompanied-minors-2010-2014\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-unaccompanied-minors-2010-2014_en) (accessed 4 September 2021).

<sup>280</sup> *Key Concepts in a Nutshell*, European Commission, 2018.

<sup>281</sup> *Ibidem*.

<sup>282</sup> *Ibidem*.

Another paper published by the European Commission in 2013, *The EU Rights of Victims of Trafficking in Human Beings*,<sup>283</sup> It compiles the various rights of victims found in the Charter of Fundamental Rights of the European Union, EU Directives, framework decisions, and European Court of Human Rights case law, from rights concerning (emergency) assistance and health care to labour rights, rights regarding access to justice and a lawyer, and rights concerning the prospects of claiming compensation. All chapters have additional sections on the special rights of children.<sup>284</sup>

More recent publications on the rights of children, especially as concerns VOTs, are the following: *EU Guidelines for the Promotion and Protection of the Rights of the Child*<sup>285</sup>, published by the European Commission in 2017; the GRETA report on *Trafficking in Children*<sup>286</sup>, released in 2018, concerning various aspects of prevention, as well as measures to protect and promote the rights of child victims; the UNICEF *Guidelines on Protection of the Rights of Child Victims of Trafficking*<sup>287</sup> published in 2021, which set forth the minimum standards for protecting the rights of child victims of trafficking at each stage of the anti-trafficking process; and the *EU Anti-Trafficking Strategy for 2021-2025*, in which one of the aims is to promote child-rights based training for specialists likely to come into contact with victims, acknowledging the need for trained officials who are aware of the particular vulnerabilities of children and can provide the necessary protection.<sup>288</sup>

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<sup>283</sup> European Union, *The EU rights of victims of trafficking in human beings*, 2013, p. 5, [Online] available at: [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu\\_rights\\_of\\_victims\\_of\\_trafficking\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_rights_of_victims_of_trafficking_en_1.pdf) (accessed 4 August 2021) [hereinafter, *The EU rights of victims of trafficking in human beings...*].

<sup>284</sup> European Union, *The EU rights of victims of trafficking in human beings...*, p. 7 [For example, some of the rights of children include: “2.22. Interviews with child victims should take place without unjustified delay. Child victims are entitled to be interviewed, where necessary, in premises designed or adapted for that purpose; 2.23. Interviews with child victims should be conducted by the same people if possible, limiting the number of interviews as much as possible and only where strictly necessary for criminal investigations and proceedings.”]

<sup>285</sup> *EU Guidelines for the Promotion and Protection of the Rights of the Child (2017) Leave no child behind*, European Commission, 12 April 2017, [Online] available at: [https://ec.europa.eu/anti-trafficking/sites/default/files/eu\\_guidelines\\_rights\\_of\\_child\\_0.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/eu_guidelines_rights_of_child_0.pdf) (accessed 4 September 2021).

<sup>286</sup> Group of Experts on Action against Trafficking in Human Beings (GRETA), *Trafficking in Children. Thematic Chapter of the 6th General Report on GRETA's Activities*, Council of Europe, May 2018, [Online] available at: <https://rm.coe.int/6gr-extract-web-en/16808b6552> (accessed 4 September 2021).

<sup>287</sup> UN Children's Fund (UNICEF), *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, 2006, [Online] available at: <https://www.refworld.org/docid/49997af7d.html> (accessed 3 September 2021)

<sup>288</sup> *EU Anti-Trafficking Strategy for 2021-2025*, p. 10.

### C. The concept of grooming (or “the *loverboy* method” of recruitment)

The concept of grooming is similar to the concept known as “the *loverboy* method”. While the first is mainly used in the US and less in the EU, the latter is used in Romania as a consecrated term to describe the main method traffickers use to recruit female victims of sexual exploitation.

Monica O’Connor and Grainne Healy published in 2006 a study<sup>289</sup> on sex trafficking, where they defined the concept of grooming as “a mechanism of control, used to ensure perfect obedience and enslavement”.<sup>290</sup>

Linda Smith and Cindy Coloma define the same concept as “a combination of psychological manipulation, intimidation, gang rape, sodomy, beatings, deprivation of food or sleep, isolation from friends or family and other sources of support, and threatening or holding hostage of a victim’s children”<sup>291</sup>, highlighting that the main purpose of this process is “to break down a victim’s resistance and ensure compliance.”<sup>292</sup>

In a 2009 study<sup>293</sup> about the trauma of victims of sexual exploitation, Inja Djuranovic defines seasoning (another word for grooming) as a set of “systematic methods of brainwashing, indoctrination and physical control”<sup>294</sup>, used to “break the resistance”<sup>295</sup> of the victim, to the point where the victim has been convinced that she is worthless and has no other social purpose than that of a prostitute.<sup>296</sup> A report published in the same year by Shared Hope International<sup>297</sup> states that the purpose of grooming goes further than just breaking the psyche of the victim – it aims to create a trauma bond<sup>298</sup>, similar to the “Stockholm syndrome,” in which hostages become deeply attached to and defend their captors.<sup>299</sup> A trauma bond is an emotional attachment

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<sup>289</sup> Monica O’Connor and Grainne Healy, *op. cit.*

<sup>290</sup> *Ibidem*, p. 8.

<sup>291</sup> Linda Smith and Cindy Coloma, *Renting Lacy: A Story of America’s Prostituted Children*, Cork: BookBaby, 2013, p. xx.

<sup>292</sup> *Ibidem*.

<sup>293</sup> Inja Djuranovic, *Trauma and coping. A study of women that were trafficked for the purpose of sexual exploitation in India*, Göteborgs Universitet, February 2009, p. 10, [Online] available at: <https://core.ac.uk/download/pdf/16324342.pdf> (accessed 7 September 2021).

<sup>294</sup> *Ibidem*, p. 10.

<sup>295</sup> *Ibidem*.

<sup>296</sup> *Ibidem*.

<sup>297</sup> Linda A. Smith, Samantha Healy Vardaman, and Melissa A. Snow, “The National Report on Domestic Minor Sex Trafficking: America’s Prostituted Children”, *Shared Hope International*, May 2009, [Online] available at: [https://sharedhope.org/wp-content/uploads/2012/09/SHI\\_National\\_Report\\_on\\_DMST\\_2009.pdf](https://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf) (accessed 7 September 2021).

<sup>298</sup> *Ibidem*, p. 38.

<sup>299</sup> *Ibidem*, p. 44.

between an abuser and a victim<sup>300</sup>, where the abuser engenders in their victim feelings of fear as well as gratitude for being allowed to live; as a result, the victim will protect their abuser.<sup>301</sup>

O'Connor and Healy identified the main stages of grooming, later known as the O'Connor and Healy grooming model.<sup>302</sup> This model was subsequently recognised by organisations such as The Polaris Project<sup>303</sup>, Fight to End Exploitation<sup>304</sup>, Deliver Fund<sup>305</sup>, End Slavery Now<sup>306</sup>, and National Child Protection Task Force, all US-based non-profit organisations working in the area of preventing and combating HT. Academic sources also mention the same process of grooming, such as articles published by Ohio State University<sup>307</sup> or St. Cloud State University<sup>308</sup>, as well as online grooming in academic journals such as *Computers in Human Behaviour*<sup>309</sup> and *Journal of Children and Media*.<sup>310</sup>

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<sup>300</sup> Kaitlin Casassa, Logan Knight, and Cecilia Mengo, "Trauma Bonding Perspectives From Service Providers and Survivors of Sex Trafficking: A Scoping Review", in: *Trauma, Violence, & Abuse*, 2021, p. 1, doi:10.1177/1524838020985542, [Online] available at: [journals.sagepub.com/home/tva](https://journals.sagepub.com/home/tva) (accessed 7 September 2021).

<sup>301</sup> Stacey Diane A. Litam, "Human Sex Trafficking in America: What Counselors Need to Know", in: *The Professional Counselor*, 2017, Volume 7, Issue 1, p. 47, doi:10.15241/sdal.7.1.45, [Online] available at: <https://files.eric.ed.gov/fulltext/EJ1159657.pdf> (accessed 7 September 2021).

<sup>302</sup> Monica O'Connor and Grainne Healy, *op. cit.*, p. 8.

<sup>303</sup> Polaris Project, *Love and Trafficking: How Traffickers Groom & Control Their Victims*, 11 February 2021, [Online] available at: <https://polarisproject.org/blog/2021/02/love-and-trafficking-how-traffickers-groom-control-their-victims/> (accessed 7 September 2021).

<sup>304</sup> Michelle Peterson, "Recognizing the Stages of Grooming", *Fight to End Exploitation*, March 2019, [Online] available at: <https://fighttoendexploitation.org/2019/03/01/grooming-in-human-trafficking/> (accessed 7 September 2021).

<sup>305</sup> "Know the Signs of Human Trafficking", *Deliver Fund*, [Online] available at: <https://deliverfund.org/the-human-trafficking-problem-in-america/know-the-signs/> (accessed 7 September 2021).

<sup>306</sup> Mariah Long, "Basic Stages of Grooming for Sexual Exploitation", *End Slavery Now*, 22 September 2014, [Online] available at: <https://www.endslaverynow.org/blog/articles/basic-stages-of-grooming-for-sexual-exploitation> (accessed 7 September 2021).

<sup>307</sup> The Ohio State University, *The Grooming Process and Warning Signs*, November 2016, [Online] available at: <https://u.osu.edu/swk5005/sample-page/> (accessed 7 September 2021).

<sup>308</sup> Eleana Lukes, "Being Groomed for A Life of Sex Trafficking: The Raw and Uncut Truth", in: *Culminating Projects in Child and Family Studies*, no. 29, St. Cloud State University, October 2018, [Online] available at: [https://repository.stcloudstate.edu/cfs\\_etds/29](https://repository.stcloudstate.edu/cfs_etds/29) (accessed 7 September 2021).

<sup>309</sup> Maria Ioannou, John Synnott, Amy Reynolds, and John Pearson, "A comparison of online and offline Grooming characteristics: An application of the victim roles model", in: *Computers in Human Behavior*, Vol. 85, 2018, pp. 291–297, [Online] available at: doi:10.1016/j.chb.2018.04.011, <https://www.sciencedirect.com/science/article/abs/pii/S0747563218301754> (accessed 7 September 2021).

<sup>310</sup> Jennifer E. O'Brien, and Wen Li, "The Role of the Internet in the Grooming, Exploitation, and Exit of United States Domestic Minor Sex Trafficking Victims", in: *Journal of Children and Media*, 2019,

The main steps identified that traffickers take to “season” or “groom” a victim are recognised in all these sources. The first step is targeting the victim, mainly vulnerable persons, then gaining their trust, as well as meeting their needs, either financially or emotionally. Afterwards, traffickers isolate the victim from their family or close ones, a point where exploitation, as a final step, starts. Once the trafficker starts to exploit the victim, he or she will continue to maintain control over the victim through various abusive means.<sup>311</sup>

More sophisticated methods of grooming used by traffickers recently use the internet as their main tool, and sometimes, no physical contact needs to be involved for sexual exploitation to occur. The European Online Grooming Project<sup>312</sup> funded by the European Union and released in 2012, is an extensive study on what online grooming entails and how it can be prevented and combated. It identifies the main pattern which traffickers typically use to ensnare their victims: the request for sexually explicit photos or texts from the victims after having secured their trust, which abusers later use for the purpose of blackmail and control. These same methods are reiterated in a 2014 study by the international organisation ECPAT.<sup>313</sup>

## Conclusions

In light of these considerations and as a conclusion to the analysis of IR theories and concepts employed in understanding the phenomenon of HT, it is evident that traditional state-centric security approaches have become outdated, particularly in the complex realm of counter-trafficking. In this multi-dimensional issue, it's imperative to consider new security perspectives. The role of the state in the security discourse on HT cannot be exclusive or primary anymore, although it should not be disregarded either.

Moreover, creating optimal anti-trafficking policies and fostering cooperation across different levels and among various actors necessitates an inclusive approach. No single theory can fully address all the concerns and complexities inherent in the issue of HT. This multifaceted problem requires a

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pp. 1–17, doi:10.1080/17482798.2019.1688668, [Online] available at: <https://www.tandfonline.com/doi/abs/10.1080/17482798.2019.1688668> (accessed 7 September 2021).

<sup>311</sup> Monica O'Connor and Grainne Healy, *op. cit.*, p. 8.

<sup>312</sup> Steven Webster *et al.*, *European Online Grooming Project - Final Report*, March 2012, [Online] available at: [https://www.researchgate.net/publication/257941820\\_European\\_Online\\_Grooming\\_Project\\_-\\_Final\\_Report](https://www.researchgate.net/publication/257941820_European_Online_Grooming_Project_-_Final_Report) (accessed 7 September 2021).

<sup>313</sup> ECPAT International, *The Commercial Sexual Exploitation of Children in Europe. Developments, Progress, Challenges and Recommended Strategies for Civil Society*, November 2014, p. 12, [Online] available at: [https://childhub.org/sites/default/files/library/attachments/regional\\_csec\\_overview\\_europe.pdf](https://childhub.org/sites/default/files/library/attachments/regional_csec_overview_europe.pdf) (accessed 7 September 2021).

comprehensive approach that takes into account a combination of realist, liberalist and constructivist approaches, as well as various other perspectives and aspects.

Our paper, and specifically the recommendations made in Chapter 4, Chapter 5 and in Final Conclusions require primarily a constructivist and liberalist approach.

Firstly, the constructivist theory would be essential in redefining the concepts within the field of human trafficking, specifically a few aspects that the international community has not yet reached a consensus on. This lack of consensus has resulted in divergent and, at times, conflicting systems and frameworks, thereby impeding the coordination of efforts and allocation of resources and hampering transnational and EU cooperation. Moreover, constructivism offers an essential lens for comprehending the issues at the grassroots level and for devising solutions by drawing on the insights of practitioners and experts who engage directly with victims and gain firsthand knowledge from their fieldwork. We advocate for the involvement of politicians in consultations with survivors of human trafficking, civil society organisation (CSO) representatives, and other specialized practitioners to formulate policies and frameworks that are both relevant and effective. Furthermore, we believe that these stakeholders should be integral participants in any anti-trafficking group of experts or committees, whether at the local, national, or international level.

Secondly, the liberalist theory is needed in redefining the *EU Anti-Trafficking Directive* from a deeper human-rights-based perspective, integrating a victim-centric, trauma-informed and child-sensitive approach. Additionally, the reformation of the EU and national anti-trafficking institutional frameworks and the creation of the EU-TRM, which has been identified as the primary need at the EU level by the majority of the interviewees, requires a liberalist approach.

Thirdly, some aspects of the realist theory would also be needed when it comes to adopting a regulation instead of the EU Anti-Trafficking Directive being revised and allocating more substantial funds towards creating more centralised anti-trafficking systems in the EU.

Lastly, we integrated a few ideas from the feminist theory, namely that human trafficking is fuelled by gender-based violence. Since this paper focuses on sexual exploitation more than other types of exploitation, our recommendations adopt an abolitionist perspective, which advocates for the sanctioning of the client of services exacted from people engaged in prostitution, considering that prostitution, regardless of whether it is consented or not, is exploitation at its core.





# The Legislative, Policy and Institutional Framework of the EU in the area of Preventing and Combatting Human Trafficking

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## Introduction

This chapter describes and analyses the EU anti-trafficking framework and its implications for the Member States (objective O2) by analysing three main frameworks in the field: the legislative, policy, and institutional framework.

We formulated a set of hypotheses before starting the research and drawing up the conclusions, as follows:

Concerning the legislative framework:

**H1.** *EU legislation is not adequately tailored to international human rights requirements.*

Concerning the policy framework:

**H2.** *EU policy is not adequately implemented.*

Concerning the institutional framework:

**H3.** *EU Mechanisms are not properly defined and implemented.*

This chapter will contain four main sections following the three hypotheses, as follows:

- The International Legislative Framework on preventing and combating HT
- The EU Legislative Framework on preventing and combating HT
- The EU Policy Framework on preventing and combating HT
- The CoE and the EU Monitoring Mechanisms for preventing and combatting HT (Institutional Framework)

## 3.1. The International Legislative Framework on Preventing and Combatting Human Trafficking

This section aims to analyse the main international legal instruments in the field of anti-trafficking, compare them to the EU legal instruments, and verify whether the EU legislation in the field is compliant with the main provisions of international law. For this purpose, the *Palermo Protocol* and the *Council of Europe Anti-Trafficking Convention* will be analysed.

### 3.1.1. *The UN Convention against Transnational Organized Crime and the Palermo Protocol (2000)*

The anti-trafficking *Palermo Protocol* is one of the three protocols supplementing the Palermo Convention (*United Nations Convention against Transnational Organized Crime*; hereinafter, UNTOC),<sup>1</sup> and its existence, history and purposes are closely linked to those of the Convention.

The Global Initiative Against Transnational Organized Crime (GI-TOC) published a report<sup>2</sup> on the occasion of the 20th anniversary of the signing of the UNTOC, taking stock of the inputs and deficiencies that the Convention and its Protocols have had up to date. The author of the report, Ian Tennant, concludes that UNTOC has not yet achieved its officially declared purpose as initially set forth. Dimitri Vlasis, UNODC ad-hoc committee secretary and a key figure in the history of the UNTOC, declared in 2001<sup>3</sup> that the Convention would be “*an instrument that will act as a shield for all countries of the world against the operations of organised criminal groups (...) an instrument that will ensure there are no more safe havens for organised criminal groups to operate from, flee to or hide in and enjoy their ill-gotten gains*”; however, up to date, its most important achievements have been that of creating an international legislative framework that has helped shape national legislation and international cooperation on countering organised crime<sup>4</sup>, while its most detrimental aspect has been the lack of an evaluation mechanism to monitor its implementation by the State Parties until recently. An Implementation Review Mechanism (IRM) was adopted only in 2018 and was launched at the biannual Conference of Parties (CoP) in October 2020<sup>5</sup> and, according to Ian Tennant, was not expected to be fully functional until 2021.<sup>6</sup>

Tennant affirms that UNTOC and its Protocols were the result of the urgent need to counteract the accelerated rise of organised crime after the end

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<sup>1</sup> *United Nations Convention against Transnational Organized Crime: resolution/adopted by the General Assembly*, Vienna: UN General Assembly, 8 January 2001, A/RES/55/25, (hereinafter, UNTOC) available at: [Online] available at: <https://www.refworld.org/docid/3b00f55b0.html> (accessed 10 November 2022).

<sup>2</sup> Ian Tennant, “Fulfilling the Promise of Palermo? A Political History of the UN Convention Against Transnational Organized Crime”, in: *Journal of Illicit Economies and Development*, Volume 2, Issue 1, 2021, DOI: <http://doi.org/10.31389/jied.90> (accessed 10 November 2021) [hereinafter, “Fulfilling the Promise of Palermo?...”].

<sup>3</sup> *Ibidem*, p. ii.

<sup>4</sup> *Ibidem*, p. 19-20.

<sup>5</sup> UNODC, *Mechanism for the Review of the Implementation of the United Nations Convention Against Transnational Organised Crime and the Protocols Thereto*, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/home.html> (accessed 11 November 2021).

<sup>6</sup> Ian Tennant, “Fulfilling the Promise of Palermo?...”, p. 4.

of the Cold War, on the one hand, and, on the other, the result of a complex interaction between the favourable political context of multilateralism, specifically-targeted policies and skilled people determined to see them implemented at international level.<sup>7</sup>

Contrary to what could be concluded by analysing the order of appearance of anti-trafficking conventions at the international level (see Figure 3.1. Timeline of international conventions on trafficking), the government of the United States was not initially in favour of creating a universally binding legal instrument to counteract organised crime and HT. Practitioners and experts from the USA were actively lobbying for the creation of such a convention, but state representatives were sceptical at first. In an article released one year after the signing of UNTOC and its Protocols (2001), Kelly E. Hyland<sup>8</sup> identified five primary factors for the creation of the *Palermo Protocol* (the Anti-Trafficking Protocol), the first of which was the role of NGOs as the primary actors who, by lobbying their governments, raised awareness of the reality of HT by presenting the cases of trafficking victims and exposing the strategies of traffickers. Hyland concludes, therefore, that combating HT worldwide started as a grassroots movement and eventually reached the state level.<sup>9</sup> Concerning the involvement of state actors, Tennant highlights that it was Italy and Poland that initiated the idea of “*a legally binding instrument governing international cooperation between law enforcement and judicial authorities to share evidence and pursue international criminal actors, and a framework for countries to update their legislation to investigate better and prosecute such criminals.*”<sup>10</sup> Italy had its share of influence mainly through the Italian prosecutor Giovanni Falcone, who laid the strategic and intellectual foundations of international cooperation against organised crime (and who was eventually assassinated by the Italian mafia in 1992), and Poland – through President Aleksander Kwaśniewski, who in 1996, submitted a draft framework convention text to the UN General Assembly in New York. After the initial scepticism, the United States soon followed suit, with the administration of President Bill Clinton, who started to actively uphold the necessity of combating organised crime at national and international levels.<sup>11</sup>

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<sup>7</sup> *Ibidem*, p. 1.

<sup>8</sup> Kelly E. Hyland, “The Impact of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”, in: *Human Rights Brief*, Vol. 8, no. 2, 2001, [Online] available at: <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1492&context=hrbrief> (accessed 11 November 2021).

<sup>9</sup> *Ibidem*, p. 30.

<sup>10</sup> Ian Tennant, “Fulfilling the Promise of Palermo?...”, p. 3 (*Emphasis added*).

<sup>11</sup> *Ibidem*, pp. 3, 11.

Although the entire process of combating transnational organised crime, and hence, HT, started from a constructivist paradigm by means of discussions and consensus-building in international fora, the influence of public opinion and personal connections,<sup>12</sup> state representatives of Italy, Poland, and the US made use of realist ambitions and goals to convince the international community of the necessity for states to cooperate to defend their sovereignty and security against the growing threat of transnational organised crime. And they succeeded.

To date, 190 states have ratified the Convention, and 178 states have ratified the Anti-Trafficking Protocol. This fact is all the more important as, prior to this, the UN had only created soft law instruments; UNTOC and its Protocols are the first legally binding instruments which have been almost universally ratified.<sup>13</sup>

UNTOC was ratified by more states than the Protocols were, but the very fact that the Anti-Trafficking Protocol (*Palermo Protocol*, in our paper) was attached as a part of UNTOC increased the chances that countries ratified it. It was a strategic move to approach the anti-trafficking movement from an organised crime paradigm, which sparked states' interest more than the human rights paradigm, which states had resisted before because of the supplementary responsibilities it generated. This perspective is also mentioned by Hyland as one of the five factors that favoured the creation of the Anti-Trafficking Protocol as an international legal instrument.<sup>14</sup> A human rights paradigm placed the legal obligation, and therefore, the burden, on states to provide for the rights of the individual, while a transnational organised crime paradigm empowered states and gave them the incentive to increase their authority, as well as the right to request international funds to strengthen their law enforcement institutions. This idea is supported by Beth A. Simmons, Paulette Lloyd, and Brandon M. Stewart in an article released in 2018<sup>15</sup>, where they affirm that the success of the *Palermo Protocol*, specifically its ratification by a large number of countries, was mainly because the initiators framed HT as part of a larger concern, shared by states all over the world, that of transnational organised crime in the context of newly opened borders, and connected it to other problems such as globalisation, illicit labour migration, money laundering, or migrant-, weapons-, and drug smuggling networks<sup>16</sup>. As a

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<sup>12</sup> *Ibidem*, p. 9.

<sup>13</sup> *Ibidem*, p. 3.

<sup>14</sup> Kelly E. Hyland, *op. cit.*, p. 30.

<sup>15</sup> Beth A. Simmons, Paulette Lloyd, and Brandon M. Stewart, "The Global Diffusion of Law: Transnational Crime and the Case of Human Trafficking", in: *International Organization*, Vol. 72, Issue 2, 2018, [Online] available at: doi:10.1017/S0020818318000036 (accessed 12 November 2021).

<sup>16</sup> *Ibidem*, p. 7.

result, states started to implicitly view HT as a threat to their national security and societal well-being and were more motivated to ratify the Convention (and the Protocol, as well), create policies and formulate anti-trafficking legislation.

Simmons et al. highlight that before 2000, fewer than 10% of the nations in the world had anti-trafficking legislation,<sup>17</sup> as compared to 2020, when 140 countries had criminalised HT, according to research published by Statista.com in April 2021.<sup>18</sup> Goździak and Vogel support the same view in a 2020 article<sup>19</sup> assessing the 20 year-existence of the protocol. They affirm that “(t)he *Palermo Protocol* was designed to reflect the international community’s political will to combat organised crime, rather than to combat human rights violations inherent within slavery.”<sup>20</sup>

Among the five factors mentioned by Hyland that determined states to create the Anti-Trafficking Protocol was also the rising migration<sup>21</sup>, and as a result, the increasing number of trafficking cases is connected to the phenomenon of migration. In the year 2000, IOM estimated the number of international migrants to be 150 million<sup>22</sup>, of which 2 million were trafficked, according to a US Department of State Report<sup>23</sup>, and it was expected to increase. Compared to that number, the most recent ILO report (2017)<sup>24</sup> estimated for the year 2016 that a total of 40.3 million people were in modern slavery<sup>25</sup> on any given day worldwide.

Another factor that Kelly E. Hyland mentioned in her study was the absence of comprehensive national trafficking laws, which caused difficulties in prosecuting trafficking cases. The United States was the first country to enact anti-trafficking legislation that encompasses prevention, prosecution, and the protection and assistance for victims; under the administration of Bill Clinton, the *TVPA* was adopted on October 28, 2000, which was even before the United Nations adopted the Convention against Transnational Organised Crime

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<sup>17</sup> *Ibidem*, p. 2.

<sup>18</sup> “Share of countries with full, partial or no legislation on trafficking in persons from 2003 to 2020”, in: *Statista Research Department*, April 2021, [Online] available at: <https://www.statista.com/statistics/300899/percentage-of-countries-by-legislation-on-trafficking-in-persons-by-region/> (accessed 15 November 2021).

<sup>19</sup> Elżbieta M. Goździak and Kathleen M. Vogel, *op. cit.*

<sup>20</sup> *Ibidem*, p. 111.

<sup>21</sup> Kelly E. Hyland, *op. cit.*, p. 30.

<sup>22</sup> *World Migration Report*, IOM and United Nations, 2000, p. 3, [Online] available at: [https://publications.iom.int/system/files/pdf/wmr\\_2000\\_edited\\_0.pdf](https://publications.iom.int/system/files/pdf/wmr_2000_edited_0.pdf), (accessed 20 November 2021).

<sup>23</sup> Kelly E. Hyland, *op. cit.*, p. 30.

<sup>24</sup> verified as of December 2021 (A/N).

<sup>25</sup> ILO, Walk Free, IOM, *Global Estimates of Modern Slavery*, p. 9.

(November 15) and its related *Protocol to Prevent, Suppress and Punish Trafficking in Persons*.<sup>26</sup> The final factor was that the international laws<sup>27</sup> addressing trafficking up to that time were not adequate nor sufficient to combat trafficking at the scale it had reached, as they did not clearly define trafficking, tackled only the issue of sexual exploitation, leaving out other types of exploitation, and focused more on women as the target of exploitation.

Figure 3.1 (see below) shows a timeline of the international conventions on trafficking. It can be noticed that ILO took the initiative in formulating conventions on labour trafficking even before the United Nations drafted anti-trafficking protocols. The data in the figure was compiled by the author as of December 2021 according to the latest registered information on ILO, UN and US Department of State official websites.

The *Palermo Protocol* emerged after two years of negotiations at the United Nations Centre for International Crime Prevention in Vienna. The drafting of the protocol was not a smooth process. It was a battleground between two opposing groups: religious and feminist organisations (also known as the neo-abolitionists)<sup>28</sup>, represented by CATW, on the one hand, and human rights advocates (also identified as critical or non-abolitionists), represented especially by GAATW, as well as the International Committee for Prostitutes' Rights (ICPR), on the other hand.<sup>29</sup> The main area of disagreement was around the issue of consent; while GAATW considered consensual prostitution as legitimate work, calling for its decriminalisation, CATW upheld the belief that all prostitution is a violation of human rights and should

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<sup>26</sup> Kelly E. Hyland, *op. cit.*, p. 30.

<sup>27</sup> There were five agreements preceding the *Palermo Protocol*: 1) *International Agreement for the Suppression of White Slave Traffic* (1904), *International Convention for the Suppression of White Slave Traffic* (1910), *Convention on the Suppression of Traffic in Women and Children* (1921), *International Convention of the Suppression of the Traffic in Women of Full Age* (1933), and the *Convention of the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others* (1950) (A/N).

<sup>28</sup> See, e.g., Melissa Farley, "Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder", in: *Journal of Trauma Practice*, Vol. 2, 2003, doi.org/10.1300/JJ189v02n03\_03; Kathleen Barry, "Prostitution of sexuality: A cause for new international human rights", in: *Journal of Personal and Interpersonal Loss*, Vol. 2, Issue 1, 1997, doi:10.1080/10811449708414404; Dorchen Leidholdt, "Prostitution: A Violation of Women's Human Rights", in: *Cardozo Women's Law Journal*, Vol. 1, No. 133, 1993, <https://prostitutionresearch.com/prostitution-a-violation-of-womens-human-rights-2/>; Catharine A. MacKinnon, "Prostitution and Civil Rights", in: *Michigan Journal of Gender and Law*, Vol. 1, Issue 1, 1993, <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1192&context=mjgl>; Elizabeth Bernstein, "The Sexual Politics of the 'New Abolitionism'", in: *Differences: a Journal of Feminist Cultural Studies*, Vol. 18, Issue 3, 2007, <https://doi.org/info:doi/>.

<sup>29</sup> Elżbieta M. Goździak and Kathleen M. Vogel, *op. cit.*, p. 109.

be considered HT, regardless of whether there has been any consent or not. CATW affirmed that a woman's consent to sex work is irrelevant since she does not realise the exploitation that she will undergo.<sup>30</sup>

The neo-abolitionist feminist advocates strongly advocated for militant criminal justice interventions: criminalising buyers of sexual services, as well as socially stigmatising them; prosecuting owners and managers, as well as any other parties involved; and rescuing and reintegrating women, depicting them as victims of patriarchal systems. Therefore, since states and neo-abolitionist feminists united behind criminal justice goals, the non-abolitionist advocates did not manage to see their paradigm reflected in the drafting of the *Palermo Protocol*.<sup>31</sup>

Goździak and Vogel write that CATW's position was ultimately rejected by the signatories of the *Palermo Protocol* since they defined HT as a crime involving some sort of force, fraud, or coercion (except in the case of minors).<sup>32</sup> On the other hand, Jaffer Latief Najar, a supporter of GAATW position, writes in a 2021 article<sup>33</sup> that the Palermo trafficking definition was actually shaped by CATW lobbying because it involves the controversial wording of "exploitation of the prostitution of others" and condemns it as HT,<sup>34</sup> while, as Plant highlights, the concept of "exploitation" itself has still remained unclarified.<sup>35</sup>

Nevertheless, the *Palermo Protocol* has a high rate of ratification by the states of the world<sup>36</sup> and has been ratified by all EU Member States. *Table 3.1* shows the various anti-trafficking conventions and protocols displayed on the US Department of State website and their signature and ratification by EU Member States.<sup>37</sup> According to *Table 3.1*, it can be noticed that, except the 2011 ILO Convention

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<sup>30</sup> Jo Doezema, "Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol", in: *Gender and Development*, Vol. 10, No. 1, 2002, pp. 21-22, [Online] available at: <http://www.jstor.org/stable/4030678> (accessed 25 November 2021).

<sup>31</sup> Janie A. Chuang, "Exploitation Creep and the Unmaking of Human Trafficking Law", in: *The American Journal of International Law*, Vol. 108, No. 4, October 2014, p. 616, [Online] available at: doi:10.5305/amerjintlaw.108.4.0609 (accessed 22 December 2021).

<sup>32</sup> Elżbieta M. Goździak & Kathleen M. Vogel, *op. cit.*, pp. 109-110.

<sup>33</sup> Jaffer Latief Najar, "20 Years of Impact of the *Palermo Protocol*: Contestation and Reflections", in: *Global Policy*, 20 April 2021, [Online] available at: <https://www.globalpolicyjournal.com/blog/20/04/2021/20-years-impact-palermo-protocol-contestation-and-reflections> (accessed 25 November 2021).

<sup>34</sup> *Ibidem*.

<sup>35</sup> Roger Plant, "Forced Labour, Slavery and Human Trafficking: When do definitions matter?", in: *Anti-Trafficking Review*, No. 5, 2015, p. 2, [Online] available at: <https://doi.org/10.14197/atr.201215511> (accessed 25 November 2021).

<sup>36</sup> Ratified by 178 states, verified as of December 2021 (A/N).

<sup>37</sup> *International and Domestic Law*, U.S. Department of State, [Online] available at: <https://www.state.gov/international-and-domestic-law/> (accessed 7 December 2021).

189 on Domestic Workers, EU states have signed and ratified all international anti-trafficking instruments in a very high proportion, which means that, legally speaking, EU states have complied to the international normative framework on combating HT and have further developed it on a regional level by the drafting of the *CoE Convention* in 2005, and later, by the drafting of the *EU Anti-Trafficking Directive in 2011*.<sup>38</sup>

Figure 3. 1. Timeline of international conventions on trafficking



Source: Compiled by the author from various sources<sup>39</sup>

<sup>38</sup> *Ibidem.*

<sup>39</sup> *International and Domestic Law*, U.S. Department of State, <https://www.state.gov/international-and-domestic-law/>; *C029 - Forced Labour Convention, 1930 (No. 29)*, ILO, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029;); United Nations Treaty Collection, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18;); *C105 - Abolition of Forced Labour Convention, 1957 (No. 105)*, ILO, [https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C105](https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105); *Optional Protocol on the Involvement of Children in Armed Conflict*, United Nations, <https://childrenandarmedconflict.un.org/tools-for-action/opac/>; *Ratifications of C189 - Domestic Workers Convention, 2011 (No. 189)*, ILO, [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:2551460](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:2551460) (accessed 7 December 2021).



Table 3. 1. Ratification of anti-trafficking conventions and protocols by EU Member States

Country	UN Protocol to Prevent, Suppress & Punish Trafficking in Persons		ILO Convention 182, Elimination of Worst Forms of Child Labour	Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography		Optional Protocol to the Convention on the Rights of the Child in Armed Conflict		ILO Convention 29, Forced Labour	ILO Convention 105, Abolition of Forced Labour	ILO Convention 189, Domestic Workers, 2011
	Signature	Ratification, Accession (n), or Acceptance (A)	Ratification	Signature	Ratification, Accession (r)	Signature	Ratification, Accession (a)	Ratification	Ratification	Ratification
Albania	X	X	X		X(n)		X(n)	X	X	
Austria	X	X	X	X	X	X	X	X	X	
Belgium	X	X	X	X	X	X	X	X	X	X
Bulgaria	X	X	X	X	X	X	X	X	X	
Croatia	X	X	X	X	X	X	X	X	X	
Cyprus	X	X	X	X	X	X	X	X	X	
Czech Republic	X	X	X	X	X	X	X	X	X	
Denmark	X	X	X	X	X	X	X	X	X	
Estonia	X	X	X	X	X	X	X	X	X	
Finland	X	X(A)	X	X	X	X	X	X	X	X
France	X	X	X	X	X	X	X	X	X	
Germany	X	X	X	X	X	X	X	X	X	X
Greece	X	X	X	X	X	X	X	X	X	
Hungary	X	X	X	X	X	X	X	X	X	
Ireland	X	X	X	X		X	X	X	X	X
Italy	X	X	X	X	X	X	X	X	X	X
Latvia	X	X	X	X	X	X	X	X	X	
Lithuania	X	X	X		X(n)	X	X	X	X	
Luxembourg	X	X	X	X	X	X	X	X	X	
Malta	X	X	X	X	X	X	X	X	X	
Netherlands	X	X(A)	X	X	X	X	X	X	X	
Poland	X	X	X	X	X	X	X	X	X	
Portugal	X	X	X	X	X	X	X	X	X	
Romania	X	X	X	X	X	X	X	X	X	
Slovenia	X	X	X	X	X	X	X	X	X	
Spain	X	X	X	X	X	X	X	X	X	
Sweden	X	X	X	X	X	X	X	X	X	

Source: *International and Domestic Law*, U.S. Department of State, [Online] available at: <https://www.state.gov/international-and-domestic-law/> (accessed 7 December 2021).

### 3.1.2. The Council of Europe Convention on Action against Trafficking in Human Beings

The Council of Europe, with its 46 member States<sup>40</sup>, is one of the three largest regional organisations in Europe which address HT, together with the

<sup>40</sup> Before Russia's attack on Ukraine on 24 February 2022, the CoE used to have 47 members. The Committee of Ministers of the Council of Europe decided to cease the membership of the Russian Federation in the Council of Europe as of 16 March 2022 (see *European Union External Action*, <https://www.eeas.europa.eu/>, accessed 15 September 2022).

European Union and the Organization for Security and Co-operation in Europe (OSCE).<sup>41</sup>

The Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197)<sup>42</sup> was adopted by the Committee of Ministers on 3 May 2005 and entered into force on 1 February 2008. Furthermore, since 2009, the *CoE Convention* has had a monitoring mechanism, GRETA, the mandate of which is to monitor the implementation of the Convention by State Parties. The Convention is supplemented by an *Explanatory Report*<sup>43</sup>, which represents an official aide for the interpretation of its provisions.

The Council of Europe's activities against HT started in the late 1980s, with recommendations focusing mainly on the sexual exploitation of women. Then, in 1991, the Council of Europe organised a *Seminar on Action Against Trafficking in Women, considered as a violation of human rights and human dignity*.<sup>44</sup> Subsequently, in 1992, the Council established a Group of Experts on trafficking in women, mandated to identify the most critical areas for action, which later, in 1996, were included in a *Plan of Action against trafficking in women*. The purpose of the Plan was to encourage Member States to draw up national, as well as regional, action plans against trafficking<sup>45</sup>, and to this end, it made recommendations to the Member States on legislative, judicial and law enforcement aspects of trafficking, as well as on assisting, supporting and rehabilitating victims, and developing prevention programmes.<sup>46</sup>

Therefore, the Council of Europe has had a leading role at a regional level in assisting states with developing anti-trafficking policies, legislation and mechanisms. At the Strasbourg Summit in 1997, Member States of the Council

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<sup>41</sup> Marija Jovanovic, *Comparison of Anti-Trafficking Legal Regimes and Actions in the Council of Europe and ASEAN: Realities, Frameworks and Possibilities for Collaboration*, Strasbourg: Council of Europe, May 2018, p. 21, [Online] available at: <https://rm.coe.int/coe-asean-study-thb/16808c1b91> (accessed 9 December 2021).

<sup>42</sup> *CoE Convention*.

<sup>43</sup> *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, Warsaw: Council of Europe, 16 May 2005, [Online] available at: <https://rm.coe.int/16800d3812> (accessed 9 December 2021) [hereinafter, *Explanatory Report to the CoE Convention...*]

<sup>44</sup> *Council of Europe's action to combat trafficking in human beings*, Ministers' Deputies Information documents, CM/Inf(2008)28, Council of Europe, 9 June 2008, p.1, [Online] available at: <https://documentation.lastradainternational.org/lisidocs/2.pdf> (accessed 9 December 2021).

<sup>45</sup> *Action against Trafficking in Human Being*, Strasbourg: Council of Europe, Directorate General of Human Rights and Legal Affairs Gender Equality and Anti-Trafficking Division, 8 October 2008, p. 1, [Online] available at: <https://www.osce.org/files/f/documents/9/e/34289.pdf> (accessed 10 December 2021) [hereinafter, *Action against THB...*]

<sup>46</sup> *Ibidem*; Cherif Bassiouni *et al.*, *op. cit.*, p. 466.

declared in the *Final Declaration*<sup>47</sup> that all forms of sexual exploitation of women are a threat to security and democracy in Europe.<sup>48</sup> Furthermore, a Joint Action<sup>49</sup> was adopted by the Council of Europe in the same year, focusing on penal provisions and judicial cooperation. Then, in 1999, the European Council of Tampere<sup>50</sup>, dedicated a special meeting to the establishment of an Area of Freedom, Security and Justice, where requests were made to develop further legislative initiatives, not only in fighting trafficking in women but also in fighting HT at large.<sup>51</sup>

Since the 1997 Summit, the Council of Europe has endeavoured to raise awareness and encourage action among governments and civil society regarding the dangers facing vulnerable individuals, intending to ultimately create a legal framework focused on the protection of individuals.<sup>52</sup> The Committee of Ministers of the Council of Europe adopted two legal texts dealing specifically with HT for sexual exploitation:

- *Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation;*<sup>53</sup>
- *Recommendation Rec (2001) 16 of the Committee of Ministers to member states on the protection of children against sexual exploitation.*<sup>54</sup>

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<sup>47</sup> *Second Summit of Heads of State and Government (Strasbourg, 10-11 October 1997) Final Declaration and Action Plan*, Strasbourg: Council of Europe, 11 October 1997, p. 3, [Online] available at: <https://rm.coe.int/168063dced>, (accessed 10 December 2021).

<sup>48</sup> *Ibidem*.

<sup>49</sup> *Joint Action 97/154/JHA of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children*, European Council, Official Journal L 63, 4 March 1997, [Online] available at: [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/equality\\_between\\_men\\_and\\_women/l33072\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/l33072_en.htm) (accessed 11 December 2021).

<sup>50</sup> *Tampere European Council 15 and 16 October 1999 Presidency Conclusions*, Tampere: European Council, 1999, [Online] available at: [http://www.europarl.europa.eu/summits/tam\\_en.htm](http://www.europarl.europa.eu/summits/tam_en.htm) (accessed 11 December 2021).

<sup>51</sup> Cherif Bassiouni *et al.*, *op. cit.*, p. 467.

<sup>52</sup> *Action against THB...*, p. 1.

<sup>53</sup> *Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation*, Strasbourg: Council of Europe, 19 May 2000, [Online] available at: <https://rm.coe.int/16804fda79> (accessed 13 December 2021).

<sup>54</sup> *Recommendation Rec (2001) 16 of the Committee of Ministers to member states on the protection of children against sexual exploitation*, Council of Europe, 31 October 2001, [Online] available at: <https://childhub.org/en/child-protection-online-library/recommendation-rec200116-committee-ministers-member-states> (accessed 13 December 2021).

These recommendations aimed to create a pan-European strategy to combat HT and promote congruence in areas such as definitions, standards, infrastructure for action on prevention, assistance to and protection of victims, criminal legislation and judicial cooperation, as well as measures for international cooperation.<sup>55</sup>

Additionally, the Parliamentary Assembly of the Council of Europe adopted a series of recommendations connected to the issues of HT<sup>56</sup>. These texts had the role of paving the way for the *CoE Convention*, which was adopted for signature on 3 May 2005 and later entered into force on 1 February 2008. However, until the Convention was finally adopted, several other preceding events took place, leading to the drafting of the *CoE Convention* (see *Figure 3.2* for the timeline of these recommendations and events).

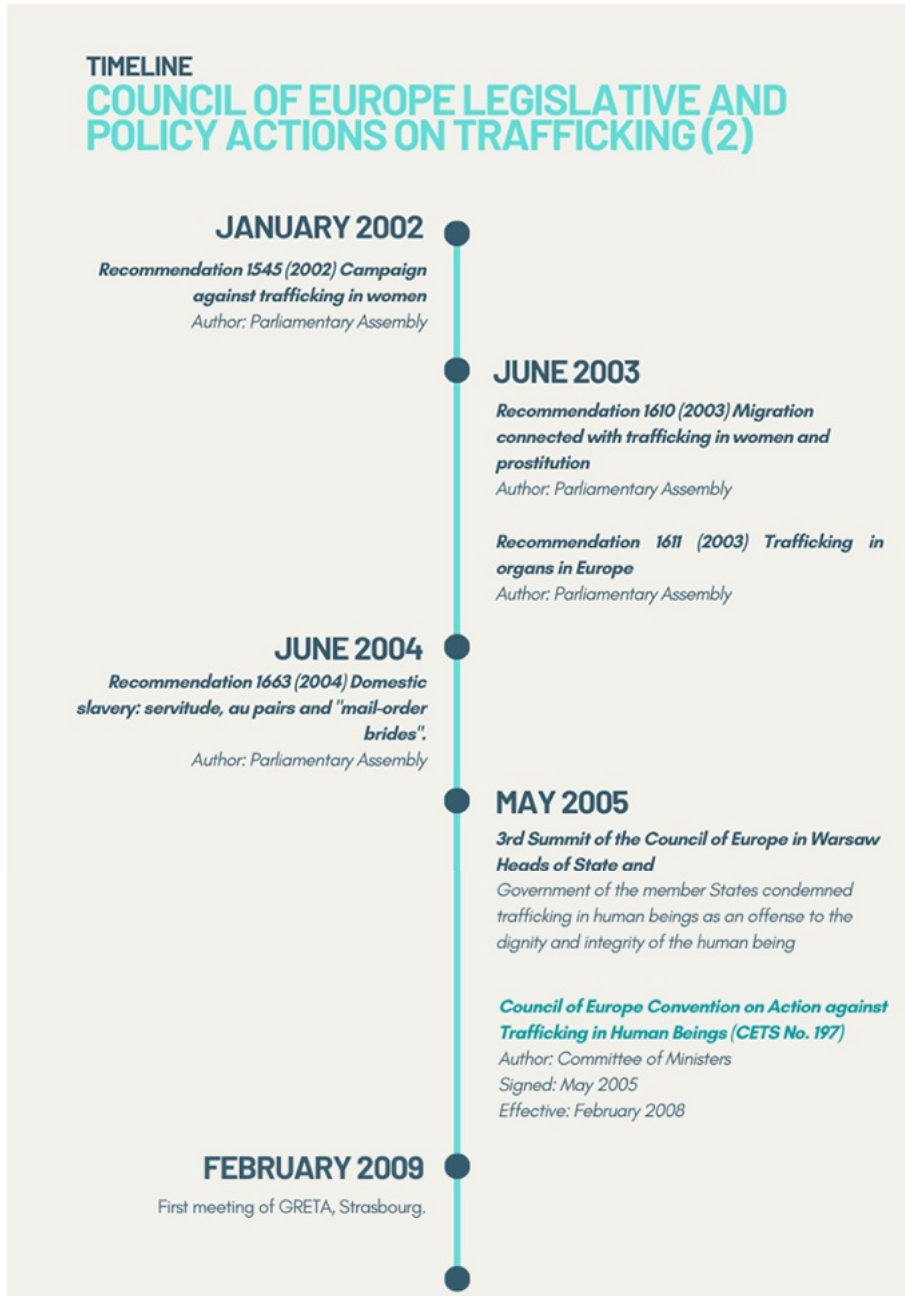
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<sup>55</sup> Cherif Bassiouni *et al.*, *op. cit.*, p. 467.

<sup>56</sup> *Recommendation 1325 (1997) on traffic in women and forced prostitution in Council of Europe member States*, Council of Europe, 23 April 1997, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=15359&lang=en>; *Recommendation 1450 (2000) Violence against women in Europe*, Council of Europe, 3 April 2000, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16783&lang=en>; *Recommendation 1523 (2001) Domestic slavery*, Council of Europe, 26 June 2001, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16924&lang=en>; *Recommendation 1526 (2001) A campaign against trafficking in minors to put a stop to the east European route: the example of Moldova*, Council of Europe, 27 June 2001, [Online] available at: <https://pace.coe.int/en/files/16928>; *Recommendation 1545 (2002) Campaign against trafficking in women*, Council of Europe, 21 January 2002, [Online] available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16965&lang=en>; *Recommendation 1610 (2003) Migration connected with trafficking in women and prostitution*, Council of Europe, 25 June 2003, [Online] available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17123&lang=en>; *Recommendation 1611 (2003) Trafficking in organs in Europe*, Council of Europe, 25 June 2003, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17125&lang=en>; *Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and "mail-order brides"*, Council of Europe, 22 June 2004, [Online] available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17229&lang=en> (accessed 13 December 2021).

Figure 3. 2. Timeline of Council of Europe legislative and policy actions on trafficking





Source: Julia Planitzer and Helmut Sax (eds.), *A Commentary on The Council of Europe Convention on Action Against Trafficking in Human Beings*, Edward Elgar Publishing, 2020.

The *CoE Convention* entered into force on 1 February 2008, the year that marked the end of the *Council of Europe Campaign to Combat Trafficking in Human Beings*, launched in 2006 under the slogan “*Human beings – not for sale*”. In total, 41 out of 47 Member States took part in the regional seminars focused on raising awareness regarding the 3Ps (prevention, protection and prosecution), and an average of 100 to 150 representatives from governments, national parliaments and NGOs attended the seminars, which meant a relatively high level of consensus and cohesiveness in the anti-trafficking cooperation process at a regional level.<sup>57</sup>

Other actors played their part in the drafting process of the *CoE Convention*, apart from the leading role of the Council of Europe. An important influence in the drafting process of the Convention was exerted by the European Commission, as concerns the language adopted, especially in the case of *Article 12* on the differentiation and restriction concerning medical services or employment exclusively for those who are lawfully resident within the State Party’s territory.<sup>58</sup> NGOs also played an important role in the drafting of the Convention, although NGO representatives did not have permission to take part in meetings at early stages of the drafting. For example, NGOs lobbied in relation to *Article 16* of the *CoE Convention* for the necessity to conduct a needs and risk assessment before the return of a trafficked person to the country of origin.<sup>59</sup>

### **3.1.3. Comparison between the Palermo Protocol and the CoE Convention**

The *CoE Convention* is widely recognised as the most advanced international legally binding instrument on HT, as it further elaborates the provisions of the *Palermo Protocol*, focusing not only on the prevention of trafficking and prosecution of traffickers but especially on the protection of victims.<sup>60</sup>

Four important components set this instrument aside from the *Palermo Protocol* and other previous anti-trafficking efforts. First of all, the *CoE*

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<sup>57</sup> *Action against THB...*, p. 2.

<sup>58</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the Council of Europe Convention on Action Against Trafficking in Human Beings*, Edward Elgar Publishing, 2020, pp. 162-182, DOI 10.4337/9781788111560 (accessed 17 December 2021) [hereinafter, *A Commentary on the CoE Convention...*]

<sup>59</sup> *Joint NGO Statement on the draft European Convention against Trafficking in Human Beings*, IOR61/020/2004, Amnesty International, November 2004, p. 4, [Online] available at: <https://www.amnesty.org/ar/wp-content/uploads/2021/09/iior610202004en.pdf> (accessed 17 December 2021).

<sup>60</sup> “Coordination of the Fight Against Trafficking in Human Beings”, *Government of Israel, Ministry of Justice*, 26 April 2021, [Online] available at: <https://www.gov.il/en/departments/news/26-04-2021-01> (accessed 17 December 2021).

*Convention* is a regional instrument, which wields more influence in addressing particular issues that vary regionally.<sup>61</sup> Another added value brought by the CoE Trafficking Convention, as compared to the *Palermo Protocol*, is the declaration that HT is a violation of human rights and infringes upon human dignity and integrity, and that greater protection is therefore needed for all of its victims. Under the Convention, victims of trafficking are entitled to a wide range of obligatory assistance measures from behalf of State Parties.<sup>62</sup> A third added value of the *CoE Convention* is that it encompasses all forms of trafficking, national, as well as transnational, connected or not to organised crime (as compared to the *Palermo Protocol*, which focuses specifically on HT derived from organised crime), as well as different types of exploitation of women, men, and children. A fourth fundamental aspect that the *CoE Convention* is commendable for is the extended meaning that it attaches to the concept of consent, which had been so controversial in the process of drafting the *Palermo Protocol*. The *CoE Convention* implies that willingness to engage in prostitution does not mean the person has consented to exploitation, which is explicitly affirmed in the *Explanatory Report to the CoE Convention*:

“97. Article 4(b) states: ‘The consent of a victim of <trafficking in human beings> to the intended exploitation set forth in sub-paragraph (a) of this article shall be irrelevant where any of the means set forth in sub-paragraph (a) have been used’. The question of consent is not simple and it is not easy to determine where free will ends and constraint begins. In trafficking, some people do not know what is in store for them while others are perfectly aware that, for example, they will be engaging in prostitution. However, while someone may wish employment, and possibly be willing to engage in prostitution, that does not mean that they consent to be subjected to abuse of all kinds. For that reason, Article 4(b) provides that there is trafficking in human beings whether or not the victim consents to be exploited.”<sup>63</sup>

Lastly, the *CoE Convention* sets up a monitoring body to ensure that State Parties implement its provisions efficiently.<sup>64</sup> This monitoring mechanism, Group of Experts on Action against Trafficking in Human Beings (GRETA), has been functioning since 2009, and up to present<sup>65</sup>, it has

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<sup>61</sup> Cherif Bassiouni *et al.*, *op. cit.*, p. 464.

<sup>62</sup> *CoE Convention*, Chapter III, pp. 5-8.

<sup>63</sup> *Explanatory Report to the CoE Convention...*, para 97.

<sup>64</sup> *Ibidem*, para 36.

<sup>65</sup> September 2022, the time this chapter was written (A/N).



held 46 meetings.<sup>66</sup> Compared to the *Palermo Protocol*, which launched the Mechanism for the Review of the Implementation (IRM) of the UNTOC and its three protocols<sup>67</sup> only in October 2020<sup>68</sup>, after 10 years of intergovernmental negotiations<sup>69</sup>, GRETA has already had 13 years of experience up to now.<sup>70</sup>

Both instruments have a high level of ratification, but the CoE has been ratified by all but one of the CoE Member States; while the *Palermo Protocol* has been ratified by 178 countries out of the total of 193 UN Member States (92%)<sup>71</sup>, the *CoE Convention* has been ratified by 48 states, a number which comprises all the 46 Member States of the Council of Europe (100%)<sup>72</sup>, plus Belarus and Israel, which are not members of the Council of Europe.

Article 39 of the *CoE Convention* mentions specifically the relationship with the *Palermo Protocol*, ensuring that the provisions of the Convention do not conflict with the provisions of the Protocol and that the Convention “reinforces (...) the protection afforded by the United Nations instrument and develops the standards it lays down”.<sup>73</sup> Article 39 mentions that the *CoE Convention* “is intended to enhance the protection afforded by it and develop

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<sup>66</sup> *Greta Meetings*, Monitoring Mechanism, Council of Europe, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/meetings>, (accessed 15 September 2022).

<sup>67</sup> *Conference of the Parties to the United Nations Convention against Transnational Organized Crime*, CTOC/COP/2020/L.4/Rev.1, Vienna: United Nations, 8 October 2020, [Online] available at: [https://www.unodc.org/documents/treaties/UNTOC/COP/SESSION\\_10/Website/CTOC\\_COP\\_2020\\_L4\\_REV1/CTOC\\_COP\\_2020\\_L4\\_REV1\\_E.pdf](https://www.unodc.org/documents/treaties/UNTOC/COP/SESSION_10/Website/CTOC_COP_2020_L4_REV1/CTOC_COP_2020_L4_REV1_E.pdf) (accessed 22 December 2021).

<sup>68</sup> Ian Tennant, *Engaging with the UNTOC Review Mechanism. An overview for civil society*, Global Initiative against Transnational Organised Crime, 31 May 2021, [Online] available at: <https://globalinitiative.net/analysis/untoc-review-civil-society/> (accessed 22 December 2021).

<sup>69</sup> *UNODC Concludes the 10th session of the Conference of the Parties to the UN Convention against Transnational Organized Crime*, Vienna: United Nations Office on Drugs and Crime, 19 October 2020, [Online] available at: <https://www.unodc.org/unodc/frontpage/2020/October/unodc-concludes-the-10th-session-of-the-conference-of-the-parties-to-the-un-convention-against-transnational-organized-crime.html> (accessed 22 December 2021); *The 10th UNTOC COP: Links Between Organized Crime and Corruption*, UNCAC Civil Society Coalition, 28 October 2020, [Online] available at: <https://uncaccoalition.org/the-10th-untoc-cop-links-between-organized-crime-and-corruption/> (accessed 22 December 2021).

<sup>70</sup> At the moment of writing, September 2022, there have been 13 years since the launch of GRETA (A/N).

<sup>71</sup> “United Nations Convention against Transnational Organized Crime and the Protocols Thereto”, UNODC, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html> (accessed 22 December 2021).

<sup>72</sup> Before March 2022, when the Russian Federation was still a CoE member, it was nevertheless the only country that had not ratified the Convention (A/N).

<sup>73</sup> *Explanatory Report to the CoE Convention...*, para 371.

the standards contained therein.”<sup>74</sup> This article shows that, compared to the *Palermo Protocol*, the *CoE Convention* places an obligation on its State Parties to implement higher standards regarding the protection of victims.<sup>75</sup>

As regards the relationship of the Convention with the EU law in the field, Article 40(1) mentions that:

“This Convention shall not affect the rights and obligations derived from other international instruments to which Parties to the present Convention are Parties or shall become Parties and which contain provisions on matters governed by this Convention and which ensure greater protection and assistance for victims of trafficking.”<sup>76</sup>

The formulation “which ensure greater protection and assistance for victims of trafficking” was added at the 7th Ad hoc Committee on Action against Trafficking in Human Beings (CAHTEH) meeting, at the suggestion of Hungary’s representatives.<sup>77</sup> Moreover, Article 40(3) specifically states that EU law must be applied “without prejudice to the object and purpose of the present Convention.”<sup>78</sup> This means that, in case the *CoE Convention* provides for higher standards in the area of victim protection as compared to the EU law, EU Member States are obliged to apply the higher standards of the *CoE Convention*. However, the main EU legal instrument on anti-trafficking, *Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*<sup>79</sup> has been aligned to a large extent to the standards of the *CoE Convention*, except the provision of the reflection and recovery period in Article 13 of the *CoE Convention*. At the EU level, the reflection period – in contrast to the *CoE Convention* – does not cover a minimum duration of this period. One aspect that should be highlighted is that the EU itself has not ratified the Convention, and therefore it is not bound by its provisions, while EU Member States are under the obligation to implement the obligations stemming from the *CoE Convention* where they provide for higher standards than the EU law.<sup>80</sup>

Further, when comparing the *Palermo Protocol* and the *CoE Convention*, it can be noticed that the latter is broader in scope than the former. Article 2 of the *CoE Convention* mentions that the instrument applies to “all forms of trafficking in human beings, whether national or transnational, whether or not

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<sup>74</sup> *CoE Convention*, Article 39, p. 16.

<sup>75</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 447.

<sup>76</sup> *CoE Convention*, Article 40(1), p. 16.

<sup>77</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 449.

<sup>78</sup> *CoE Convention*, Article 40(3), p. 16.

<sup>79</sup> *EU Directive*.

<sup>80</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 453.

connected with organised crime”<sup>81</sup> This is a major difference, as it contains the underlying idea that, on the one hand, *CoE Convention* is not limited to the definition of HT as a transnational crime only, but it comprises domestic trafficking as well, and, on the other hand, it is not limited to the organised crime framing of HT applied by the *Palermo Protocol*. Therefore, as the *CoE Convention* applies a human rights frame, it means that victims of trafficking are entitled to protection and assistance even if the crime was not a direct result of organised crime; it recognises, therefore, that a person can be trafficked by a family member, as well, within their own home.<sup>82</sup>

Therefore, the *CoE Convention* is recognised as being the first and the only (up to present) legal anti-trafficking instrument that frames HT as “a violation of human rights”<sup>83</sup> This paradigm is explicitly mentioned in the third paragraph of the Preamble:

“Considering that trafficking in human beings constitutes a violation of human rights and an offence to the dignity and the integrity of the human being (...)”<sup>84</sup>

Article 5(3) also mentions that “Member States shall promote a human rights-based approach”<sup>85</sup>

However, the Convention itself is a result of a longer process of promoting human rights both by the UN and by the CoE. Important landmarks achieved in this field, even before the Convention was eventually adopted in 2005, had been the Universal Declaration of Human Rights in 1948, drafted by the United Nations, and the European Convention on Human Rights (ECHR) in 1950, drafted by the Council of Europe, which eventually established the European Court of Human Rights (ECtHR). Even if trafficking is not itself mentioned in the ECHR, several ECHR articles stipulate the obligation of State Parties to grant all individuals within their jurisdiction (not just citizens), the rights and freedoms mentioned in the ECHR. Hence, a person trafficked into the jurisdiction of a State Party can benefit from the protection of ECHR.

For instance, in the 2010 case of *Rantsev v. Cyprus and Russia*<sup>86</sup>, the applicant, a Russian citizen, brought a complaint against the Republic of

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<sup>81</sup> *CoE Convention*, Art. 2, p. 2.

<sup>82</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 7.

<sup>83</sup> *Ibidem*, p. 1.

<sup>84</sup> *CoE Convention*, Preamble, p. 1 (*Emphasis added*).

<sup>85</sup> *Ibidem*, Art 5(3).

<sup>86</sup> *Case of Rantsev v. Cyprus and Russia, Application 25965/4, Judgement*, Strasbourg: European Court of Human Rights, 7 January 2010, [Online] available at: <https://rm.coe.int/16806ebd5e> (accessed 17 December 2021) [hereinafter, *Case of Rantsev v. Cyprus and Russia*].

Cyprus and Russia in the European Court of Human Rights concerning the death of his 20-year-old daughter. The court determined that this case violated Article 4 of ECHR (*Prohibition of slavery and forced labour*), and that it fell within the scope of HT.<sup>87</sup> Therefore, ECtHR created the concept of “positive obligation”<sup>88</sup>, which, in this case, included the obligation of states not only to criminalise HT, but also to protect trafficked persons, which entails, firstly, adopting a relevant legal and administrative framework, secondly, investigating potential HT cases<sup>89</sup>, and thirdly, taking action in protecting victims when states are “aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being trafficked or exploited (...)”<sup>90</sup> This obligation to protect is mentioned as an obligation to conduct due diligence by the former UN Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro.<sup>91</sup>

In the *Case of Rantsev v. Cyprus and Russia*, Ms. Rantseva, a Russian citizen, obtained an “artiste visa” to work in a cabaret in Cyprus; however, soon after her arrival, she left the job and, later, the owner of the cabaret found her and took her to the police, requesting for Ms. Rantseva’s detention and expulsion, on the basis of immigration laws. The police, however, refused to do so and delivered her back into the owner’s custody; the next morning, Ms Rantseva was found dead.<sup>92</sup> The critical aspect, in this case, is that the Cypriot state was aware that young women entering Cyprus with an artiste visa “actually worked as prostitutes”.<sup>93</sup> In this case, a state’s obligation to take action in protecting victims or potential victims is prompted when the state authorities are aware of “circumstances giving rise to a credible suspicion” that an individual is or was at risk of being trafficked.<sup>94</sup> In the *Case of Rantsev v. Cyprus and Russia*, due to the existence of official awareness, the Cypriot state had the obligation to investigate the case and take immediate action to protect

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<sup>87</sup> *Ibidem*.

<sup>88</sup> Rosana Garcíandia, “State responsibility and positive obligations in the European Court of Human Rights: The contribution of the ICJ in advancing towards more judicial integration”, in: *Leiden Journal of International Law*, Vol. 33, Issue 1, 2020, pp. 177-187, doi:10.1017/S0922156519000591 (accessed 17 December 2021).

<sup>89</sup> *Case of Rantsev v. Cyprus and Russia*, paras. 290 et seq.

<sup>90</sup> *Ibidem*, para. 286.

<sup>91</sup> *Trafficking in persons, especially women and children: note / by the Secretary-General, 3 August 2015, A/70/260*, UN General Assembly, para. 47 et. seq., [Online] available at: <https://www.refworld.org/docid/55f28c1b4.html> (accessed 17 December 2021).

<sup>92</sup> *Case of Rantsev v. Cyprus and Russia*, paras. 18-19.

<sup>93</sup> *Ibidem*, para. 83.

<sup>94</sup> *Ibidem*, para. 286.

and assist the potential victim, even in the case of a potential victim of trafficking.<sup>95</sup>

As a result of this case, the ECtHR has highlighted that even if state authorities were not directly involved in the violation of human rights, states are culpable of violating their human rights obligations if they fail to take adequate preventive action to protect the potential victim.<sup>96</sup> *The Explanatory Report to the CoE Convention* refers to the case law of the ECtHR in paragraph 44, recognising “the liability of contracting States for acts committed by individuals or group of individuals when these States failed to take appropriate measures of protection” and “if a violation of one of those rights and freedoms is the result of non-observance of that obligation in the enactment of domestic legislation, the responsibility of the State for that violation is engaged.”<sup>97</sup> In this case, States have the obligation to protect a suspected trafficked person not only against a state official but also against private individuals.<sup>98</sup>

Making reference to the concept of human rights protection as delineated by the ECHR and the case law of ECtHR, the *CoE Convention* obliges states to take responsibility not only for prosecuting traffickers and preventing the phenomenon but especially for protecting and assisting trafficked persons. Compared to the *Palermo Protocol*, which places the greatest responsibility on states as regards prosecution, while using soft language regarding the protection and assistance of victims<sup>99</sup>, the *CoE Convention* brings protection and assistance to the forefront of state anti-trafficking priorities, a fact which is clearly evident when analysing the terminology used by each instrument, as further highlighted in this chapter.

In the case of the *Palermo Protocol*, the drafters were law enforcement officials who placed an overarching emphasis on crime control and had less interest and expertise in human rights standards; therefore, they formulated

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<sup>95</sup> *Ibidem*; Report by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights on his visit to Cyprus on 7-10 July 2003 (CommDH(200836), Commissioner for Human Rights, 12 December 2008, paras. 45–48, [Online] available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CY/CoE\\_CYP\\_UPR\\_S06\\_2009\\_document7.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CY/CoE_CYP_UPR_S06_2009_document7.pdf) (accessed 17 December 2021).

<sup>96</sup> *Explanatory Report to the CoE Convention...*, para. 44.

<sup>97</sup> *Ibidem*.

<sup>98</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 19.

<sup>99</sup> Tom Obokata, “Trafficking of Human Beings as a Crime Against Humanity: Some Implications for the International Legal System”, in: *The International and Comparative Law Quarterly*, Vol. 54, No. 2, April 2005, p. 445, [Online] available at: <http://www.jstor.org/stable/3663256> (accessed 18 December 2021).

the protocol with the aim of obliging states to impose a policy of criminalisation at national level, while evading the burden stemming from a policy promoting the rights and entitlements of the individual. This was actually the very reason why consent between states was possible on this issue at such a rapid pace.<sup>100</sup>

### **3.1.4. Implications of framing human trafficking as an issue of human rights violation**

Indeed, framing HT as an issue of human rights violation was controversial not only for the drafting of the *Palermo Protocol*, but also for the *CoE Convention*, as states would rather avoid supplementary obligations that entail further costs of resources, and a human rights paradigm compels states to do precisely that.<sup>101</sup> The difference was that human rights advocates succeeded in implementing their vision in the case of the *CoE Convention*.

However, the concept of HT as a human rights violation was contentious and needed several rounds of negotiations during the 8 meetings of the CAHTEH (September 2003 and February 2005), as delegations feared the consequences implied if states were to endorse this concept.<sup>102</sup>

As a matter of fact, framing HT as an issue of human rights has several implications, which are translated as state obligations towards individuals. First, the trafficked person has the right to be identified as a victim, even if they are not willing to cooperate with criminal justice authorities; this entails the obligation of states to grant the victim a recovery and reflection period of at least 30 days<sup>103</sup> and a residence permit,<sup>104</sup> as well as protection, assistance, and compensation for the damages suffered.<sup>105</sup> As compared to the *Palermo Protocol*, the *CoE Convention* uses hard obligation language as concerns the protection and assistance of victims.

For instance, Article 28(1) states that:

“Each Party shall adopt such legislative or other measures as may be necessary to provide effective and appropriate protection from potential retaliation or intimidation in particular during and after investigation and prosecution of perpetrators.”<sup>106</sup>

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<sup>100</sup> Janie A. Chuang, *op. cit.*, p. 615.

<sup>101</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, pp. 12-13

<sup>102</sup> *Explanatory Report to the CoE Convention...*, para. 41.

<sup>103</sup> *CoE Convention*, Art 13.

<sup>104</sup> *Ibidem*, Art. 14.

<sup>105</sup> *Ibidem*, Art. 15.

<sup>106</sup> *Ibidem*, Art. 28(1).

Also, Article 28(2):

“Each Party *shall adopt* such legislative or other measures as may be necessary *to ensure and to offer various kinds of protection*. This may include physical protection, relocation, identity change and assistance in obtaining jobs.”<sup>107</sup>

On the other hand, the *Palermo Protocol* uses soft obligation language when it comes to the protection element, which is in stark contrast to the language of hard obligation, which it uses in relation to criminalisation provisions. Therefore, the *Palermo Protocol* advises states only to “consider” and “endeavour to provide” assistance for, and protection of, trafficked persons – and even then, only in “appropriate cases”<sup>108</sup> and “to the extent possible under (...) domestic law.”<sup>109</sup>

For example, Article 6(3) states that:

“Each State Party *shall consider* implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, including, *in appropriate cases*, in cooperation with non-governmental organizations, other relevant organizations and other elements of civil society, and, in particular, the provision of:

- (a) Appropriate housing;
- (b) Counselling and information, in particular as regards their legal rights, in a language that the victims of trafficking in persons can understand;
- (c) Medical, psychological and material assistance; and
- (d) Employment, educational and training opportunities.”<sup>110</sup>

And Article 6(5):

“5. Each State Party *shall endeavour* to provide for the physical safety of victims of trafficking in persons while they are within its territory.”<sup>111</sup>

Another obligation on behalf of states under the *CoE Convention* is the non-punishment provision, which reads as follows:

“Each Party *shall*, in accordance with the basic principles of its legal system, *provide for the possibility* of not imposing penalties on victims

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<sup>107</sup> *Ibidem*, Art. 28(2).

<sup>108</sup> *Palermo Protocol*, Art. 6(1), (2), (3); Art. 7.

<sup>109</sup> *Ibidem*; Janie A. Chuang, *op. cit.*, p. 615.

<sup>110</sup> *Palermo Protocol*, Art. 6(3), p. 3 (*Emphasis added*).

<sup>111</sup> *Ibidem*, Art. 6(5), p. 3 (*Emphasis added*).

for their involvement in unlawful activities, to the extent that they have been compelled to do so.”<sup>112</sup>

Despite the fact that the *CoE Convention* uses soft language to suggest this aspect, not necessarily impose it, it is nevertheless a step further compared to the *Palermo Protocol*, where the drafters refused to include this provision altogether.<sup>113</sup>

Also, the Commentary to the *CoE Convention* by Julia Planitzer and Helmut Sax mentions in Paragraph I.11 that a human-rights-based approach includes the principle of participation in prevention measures, which means that trafficked persons are also involved in the process of development, implementation and evaluation of anti-trafficking measures.<sup>114</sup>

Regarding obtaining compensation for damage suffered, both the *Palermo Protocol* and the *CoE Convention* make it clear that states need to provide, in their national legislation, for this aspect, with the sole difference that the *Palermo Protocol* uses *softer language* regarding this obligation. While the *Palermo Protocol* mentions that “(e)ach State Party shall ensure (...) the possibility of obtaining compensation for damage suffered”<sup>115</sup>, the *CoE Convention* states clearly in a *hard obligation language* that “(e)ach Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators” and “(e)ach Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims (...)”<sup>116</sup>

Additionally, the *CoE Convention* imposes on states the obligation to ensure and fund the legal assistance and the social integration of trafficked persons into societies.

“2 Each Party shall provide, in its internal law, for the right to legal assistance and to free legal aid for victims under the conditions provided by its internal law.

3 Each Party shall provide, in its internal law, for the right of victims to compensation from the perpetrators.”<sup>117</sup>

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<sup>112</sup> *CoE Convention*, Art 26 (*Emphasis added*).

<sup>113</sup> Janie A. Chuang, *op. cit.*, p. 615.

<sup>114</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 6.

<sup>115</sup> *Palermo Protocol*, Art. 6(6), p. 3

<sup>115</sup> *Ibidem*, Art. 6(5), p. 3 (*Emphasis added*).

<sup>116</sup> *CoE Convention*, Art. 15(3), (4)

<sup>116</sup> *Ibidem*, Art. 6(5), p. 3 (*Emphasis added*).

<sup>117</sup> *Ibidem*, Art. 15(2) and (3); *Report of the Special Rapporteur on trafficking in persons, especially women and children*, A/HRC/41/46, UN General Assembly, 23 April 2019, para. 66(a), [Online] available at: <https://documents-dds->



Both the *Palermo Protocol* and the *CoE Convention* provide for the adoption or strengthening of provisions discouraging demand. The *Palermo Protocol* obliges States to:

“(...) *adopt or strengthen legislative or other measures*, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to *discourage the demand* that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”<sup>118</sup>

However, the *CoE Convention* dedicates a more detailed section to the same aspect:

“To discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking, each Party *shall adopt or strengthen legislative, administrative, educational, social, cultural or other measures* including:

- a. research on best practices, methods and strategies;
- b. raising awareness of the responsibility and important role of media and civil society in identifying the demand as one of the root causes of trafficking in human beings;
- c. target information campaigns involving, as appropriate, *inter alia*, public authorities and policy makers;
- d. preventive measures, including educational programmes for boys and girls during their schooling, which stress the unacceptable nature of discrimination based on sex, and its disastrous consequences, the importance of gender equality and the dignity and integrity of every human being.”<sup>119</sup>

Not only that, but the *CoE Convention* recommends the criminalisation of the use of services of a victim, an aspect to which the *Palermo Protocol* does not make any allusion:

“Each Party *shall consider adopting* such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.”<sup>120</sup>

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ny.un.org/doc/UNDOC/GEN/G19/112/06/PDF/G1911206.pdf?OpenElement (accessed 18 December 2021).

<sup>118</sup> *Palermo Protocol*, Art. 9(5), p. 5 (*Emphasis added*).

<sup>119</sup> *CoE Convention*, Art. 6 (*Emphasis added*).

<sup>120</sup> *Ibidem*, Art. 19 (*Emphasis added*).

Moreover, the *CoE Convention* stresses the importance of adopting an approach that prioritises gender equality<sup>121</sup>, the principle of the best interest of the child and a child-sensitive approach<sup>122</sup>, and the inclusion of persons with disabilities<sup>123</sup> as an integral part of anti-trafficking measures. As regards the principle of “the best interest of the victims of human trafficking”, early drafters of the *CoE Convention* had settled this as the capital objective. However, some delegations feared that pursuing the best interest of the victim could oblige states to grant residence to victims in the destination country, which implied extra costs, and Germany, United Kingdom and Denmark proposed that the wording “best interest” be replaced by “respect for the rights and the protection of victims”.<sup>124</sup>

Another aspect even more contentious than the principle of the best interest of the victim was the affirmation in the Preamble that “trafficking in human beings constitutes a human rights violation”. The delegations of the Netherlands and Denmark considered that violations of human rights could not be imputed to states as long as crimes were committed by private individuals. However, the case law of ECtHR officially recognised state liability for such acts, but, on the other hand, the Committee was also concerned that framing HT as a human rights violation would imply consequences for the national system of certain states.<sup>125</sup> Therefore, in the 5th CAHTEH meeting, the Committee proposed a second formulation: “trafficking in human beings seriously undermines the enjoyment of human rights”.<sup>126</sup> Supporters of this second formulation were finally eclipsed by advocates of the first formulation, namely NGOs such as Amnesty International and Anti-Slavery Initiative,<sup>127</sup> which justified their preference by invoking existing instruments already adopted by the CoE, the EU, the UN, the Organization for Security and Co-operation in Europe (OSCE) and the Organisations of American States.<sup>128</sup> The Committee on Equal Opportunities supported their view that there was no reason why HT should not be defined and officially inserted in the Convention as a human rights violation.<sup>129</sup> At the 7th CAHTEH meeting, the Council of the EU’s Framework Decision on combating trafficking in human beings

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<sup>121</sup> *Ibidem*, Art. 17.

<sup>122</sup> *Ibidem*, Preamble para. 6, Art. 5(3), 10(4), 16(7), 28(3).

<sup>123</sup> *Ibidem*, Art. 12(7).

<sup>124</sup> Julia Planitzer and Helmut Sax (eds.), *op. cit.*, p. 15.

<sup>125</sup> *Ibidem*.

<sup>126</sup> *Ibidem*.

<sup>127</sup> *Ibidem*.

<sup>128</sup> *Ibidem*, p. 14.

<sup>129</sup> *Ibidem*, p. 15.

proposed a third formulation, namely, “trafficking in human beings comprises serious violations of fundamental rights”. However, since delegations could not reach a consensus, a vote was conducted, with the majority of states ultimately voting for the wording “trafficking constitutes a human rights violation”, as it was finally adopted in the text of the Convention.<sup>130</sup>

## 3.2. The EU Legislative Framework on Preventing and Combating Human Trafficking

### 3.2.1. *The Main EU legal instruments on preventing and combating human trafficking*

Two distinct legal systems function in Europe, namely the Council of Europe and the European Union, and the main difference between them is the status of each system’s legal framework in national law. This distinction is essential concerning especially the status of VOTs in criminal proceedings, as it determines whether or not an individual may rely on international law in national courts. After the entry into force of the Treaty of Lisbon, which amended the Treaty of Maastricht (1992), known in updated form as the Treaty on European Union (2007) or TEU, as well as the Treaty of Rome (1957), known in updated form as the Treaty on the Functioning of the European Union (2007) or TFEU,<sup>131</sup> EU law has become directly effective in member states and, consequently, can be enforced in domestic proceedings. In contrast, Council of Europe law had to be first implemented into national law before it could be used before national courts. As analysed in the previous section, the EU Member States are bound by the *CoE Convention* by the ratification of it, but they are also bound by the EU law.<sup>132</sup>

The EU institutions have started to show concern about the phenomenon of HT since the mid-1990s. However, the entry into force of the Treaty of Maastricht (1993) marked the acceleration of EU anti-trafficking action. Two aspects prompted this acceleration. One was the two congresses that took place in 1996, namely the European Conference on Trafficking in Women and the World Congress against the Sexual Exploitation of Children, both of which highlighted the global dimension of the phenomenon and called for cooperation

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<sup>130</sup> *Ibidem*.

<sup>131</sup> *The Treaty of Lisbon*, Fact Sheets on the European Union: European Parliament, [Online] available at: <https://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon> (accessed 11 February 2022).

<sup>132</sup> Saadiya Chaudary, “Trafficking in Europe: An Analysis of the Effectiveness of European Law, in: *Michigan Journal of International Law*, Vol. 3, Issue 1, p. 83, [Online] available at: <https://repository.law.umich.edu/mjil/vol33/iss1/505> (accessed 11 February 2022).

at national, regional and international levels. The other aspect was the tragic Dutroux affair, which shocked Belgium in the summer of 1996.<sup>133</sup>

Triggered by these events, the EU started several actions focused on the prosecution aspect of the fight against HT. Therefore, prior to the Treaty of Lisbon, the main EU instruments in this area were crime-focused; with the adoption of the *EU Anti-Trafficking Directive* (hereinafter, also mentioned as the *EU Directive*), the emphasis continued to be on prosecution, but the overall objective was to encompass all the “4Ps” – prevention, prosecution, protection and partnerships – with special attention given to the assistance and protection of victims. With the expansion of European integration, the well-being of the EU citizens had become the fundamental goal of the Union, which triggered the transition from a crime-centred to a human-rights approach.<sup>134</sup> Furthermore, the “3Ps” structure of the *Palermo Protocol* (prevention, prosecution, protection) and the high human-rights standards of the *CoE Convention*, as well as the ECtHR case law on HT, strongly influenced the victim-centric approach of the Anti-Trafficking *EU Directive*.<sup>135</sup>

The legal basis from which the anti-trafficking action of the EU stems includes one of the founding treaties of the EU, namely the *Treaty on the Functioning of the European Union* (TFEU).<sup>136</sup> With the entry into force of the Treaty of Lisbon in 2009, unanimity was replaced by majority voting in the adoption of legislation, which gave the EU a stronger influence upon national legislation. The principle of subsidiarity introduced by TEU<sup>137</sup> envisages the

<sup>133</sup> Boaventura de Sousa Santos (scientific coord.) et al., *The Fight against Trafficking in Human Beings in EU: Promoting Legal Cooperation and Victims' Protection*, HOME-2010-ISEC-AG-54, European Commission, April 2014, p. 66, [Online] available at: [https://ec.europa.eu/anti-trafficking/fight-against-trafficking-human-beings-eu-promoting-legal-cooperation-and-victims-protection\\_en](https://ec.europa.eu/anti-trafficking/fight-against-trafficking-human-beings-eu-promoting-legal-cooperation-and-victims-protection_en) (accessed 25 February 2022).

<sup>134</sup> Carolina Villacampa Estiarte, “The European Directive on Preventing and Combating Trafficking in Human Beings and the Victim-Centric Treatment of this Criminal Phenomenon”, in: *European Criminal Law Review*, Vol. 2, Issue 3, 2012, pp. 291-318, doi.org/10.5235/219174412804816345 (accessed 9 February 2022).

<sup>135</sup> Katarzyna Gromek-Broc, “EU directive on preventing and combating trafficking in human beings and protecting victims: Will it be effective?”, in: *Nova et Vetera*, Vol. 20, No. 64, 2011, p. 229, [Online] available at: DOI:10.22431/25005103.180 (accessed 11 January 2022).

<sup>136</sup> *Consolidated version of the Treaty on the Functioning of the European Union*: European Union, 13 December 2007, 2008/C 115/01 (Title 5 “Area of Freedom, Security and Justice”, Chapter 4 “Judicial Cooperation in Criminal Matters” Art. 83(1); Art. 79(1-2), [Online] available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF> (accessed 9 February 2022).

<sup>137</sup> *Consolidated Version of the Treaty on European Union*, Official Journal of the European Communities C 326/13; European Union, 26 October 2012, Art. 5, [Online] available at: [https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC\\_1&format=PDF](https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF) (accessed 11 February 2022) [hereinafter, *TEU*].

possibility that EU law be directly applied in national courts, and does not exclude judicial scrutiny, either; therefore, the Court of Justice has final jurisdiction upon matters concerning the EU, including HT. After the disappearance of the pillar structure in 2009, the new legal basis for the Commission's action lies with Articles 79, 82 and 83 of the TFEU related to cooperation in criminal matters that require the ordinary legislative procedure.<sup>138</sup>

TFEU, therefore, defines HT as a serious and transnational crime. In Article 79, paragraph 2(d), TFEU designates the Council and the European Parliament with the responsibility to act against HT:

“For the purposes of paragraph 1, the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall adopt measures in the following areas: [...] combating trafficking in persons, in particular women and children.”<sup>139</sup>

Additionally, the *Charter of Fundamental Rights*, in force since 2007, condemns HT in Article 5(3), as mentioned in Chapter 2 of this paper.

Between 1997 and 2011, the EU issued three legal instruments on HT. The first one, which is no longer in force, was the *Joint Action* of 24 February 1997<sup>140</sup> on action to combat HT and sexual exploitation of children, adopted as part of the third pillar of the TEU as established by the Treaty of Maastricht.<sup>141</sup> This was followed by the *Council Framework Decision 2001/220/JHA of 15 March 2001 on the Standing of Victims in Criminal Proceedings*,<sup>142</sup> which did not specifically refer to VOTs but was nevertheless applied to their case. Most of the provisions of these two documents have been incorporated in the *EU Anti-Trafficking Directive* of 2011.

The second instrument was *Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings*,<sup>143</sup> adopted as part of

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<sup>138</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 229.

<sup>139</sup> TEU, Art. 79(2d), p. 31.

<sup>140</sup> *Joint Action of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children* (OJ L 63 04.03.1997, European Union: Council of the European Union, p. 2, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31997F0154> (accessed 11 February 2022)).

<sup>141</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 67.

<sup>142</sup> *Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings* (OJ L 82 22.03.2001), European Union: Council of the European Union, p. 1, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32001F0220> (accessed 11 February 2022).

<sup>143</sup> *Council Framework Decision 2002/629 on Combating Trafficking in Human Beings*, 19 July 2002, 2002/629/JHA, European Union: Council of the European Union, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32002F0629> (accessed 11 February 2022).

the third pillar of the TEU as revised by the Treaty of Amsterdam.<sup>144</sup> This was the main legal instrument to regulate HT before the adoption of the more recent 2011 *EU Anti-Trafficking Directive*, and it focused almost exclusively on the prosecution aspect of HT. Similar to Joint Action, *Council Framework Decision 2002/629/JHA* was mainly targeted at criminalising acts involving labour and sexual exploitation, expanding national jurisdiction concerning such acts, and, finally, promoting judicial cooperation between member states.<sup>145</sup>

The third and current legal instrument is *Directive 2011/36/EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA* (the *EU Anti-Trafficking Directive*), adopted as part of the TFEU as introduced by the Treaty of Lisbon. This Directive makes reference to *Council Directive 2004/81/EC*,<sup>146</sup> on providing residence permits to third-country (non-EU) national VOTs, which is still in force and, up to this date, has generated several controversies, as it makes assistance and protection for victims dependent upon their collaboration with competent authorities. Even though the *EU Anti-Trafficking Directive* is by far the most human-rights-centred – as well as the most binding and effective<sup>147</sup> – instrument issued by the EU on anti-trafficking, its connection to *Council Directive 2004/81/EC* is considered in a UN commentary<sup>148</sup> to be a breach of human rights principles. Another disputed provision of the Council Directive 2004/81/EC stipulates the right of victims to a recovery period; however, unlike the *CoE Convention*, which made the 30-day recovery period mandatory, this directive enables national law to determine the length of the recovery period, which means that there is no obligation on Member States to grant a minimum period of 30-days. Other rights that victims may have expire at the end of the recovery period or on the authorities' decision to

<sup>144</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p 67.

<sup>145</sup> Elisavet Symeonidou-Kastanidou, "Directive 2011/36/EU on Combating Trafficking in Human Beings: Fundamental Choices and Problems of Implementation", in: *New Journal of European Criminal Law*, Vol. 7, Issue 4, 2016, p. 465-466, doi:10.1177/203228441600700406 (accessed 5 January 2022).

<sup>146</sup> *Council Directive 2004/81/EC of 29 April 2004 on the Residence Permit Issued to Third-Country Nationals Who are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate With the Competent Authorities*, OJ L. 261/19-261/23; 2004/81/EC, European Union: Council of the European Union, 6 August 2004, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004L0081> (accessed 17 January 2022) [hereinafter, *Council Directive 2004/81/EC*].

<sup>147</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p 68.

<sup>148</sup> *Joint UN Commentary on the EU Directive*.

deny a permit.<sup>149</sup> As the *EU Anti-Trafficking Directive* makes the “unconditional access to protection and assistance” actually conditional upon the provisions of *Council Directive 2004/81/EC* (as mentioned in the last part of Article 11(3) “without prejudice to the *Directive 2004/81/EC* or similar national rules”), it can be concluded that in the area of protection and assistance, the *EU Anti-Trafficking Directive* does not equal the standard set by the *CoE Convention*.

Nevertheless, the *EU Directive* must be credited for the holistic, global, integrated, and human-rights-focused approach it has launched in the area of anti-trafficking at the EU level, as well as for incorporating the three “Ps” introduced by the *Palermo Protocol*, with the addition of the 4<sup>th</sup> “P”, concerning partnerships and cooperation. This new perspective is all the more commendable as it comes after a mainly crime-focused approach of EU legislation and action in this area.<sup>150</sup>

*Figure 3.3* shows a timeline highlighting the main legislative and policy documents that the EU issued in the period between the entry into force of the Treaty of Maastricht in 1993 and the adoption of the *EU Anti-Trafficking Directive* in 2011. Carolina Villacampa Estiarte explains in a 2012 article<sup>151</sup> the evolution of EU legislation from a crime-centred to a victim-centred approach in anti-trafficking, expositing that the *EU Anti-Trafficking Directive* was modelled by two factors: on the international level, by the legal framework introduced by the *Palermo Protocol* and the *CoE Convention*, and at EU level, by the European integration process and the constant transitioning to higher levels of EU intervention in national affairs brought about by the Treaty of Lisbon.<sup>152</sup>

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<sup>149</sup> Saadiya Chaudary, *op. cit.*, p. 97.

<sup>150</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, pp. 68-69.

<sup>151</sup> Carolina Villacampa Estiarte, *op. cit.*

<sup>152</sup> *Ibidem*, pp. 299-305.

Figure 3. 3. Timeline of EU legislative and policy action on human trafficking until the EU Anti-Trafficking Directive

TIMELINE OF EU LEGISLATIVE AND POLICY ACTION ON HUMAN TRAFFICKING UNTIL THE 2011 EU DIRECTIVE (1)	
1993	Entry into force of the <b>Treaty of Maastricht</b> . EU anti-trafficking action accelerates.
1997	97/154/JHA: <b>Joint Action of 24 February 1997</b> adopted by the Council on the basis of Article K.3 of the TEU concerning action to combat trafficking in human beings and sexual exploitation of children.
2000	Adoption of <b>CTOC</b> and the <b>Palermo Protocol</b> . The 3Ps (prevention – prosecution – protection) policy was first introduced in the international anti-trafficking legal framework by the Palermo Protocol, even though the focus is predominantly on prosecution.
2001	<b>Council Framework Decision 2001/220/JHA of 15 March 2001</b> on the standing of victims in criminal proceedings.
2002	<b>Council Framework Decision 2002/629/JHA of 19 July 2002</b> on combating trafficking in human beings. Focused predominantly on prosecution.  <b>Brussels Declaration</b> on Preventing and Combating Trafficking in Human Beings, 29 November 2002,
2003	<b>Commission Decision 2003/209/EC</b> , of 25th March 2003, by which the European Commission decides the creation of the  <b>Experts Group on Trafficking in Human Beings</b> . Clearly influenced the change in orientation of Union policy on human trafficking from a crime-centred approach to an integrated approach.
2004	<b>Council Directive 2004/81/EC of 29 April 2004 on the Residence Permit Issued to Third-Country Nationals Who are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate With the Competent Authorities</b> .  <b>Report of the Experts Group on Trafficking in Human Beings of 22 December 2004</b> . Two overall recommendations that the Experts Group made to the Commission: 1) include the human-rights approach within the legal framework for combating human trafficking; 2) the need for a multidisciplinary and integrated approach to this issue.  <b>Hague Action Programme of 2004</b> . Recommended to the Commission and the Council the adoption of an action plan against human trafficking so as to develop a common standard regarding best practices and mechanisms for combating this phenomenon.
2005	<b>Adoption of the CoE Convention</b> , 3 May 2005.



2005	<p><b>EU plan on best practices, standards and procedures for combating and preventing trafficking in human beings. 9 December 2005.</b> Officially confirmed EU's transition from a crime-centred approach to a victim-centred approach. This shift began to be modelled legally.</p>
2008	<p>Entry into force of the <b>CoE Convention</b>, 1 February 2008.</p>
2008	<p><b>Commission Working Document, Brussels 17.10.2008, COM (2008) 657 final</b> on the evaluation and monitoring of the implementation of the EU Plan on best practices, standards and procedures for combating and preventing trafficking in human beings. The Commission found that Member States were not doing enough for the protection and assistance of victims and recognized the need to amend Council Framework Decision 2002/629/JHA.</p>
2009	<p>Commission, <b>Proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA, 25 March 2009, COM (2009) 136 final.</b> The Commission justified the need for a new legislative instrument by the higher standard set by the entry into force of the CoE Convention in the area of anti-trafficking. <b>Commission staff working document.</b> Accompanying document to the proposal for a Council Framework Decision on preventing and combating trafficking in human beings, and protecting victims, repealing Framework Decision 2002/629/JHA, 31 March 2009. Proposed four courses of action, of which the fourth, and the most interventionist, was chosen: 1) No new EU action; 2) Non-legislative measures; 3) New legislation on prosecution, victim support, prevention, and monitoring; 4) New legislation + non-legislative measures.</p>
2009	<p>Entry into force of the <b>Treaty of Lisbon (TEU and TFEU)</b>, 1 December 2009. The disappearance of the structure of pillars, led to the expiration of the Proposal for a Council Framework Decision of the same year. Instead, proposal for a Directive was drafted the following year.</p>
2010	<p>Commission, <b>Proposal for a Directive on preventing and combating trafficking in human beings and protecting victims, repealing Framework Decision 2002/629/JHA, 29 March 2010.</b> More far-reaching than the Proposal for a Council Framework Decision of 2009, especially in aspects such as assistance and support to the victims.</p>
2011	<p><b>Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.</b> The most recent EU legislation on anti-trafficking, covering the 4Ps policy, binding for all EU Member States, with the exception of Denmark and the UK (as of 1st February 2020).</p>

Source: Carolina Villacampa Estiarte, *op. cit.*, pp. 291-296.

### 3.2.2. *The EU Anti-Trafficking Directive as compared to the Palermo Protocol and the CoE Convention. Main provisions.*

The *EU Anti-Trafficking Directive* of 2011 has many added elements<sup>153</sup>, compared to the *Joint Action* or the *2002 Framework Decision*, and it can be considered to be on the same level of human rights standards as the *Palermo Protocol* and the *CoE Convention*. However, there are a few aspects that could be improved, according to some human rights activists. The following section will analyse these aspects in comparison to the *Palermo Protocol* and the *CoE Convention*.

Concerning the definition of trafficking, the *EU Anti-Trafficking Directive* brings some added value compared to the UN and CoE instruments. Firstly, it inserts, within the element of action of the definition of HT, two additional forms of trafficking, which are not mentioned in the *Palermo Protocol* nor in the *CoE Convention*, which is “the exchange and transfer of control”<sup>154</sup>

As regards the element of means, Article 2(1) of the Directive reiterates the exact wording of the Protocol and the *CoE Convention*, but Article 2(2) also explains the concept of vulnerability, which the other two instruments only briefly mention.

“(…) by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”<sup>155</sup>

“A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.”<sup>156</sup>

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<sup>153</sup> Update: By the time this book (thesis, at that time) was written, the *EU Anti-Trafficking Directive* had not yet been revised. As of July 2024, the revised Directive was published, having three new added elements: 1) the definition of HT includes three more forms of exploitation, namely the exploitation of surrogacy, forced marriage, and illegal adoption; 2) the knowing use of services provided by VOTs is criminalised; 3) the use of information and communication technologies, including the internet, smartphones, or computers, for the purpose of sexual exploitation is considered an aggravating circumstance and may lead to increased penalties. The European Parliament and the Council of the European Union, *Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, 24.6.2024, [Online] available at: <https://eur-lex.europa.eu/eli/dir/2024/1712> (accessed October 30, 2024) [hereinafter, the *Revised EU Anti-trafficking Directive*].

<sup>154</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 79. Update: *The Revised EU Anti-trafficking Directive* (July 2024) adds three more forms of trafficking in Article 2(3): exploitation of surrogacy, of forced marriage and of illegal adoption.

<sup>155</sup> *EU Directive*, Art. 2(1), p. 6.

<sup>156</sup> *Ibidem*, Art. 2(2), p. 6.

Another high human-rights standard appears in Article 2(4) of the Directive, mirroring Article 4(b) of the *CoE Convention*, both of which clearly affirm that the issue of the victim's actual or intended consent to the exploitation is irrelevant where "the means" have been used.<sup>157</sup>

Children (i.e., persons under the age of 18) are granted a special status in all three documents, as no coercive means are needed in order to prosecute a case under the offence of HT.<sup>158</sup> However, Symeonidou<sup>159</sup> argues that not only children should have this special protective status, as exploitation can happen in the case of adults even if the means mentioned have not been used.<sup>160</sup>

As for the element of purpose in the definition of HT ("for the purpose of exploitation"), the *EU Directive* includes new forms of exploitation:<sup>161</sup> forced begging, exploitation of the criminal activities of others,<sup>162</sup> and, possibly, cases of illegal adoption or forced marriage,<sup>163</sup> which the *Palermo Protocol* and the *CoE Convention* do not mention.

One shortcoming of the *EU Directive*, which Symeonidou identifies, is that it does not clearly define certain concepts, such as "forced labour", for instance. The effect of such lack of clarity is that some Member States have transposed this provision of the Directive as such and have generally left its interpretation to case law, while others define it, but their definitions differ. Consequently, police and judicial cooperation, which is one of the Directive's main objectives, is impeded, considering that sharing information and best practices concerning legal action against forced labour is irrelevant where harmonisation of substantive criminal law is missing.<sup>164</sup>

Furthermore, as concerns the concept of "exploitation of criminal activities", Recital 11 defines it as referring to "activities which (...) imply financial gain." Symeonidou suggests that the wording used here could indicate that the Directive refers only to exploitation for the purpose of profit, which would automatically exclude cases of exploitation unrelated to profit, such as exploitation for sexual satisfaction or terrorist attacks.<sup>165</sup>

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<sup>157</sup> *Ibidem*, Art. 2(4), p. 6; *CoE Convention*, Art. 4(b).

<sup>158</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, pp. 79-80.

<sup>159</sup> Elisavet Symeonidou-Kastanidou, *op. cit.*, pp. 465-482.

<sup>160</sup> *Ibidem*, pp. 473-474.

<sup>161</sup> *EU Directive*, Recital 11.

<sup>162</sup> It must be noted that these two purposes of exploitation (forced begging and exploitation of criminal activities) are not mentioned in the *Palermo Protocol*, nor in the *CoE Convention* (CETS No 197).

<sup>163</sup> See *EU Directive*, Recital 11: "as well as, for instance, other behaviour such as illegal adoption or forced marriage in so far as they fulfil the constitutive elements of trafficking in human beings".

<sup>164</sup> Elisavet Symeonidou-Kastanidou, *op. cit.*, pp. 472-473.

<sup>165</sup> *Ibidem*.

The same vagueness of definitions can be noticed about certain aspects of crime, such as “abuse of power” and “abuse of a position of vulnerability”. On the other hand, a certain degree of vagueness was necessary at the level of integration the EU was at the moment of the drafting of the Directive, as the principle of subsidiarity in force since the Treaty of Lisbon still allowed Member States to have a certain degree of freedom in decisions concerning how to implement directives at national level. The consequence of this is that Directive provisions are transposed differently in national law. One example is the concept of “abuse of vulnerability”, the meaning of which is determined in some MS by the use of case law, while in others, the EU definition has been expanded to make it clearer, such as in Greece, France, and Germany.<sup>166</sup>

Nevertheless, the Directive has achieved a certain level of approximation of penalties at the level of the EU, having raised the severity level for HT offences. For ordinary cases, the penalty is a maximum of at least five years of imprisonment, while for aggravated cases, it is a maximum of at least ten years.<sup>167</sup>

Compared to the 2002 Framework Decision, which made no reference to aggravating circumstances<sup>168</sup>, Article 4(2a) of the *EU Anti-Trafficking Directive* takes into consideration offences committed against “particularly vulnerable victims”, which are to be punished with a maximum of at least ten years. This provision mentions one example only of “particularly vulnerable victims”, namely “child victims”, but leaves out categories of vulnerable victims recommended by the NGOs, the EU Experts Group, or the UNHCR that included gender, health conditions, pregnancy, and disability. These are, in turn, mentioned in Article 11(7) in relation to assistance and support for victims. Article 4(3) also includes, under aggravated circumstances, an offence committed by a public body. Gromek-Broc affirms that the lack of clarity concerning these matters can impede a proper interpretation with regard to the seriousness of the offences.<sup>169</sup>

## A. Prosecution and Approximation of Penalties

### *i) The main offence of human trafficking: criminalised*

The *EU Anti-Trafficking Directive* strongly focuses on the prosecution of offenders, which is the first element of the 4P policy on anti-trafficking. It develops four types of objectives with regard to the approximation of offences and prosecution: first, the main offence stipulated by the action-means-purpose scheme in Article 2 (see *Figure 3.4*), which Member States are bound to criminalise; then, secondary behaviours, encompassing attempt, participation,

<sup>166</sup> *Ibidem*, pp. 471-472.

<sup>167</sup> *EU Directive*, Art. 4(1-2).

<sup>168</sup> Elisavet Symeonidou-Kastanidou, *op.cit.*, p. 468.

<sup>169</sup> Katarzyna Gromek-Broc, *op. cit.*, pp. 230-231.

incitement and complicity, which must also be criminalised. Third, the behaviour of “users” or “buyers of sexual services” is mentioned in Recital 26 in non-binding terms as an offence which should be criminalised in the future: “Member States *should take into consideration the possibility* of imposing sanctions on the users of any service exacted from a victim, with the knowledge that the person has been trafficked”.<sup>170</sup> The same soft language is used for the fourth objective, which is the non-prosecution or non-punishment of victims of trafficking, mentioned in Article 8, which stipulates that “competent national authorities *are entitled not to prosecute* or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit”.<sup>171</sup>

Figure 3. 4. The action-means-purpose scheme of the definition of human trafficking in the EU Anti-Trafficking Directive

THE EU DEFINITION OF HUMAN TRAFFICKING		
ACT	MEANS	PURPOSE
Recruitment	Threat or use of force	Exploitation including
Transportation	Coercion	Prostitution of others
Transfer	Abduction	Sexual exploitation
Harbouring	Fraud	Forced labour ( <b>*incl. begging</b> )
Reception of persons	Deception	Slavery or similar practices
<b>*Exchange or transfer of control over trafficked persons</b>	Abuse of power or vulnerability	Servitude
	Giving payments or benefits	Removal of organs
	<b>*Explains the concept of vulnerability</b>	<b>*Exploitation of criminal activities</b>
<small>*added element not present in the UN or CoE definitions of HT.</small>	<small>*UN and CoE definitions only briefly mention this concept.</small>	<small>*added elements not present in the UN or CoE definitions of HT.</small>

Source: Made by author inspired by UNODC, *Toolkit to Combat Trafficking in Persons*, Global Programme Against Trafficking in Human Beings, 2008.<sup>172</sup>

<sup>170</sup> *EU Directive*, Recital 26 (*Emphasis added*). Update: *The revised EU Anti-trafficking Directive* (July 2024) criminalises this offence in Article 18a, [Online] available at: <https://eur-lex.europa.eu/eli/dir/2024/1712> (accessed October 30, 2024).

<sup>171</sup> *Ibidem*, Art. 8 (*Emphasis added*).

<sup>172</sup> *Toolkit to Combat Trafficking in Persons*, UNODC, p. 3. Update: In Article 2(3), the *Revised EU Anti-trafficking Directive* (July 2024) adds three more types of exploitation under the element of “purpose”: exploitation of surrogacy, of forced marriage and of illegal adoption.

In a study published in 2014, Boaventura de Sousa Santos *et al.* consider the *EU Anti-Trafficking Directive* to be the direct result of the evolution of powers transferred to the EU, which marked the transition from a softer language in previous instruments to a hard obligation language in the current Directive<sup>173</sup>, which is the most binding anti-trafficking instrument the EU has adopted until now.<sup>174</sup> This is deemed a victory in the area of human rights, as the approximation of sanctions has been a delicate issue in terms of national sovereignty. However, the EU integration has now reached a level which allows anti-trafficking legislation to be more precise and binding.<sup>175</sup>

Notwithstanding this progress, the text has been criticised for not being compatible with the principle of proportionality, by virtue of which the legislator has to adapt the type and level of sanction to the severity of the offence perpetrated. The Directive treats acts that have different degrees of severity in the same way. While the Directive foresees different minimum-maximum sentences for the perpetrators, on the one hand, and for the participants, on the other, it makes no distinction between the main perpetrators and their subordinates.<sup>176</sup>

On the whole, the *EU Anti-Trafficking Directive* complements the *CoE Convention* in the area of criminal prosecution mechanisms.<sup>177</sup> While both specify that “investigations into or prosecution of offences (...) *shall not be dependent* upon the report or accusation made by a victim”<sup>178</sup>, making *ex officio* prosecution compulsory; the Directive further adds that “criminal proceedings *may continue* even if the victim has withdrawn his or her statement”.<sup>179</sup> It can be noticed that for the first part of the provision, the Directive uses hard obligation language, while for the second part – soft language, which is further used in para. 2, which states that prosecution should be enabled for a sufficient period of time after the victim reaches the age of majority “where the nature of the act calls for it”.<sup>180</sup> This last additional part confirms the affirmation made in the previous section, proving that a certain degree of vagueness in the terms of the Directive was indeed necessary to allow Member States flexibility in transposing it into their national legislation.

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<sup>173</sup> *EU Directive*, Art. 2(1): “Member States *shall take the necessary measures to ensure* that the following intentional acts are punishable” (*Emphasis added*).

<sup>174</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 76.

<sup>175</sup> *Ibidem*, p. 88.

<sup>176</sup> *Ibidem*, pp. 94-95.

<sup>177</sup> *EU Directive*, Art. 9.

<sup>178</sup> *Ibidem*, Art. 9(1); *CoE Convention*, Art. 27(1) (*Emphasis added*).

<sup>179</sup> *EU Directive*, Art. 27(1) (*Emphasis added*).

<sup>180</sup> Elisavet Symeonidou-Kastanidou, *op.cit.*, p. 468.

One important provision concerning the prosecution of offenders is the option to prosecute EU citizens for offences committed in third countries.<sup>181</sup> This provision seeks to comply with the aim of the *Stockholm Programme to strengthen the EU's external dimension*. Gromek-Broc points out, however, that its optional tone diminishes its strength.<sup>182</sup>

Particularly significant is the provision according to which Member States are bound to take the necessary measures to ensure that effective investigative tools, such as those which are used in organised crime, are made available to persons, units or services responsible for investigating or prosecuting HT.<sup>183</sup> Recital 15 exemplifies such tools as interception of communications and covert surveillance, including electronic surveillance and monitoring of bank accounts. The purpose of this provision is to empower competent authorities to prevent or intervene at an early stage of the crime.<sup>184</sup>

*ii) Secondary behaviour criminalised: incitement, aiding and abetting, and attempt*

Article 3 of the Directive obliges Member States to criminalise secondary behaviour, as well:

“Member States shall take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence referred to in Article 2 is punishable.”<sup>185</sup>

The 2011 *Joint UN Commentary on the EU Directive* notes the direct connection between this provision and the “reasonable-grounds indication”<sup>186</sup> that may exist even if the person has not already been subjected to exploitation,<sup>187</sup> thus linking prosecution with prevention strategies. The Directive declares that the mere attempt to subject a person to exploitation constitutes a crime, as well as inciting, aiding or abetting, in line with Article 5 of the *Palermo Protocol* and Articles 20 and 21 of the *CoE Convention*. The latter further specifies the obligation to criminalise acts related to forging, procuring, retaining, removing, concealing, damaging or destroying a travel or identity document of another person.<sup>188</sup>

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<sup>181</sup> *EU Directive*, Recital 16.

<sup>182</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 236.

<sup>183</sup> *EU Directive*, Art. 9(4).

<sup>184</sup> Elisavet Symeonidou-Kastanidou, *op. cit.*, p. 469.

<sup>185</sup> *EU Directive*, Art. 3.

<sup>186</sup> *Ibidem*, Recital 18; Art. 11(2).

<sup>187</sup> *Joint EU Commentary...*, pp. 45-46.

<sup>188</sup> *CoE Convention*, Art. 20.

iii) *Criminalisation of clients' behaviour: to be considered*

As for the criminalisation of clients' behaviour, the EU anti-trafficking instruments had been silent on the subject until the *EU Anti-Trafficking Directive* of 2011, which does not impose it on Member States but invites them to consider "taking measures to establish as a criminal offence the use of services, which are the objects of exploitation, with the knowledge that the person is a victim of [human trafficking]".<sup>189</sup> Article 19 of the *CoE Convention* uses the same soft language in relation to this subject, stating that: "Each Party shall consider adopting such legislative and other measures as may be necessary...".<sup>190</sup> Recital 26 in the Preamble of the Directive<sup>191</sup> further explains that such criminalisation could apply to employers of legally staying third-country nationals and Union citizens, as well as to buyers of sexual services from any trafficked person, regardless of their nationality. The same explanation is contained in the *Explanatory Report of the CoE Convention*, Point 232. The *Palermo Protocol*, on the other hand, does not mention the criminalisation of the use of services of a victim; but the *Legislative Guide for the implementation of the Protocol*<sup>192</sup> notes that demand reduction "could be achieved in part through legislative or other measures targeting those who knowingly use or take advantage of the services of victims of exploitation".<sup>193</sup> Also, under Article 9 on Prevention, it uses softer and less specific language on a related topic: „State Parties shall adopt or strengthen legislative or other measures (...) to discourage demand...".<sup>194</sup>

The *UN Joint Commentary* gives two reasons for why criminalisation of clients, particularly those who make use of the sexual services of trafficked persons, might be counterproductive: 1) victims will need to testify not only against their traffickers but also against their clients, which is especially burdensome considering the difficulty to prove that the client was using such services consciously; 2) it might aggravate the already stigmatised and dangerous position of victims, the majority of whom are women and children.<sup>195</sup>

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<sup>189</sup> *EU Directive*, Art. 18(4). Update: *The revised EU Anti-trafficking Directive* (July 2024) criminalises this offence in Article 18a.

<sup>190</sup> *CoE Convention*, Art. 19 (*Emphasis added*).

<sup>191</sup> *EU Directive*, Recital 26.

<sup>192</sup> *Legislative Guide for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, Vienna: United Nations, 2020, [Online] available at: [https://www.unodc.org/documents/human-trafficking/2020/TiP\\_LegislativeGuide\\_Final.pdf](https://www.unodc.org/documents/human-trafficking/2020/TiP_LegislativeGuide_Final.pdf) (accessed 17 January 2020).

<sup>193</sup> *Ibidem*, para. 74.

<sup>194</sup> *Palermo Protocol*, Art. 9(5).

<sup>195</sup> *Joint UN Commentary...*, p. 100.



De Sousa Santos *et al.* also agree that the compromise achieved during the negotiation of the Directive to encourage countries to envisage the adoption of necessary measures for such a criminalisation without making the provision binding might be the best solution.<sup>196</sup> Even to this day, Member States throughout the EU have divergent laws and policies on HT and prostitution (which is directly connected to the aspect of clients' behaviour), such as is the case of the Netherlands and the UK, where prostitution is legal, whereas in Sweden, purchasing sexual services is prosecuted as a criminal offence.<sup>197</sup>

It is evident that this remains a controversial topic, even if more than 10 years<sup>198</sup> have passed since the adoption of the Directive. During the drafting phase, the European Council and the European Parliament had a dispute in this regard, as the former did not want to impose criminalisation of users on Member States, while the European Parliament advocated for it, but eventually without avail.<sup>199</sup> Maria Garcia Gianmmarinaro writes in a 2021 article<sup>200</sup> that making such a provision binding, even if a number of actors are militating for it, would not be advantageous due to the fragmentation of cultures and positions on this issue, which has still not been eliminated by the process of integration.<sup>201</sup>

Symeonidou, on the other hand, suggests that this crime, when committed in knowledge, could be considered abetting. However, the dilemma here is that elements of this crime could hardly be proven. One example she offers is that Greece, where prostitution client behaviour has been criminalised since 2002, has had no convictions recorded for this crime. She draws the conclusion that such a lack of convictions, in the long run, affects the trustworthiness of the penal system.<sup>202</sup>

*iv) Non-Penalisation and Non-Prosecution of Victims: nonbinding but encouraged*

The fourth objective – the non-penalisation and non-prosecution of victims – is also non-binding in the *EU Anti-Trafficking Directive*; nevertheless,

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<sup>196</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 83.

<sup>197</sup> *Ibidem*, pp. 82-83.

<sup>198</sup> January 2022, at the moment of writing this section of the paper (A/N).

<sup>199</sup> *Ibidem*, p. 84.

<sup>200</sup> Maria Grazia Gianmmarinaro, *Revising EU Directive on Human Trafficking. For Good or Bad Reasons?*, La Strada International, 7 November 2021, [Online] available at: <https://www.lastradainternational.org/blog/revising-eu-directive-on-human-trafficking-for-bad-or-good-reasons/> (accessed 20 January 2022) [hereinafter, *Revising EU Directive...*].

<sup>201</sup> *Ibidem*.

<sup>202</sup> Elisavet Symeonidou-Kastanidou, *op. cit.*, p. 481.

it is the first time when such a provision is mentioned in EU criminal law.<sup>203</sup> Gianmarinaro highlights the disturbing predicament that victims of trafficking find themselves in, as they are still unfairly arrested, charged, prosecuted and convicted for crimes and other transgressions committed in their status as victims of trafficking. Such a situation has several consequences, and one of the most critical is victims' reluctance to testify against traffickers for fear of punishment, which further implies impunity for traffickers.<sup>204</sup> Gianmarinaro also notes that HT thrives in states where traffickers can rely on a state's criminal justice system to arrest and convict victims for their trafficking-related offences, whether criminal, civil or administrative.<sup>205</sup>

The *Palermo Protocol* does not mention this provision; instead, the OHCHR *Recommended Principles and Guidelines on Human Rights and Human Trafficking Commentary*<sup>206</sup> does include it in its human-rights guide on anti-trafficking. The *CoE Convention*, as well, in Article 26, uses soft language on this subject: "Each Party shall, in accordance with the basic principles of its legal system, *provide for the possibility of non-imposing penalties* on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so."<sup>207</sup> Following the example of the *CoE Convention*, the *EU Anti-Trafficking Directive* states that "the competent national authorities *are entitled not to prosecute or to impose penalties on victims (...)*"<sup>208</sup>

Gromek-Broc affirms that such non-binding language subverts the human-rights approach of both these legal instruments because States can eventually choose not to implement this provision; not only so, but it suppresses the very objectives of this provision, which is avoiding secondary victimisation of trafficked persons and encouraging them to testify as witnesses.<sup>209</sup> Gianmarinaro confirms this statement, concluding that Article

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<sup>203</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 85.

<sup>204</sup> Maria Grazia Gianmarinaro, *The Importance of Implementing the Non-Punishment Provision: The Obligation to Protect Victims*, United Nations Human Rights Office of the High Commissioner, 4 February 2021, pp. 3-4, [Online] available at: <https://www.ohchr.org/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf> (accessed 20 January 2022) [hereinafter, *The Importance of Implementing...*].

<sup>205</sup> *Ibidem*.

<sup>206</sup> UN Office of the High Commissioner for Human Rights (OHCHR), *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 20 May 2002, E/2002/68/Add.1, Principle 7, Guideline 2(5); 4(5), [Online] available at: [https://www.ohchr.org/documents/publications/commentary\\_human\\_trafficking\\_en.pdf](https://www.ohchr.org/documents/publications/commentary_human_trafficking_en.pdf) (accessed 26 February 2022).

<sup>207</sup> *CoE Convention*, Art. 26 (*Emphasis added*).

<sup>208</sup> *EU Directive*, Art. 8 (*Emphasis added*).

<sup>209</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 232.

8 has mainly not been implemented due to its lack of clarity.<sup>210</sup> Likewise, Gromek-Broc also draws attention to an additional drawback of the Directive, which is the complete silence on the subject of non-detention of victims.<sup>211</sup> De Sousa Santos *et al.* consider that a clear decriminalisation clause would be the highest human-rights standard that an international or legal anti-trafficking instrument could reach, but the context of the international and EU system makes it impossible to impose it on all state parties for the time being.<sup>212</sup>

Furthermore, Symeonidou draws attention to another drawback, which is the ambivalence and ambiguity of Article 8 of the Directive, further increased by Recital 14, which indicates that the non-prosecution provision “*should not exclude prosecution or punishment for offences that a person has voluntarily committed or participated in*”.<sup>213</sup> The danger implied by such a provision, the author highlights, is that it might deter victims from denouncing HT acts committed against them since most of them have been drawn into some type of criminal behaviour during their exploitation, such as illegal entry into the country, prostitution without the relevant permit, begging, theft, embezzlement and so on. Symeonidou concludes that in the case of such crimes of small or medium gravity, the Directive should clearly specify that victims are free from any liability.<sup>214</sup>

On the other hand, this provision has certain strengths despite its non-binding nature. Gianmmarinaro notices that the wording of this provision implies the non-liability of a victim, which enables protection from an early stage; furthermore, its general scope implies that there is no established limit on the severity of the offence.<sup>215</sup>

## B. Protection of Victims

The second element of the “4Ps” approach is protection. From a human-rights point of view, the obligation to protect, assist and provide reparation for VOTs should be the first and foremost aspect of the anti-trafficking policies.<sup>216</sup> The *Palermo Protocol* only imposed soft obligations on State Parties in this area, as indicated by the facultative formulation of its provisions on protection. This approach was later justified by the high cost implied by such protective measures and, at the same time, by the disproportionality of the socio-economic levels of the various countries.<sup>217</sup> In comparison, the *CoE Convention*

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<sup>210</sup> Maria Garcia Gianmmarinaro, *Revising EU Directive...*

<sup>211</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 231.

<sup>212</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 87.

<sup>213</sup> *EU Directive*, Recital 14 (*Emphasis added*).

<sup>214</sup> Elisavet Symeonidou-Kastanidou, *op.cit.*, p. 475.

<sup>215</sup> Maria Grazia Gianmmarinaro, *The Importance of Implementing...*, p. 5.

<sup>216</sup> Boaventura de Sousa Santos (scientific coord.) *et al.*, *op. cit.*, p. 100.

<sup>217</sup> *Ibidem*.

is the most advanced legal instrument as regards the protection of the human rights of victims of trafficking. The *EU Anti-Trafficking Directive* has not reached this level yet, as it has not removed the conditionality element, according to which third-country nationals can receive protection and assistance only if they act as witnesses in criminal proceedings.<sup>218</sup>

As for protection in criminal proceedings, Article 12(2) underlines in strong obligation terms that states must ensure that victims have access without delay to legal counselling and representation, if possible, free of charge in case the victim cannot afford it. Other obligations of states are to ensure access to witness protection programmes<sup>219</sup>, as well as provide specific treatment aimed at preventing secondary victimisation<sup>220</sup>, which would include measures such as: avoidance of unnecessary repetition of interviews, visual contact between victims and their traffickers during interviews and cross-examinations or unnecessary questions on private life.<sup>221</sup> At this point, Gromek-Broc draws attention to the fact that the title of Article 12, namely “Protection of victims of trafficking in human beings in criminal investigation and proceedings”, would suggest that States are bound to offer protection to victims only until the conclusion of the proceedings; afterwards, protection would be granted depending on the State’s willingness.<sup>222</sup> According to Gromek-Broc, this seriously compromises the human-rights vision of the Directive since victims of trafficking, especially those who had been exploited by organised criminal groups, could be targeted after the end of the proceedings as well.<sup>223</sup> Gianmmarinaro also states that long-term measures are needed for the Directive to reflect a truly holistic approach, and, as a result, protection and assistance should not be limited to the duration of criminal proceedings.<sup>224</sup>

### C. Assistance of Victims

The *EU Directive* contains seven extensive articles<sup>225</sup> in reference to the protection and assistance of victims, four articles<sup>226</sup> dedicated specifically to child victims, taking into consideration their particularly vulnerable status.

The text differentiates between general assistance for victims (Article 11) and their protection during criminal proceedings (Article 12). Article 11, on

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<sup>218</sup> *Ibidem*, pp. 101-103.

<sup>219</sup> *EU Directive*, Art 12(3).

<sup>220</sup> *Ibidem*, Art 12(4).

<sup>221</sup> *Ibidem*.

<sup>222</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 234.

<sup>223</sup> *Ibidem*, p. 233.

<sup>224</sup> Maria Garcia Gianmmarinaro, *Revising EU Directive...*

<sup>225</sup> *EU Directive*, Art. 11-17.

<sup>226</sup> *Ibidem*, Art. 13-16.

general assistance and support, mostly uses hard obligation language, introducing each provision with the binding formulation: “shall take the necessary measures to ensure/establish...”. In comparison to the *EU Directive*, the Protocol uses soft obligation wording, making protection and assistance optional by formulations such as: “*In appropriate cases and to the extent possible under its domestic law*, each State Party shall protect the privacy and identity of victims (...)”<sup>227</sup>, or “Each State Party *shall consider* implementing measures to provide for the physical, psychological and social recovery of victims (...)”<sup>228</sup>, or “Each State Party *shall take into account* (...) the special needs of victims (...)”<sup>229</sup> or further in the last paragraph: “Each State Party *shall endeavour* to provide for the physical safety of victims (...)”<sup>230</sup>. The reasons for using such soft language were explained in the previous subchapter. By contrast, the *CoE Convention*, the same as the *EU Directive*, uses binding provisions to ensure that State Parties take the necessary measures to provide for the minimum level of protection and assistance for victims, raising the standard higher than any other legal instrument had done by that time at international level. Article 12(1) of the *CoE Convention* formulates: “Each Party *shall adopt* such legislative or other measures as may be necessary to assist victims in their physical, psychological and social recovery.” We notice the straightforward wording: “shall adopt”, and later in Art. 12(3): “*shall provide* necessary medical or other assistance (...)”, and especially in paragraph 6: “Each Party *shall adopt* such legislative or other measures as may be necessary to ensure that assistance to a victim is not made conditional on his or her willingness to act as a witness.” This provision stipulates the obligation of states to assist victims regardless of their cooperation with competent authorities.

The *EU Anti-Trafficking Directive*, despite its apparently similar formulation of so-called unconditional support, has not eliminated this condition since it makes reference to *Directive 2004/81/EC*, which specifically offers support to third-country nationals conditional upon their cooperation in criminal proceedings.<sup>231</sup> The *EU Anti-Trafficking Directive* thus formulates:

“3. Member States shall take the necessary measures to ensure that assistance and support for a victim are not made conditional on the victim’s willingness to cooperate in the criminal investigation, prosecution or trial, *without prejudice to Directive 2004/81/EC or similar national rules.*”<sup>232</sup>

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<sup>227</sup> *Palermo Protocol*, Art. 6(1) (*Emphasis added*).

<sup>228</sup> *Ibidem*, Art. 6(3) (*Emphasis added*).

<sup>229</sup> *Ibidem*, Art. 6(4) (*Emphasis added*).

<sup>230</sup> *Ibidem*, Art. 6(5) (*Emphasis added*).

<sup>231</sup> *Council Directive 2004/81/EC*, Art. 8: “a clear intention to cooperate”.

<sup>232</sup> *EU Directive*, Art. 11(3) (*Emphasis added*).

Gromek-Broc considers that the *EU Anti-Trafficking Directive* should offer unconditional protection and support to all victims, including to those unlawfully residing on an EU Member State's territory.<sup>233</sup> Gianmarinaro also believes that the link between the *EU Anti-Trafficking Directive* and Directive 2004/81/EC entails an unjustifiable discrimination between victims who are EU citizens and third-country nationals.<sup>234</sup> For the latter, "assistance is *de facto*, not unconditional."<sup>235</sup> She, therefore, proposes a thorough amendment of Directive 2004/81/EC, so that it applies only to victims of smuggling, as well as the revision of Article 11(3) of the *EU Anti-Trafficking Directive*, so that it provides for unconditional assistance and residence permits to all victims, without discrimination.<sup>236</sup>

Additionally, on the issue of residence permits, which are granted only for the duration of criminal investigations and proceedings (also mentioned in Directive 2004/81/EC), Symeonidou<sup>237</sup> advocates for the granting of unconditional residence permits to all victims, considering their vulnerable status. This position is supported in a Report published in October 2014<sup>238</sup>, stating that the Commission acknowledges that "according to available figures, the possibility of issuing permits to third-country nationals in exchange for cooperation with the authorities is under-utilised", adding that "a temporary residence permit, only valid for the duration of investigations or criminal proceedings, *might not constitute an incentive strong enough for vulnerable individuals*, who need time to recover from a traumatic experience before considering whether to embark on formal cooperation with law enforcement and judicial authorities"<sup>239</sup>.

Another drawback of the *EU Anti-Trafficking Directive*, as compared to the *CoE Convention*, is the lack of precision implied by the phrasing "for an appropriate period of time" in Article 11(1):

"Member States shall take the necessary measures to ensure that assistance and support are provided to victims before, during and

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<sup>233</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 233.

<sup>234</sup> Maria Grazia Gianmarinaro, *Revising EU Directive...*

<sup>235</sup> *Ibidem*.

<sup>236</sup> *Ibidem*.

<sup>237</sup> Elisavet Symeonidou-Kastanidou, *op.cit.*, p. 476.

<sup>238</sup> *Communication from the Commission to the Council and the European Parliament on the application of Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities*, COM(2014) 635 final, Brussels: European Commission, 17 October 2014, pp. 10-11, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52014DC0635> (accessed 27 January 2022).

<sup>239</sup> *Ibidem* (*Emphasis added*).

*for an appropriate period of time after the conclusion of criminal proceedings (...)*<sup>240</sup>

This might imply that assistance after criminal proceedings is to be granted at the discretion of States, as compared to the *CoE Convention*, which specifically sets out in Article 13(1) a recovery and reflection period of at least 30 days. Gromek-Broc says that since the *EU Directive* must be in conjunction with the *CoE Convention*, Member States are not likely to evade their obligations as signatories of the *CoE Convention* and impose a shorter reflection period.<sup>241</sup> In contrast, the *Palermo Protocol* is completely silent on this subject, but the organisation established to make recommendations on the effective application of the Protocol has stated that “States parties should ... [e]nsure victims are provided with immediate support and protection, irrespective of their involvement in the criminal justice process”<sup>242</sup>

Despite these shortcomings which the Directive has, as compared to a human-rights perspective, and especially to the higher standards of the *CoE Convention*, it also has a few unique elements not specified by the Convention; for instance, states are bound to offer assistance “as soon as the competent authorities have a *reasonable-grounds indication*”<sup>243</sup> for believing that a person might have been subjected to any of the crimes in Article 2, which is a strong element of the “early identification” approach.<sup>244</sup>

An important aspect which all three documents share is related to the package of services which States are obliged to ensure for the support of victims. Article 11(5) of the *EU Directive*, as well as Article 12(1) of the *CoE Convention* and Article 6(3) of the *Palermo Protocol*, all specify that assistance and support shall cover the victims’ sustenance, such as appropriate accommodation, material assistance, medical treatment, psychological assistance, counselling, information and translation.

Another obligation of Member States under the *EU Anti-Trafficking Directive* is to ensure that victims have access to compensation for damages suffered.<sup>245</sup> However, this provision, says Gianmmarinaro, is among the least implemented of the Directive, and moreover, it is deficient, as it provides funds

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<sup>240</sup> *EU Directive*, Art. 11(1) (*Emphasis added*).

<sup>241</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 232.

<sup>242</sup> *Improving the coordination of efforts against trafficking in persons - Report of the Secretary-General (A/76/120)*, United Nations: UN General Assembly, 28 June 2021, p. 29, [Online] available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_76\\_120\\_E.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_76_120_E.pdf) (accessed 31 January 2022).

<sup>243</sup> *EU Directive*, Art. 11(2) (*Emphasis added*).

<sup>244</sup> *Ibidem*, Art. 11(4).

<sup>245</sup> *Ibidem*, Art. 17.

only for “victims of violent crimes of intent”<sup>246</sup>, whereas it is well known that trafficking, especially in our digitalised world, is not always carried out by means of violence. From a human-rights point of view, this provision should be amended, as compensation is one of the victims' fundamental rights, as it is indispensable for their social inclusion.<sup>247</sup> The *Palermo Protocol* and UNTOC, as well as the *CoE Convention*, contain provisions on the compensation of victims in more general and, thus, not-restrictive terms compared to the *EU Directive*.<sup>248</sup>

#### **D. Prevention and Training: Binding**

The UN and the CoE instruments dedicate an important section to prevention policies. Articles 9-10 of the *Palermo Protocol* and Articles 5-9 of the *CoE Convention* discuss the third aspect of the “4Ps” policy, namely prevention. Compared to these two instruments, the *EU Directive* dedicates only one article<sup>249</sup> to this element, as well as Recital 25, which basically reiterates the contents of Article 18.<sup>250</sup> The Directive highlights through binding language the obligation of States to prevent trafficking through demand reduction, awareness raising and education, research, and training, but, generally, prevention is mainly underrepresented compared to prosecution and protection.<sup>251</sup>

In comparison to the *EU Directive*, Article 5 of the *CoE Convention* also places an obligation on States to promote a human rights-based approach, as well as to adopt a gender and child-sensitive approach when developing and implementing prevention policies and programmes.<sup>252</sup> An additional point that the *Palermo Protocol* brings, in comparison to the *EU Directive* and the *CoE Convention*, in the overall sector of prevention, is a holistic perspective of minimising core factors that increase vulnerability to trafficking, such as poverty, underdevelopment, inequality and all forms of discrimination.<sup>253</sup>

#### **3.2.3. Monitoring mechanism**

The clear advantage of the *EU Anti-Trafficking Directive* is its anti-trafficking monitoring system, comprised of an informal Network of National

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<sup>246</sup> *Ibidem*.

<sup>247</sup> Maria Grazia Giammarinaro, *Revising EU Directive...*

<sup>248</sup> UNTOC, Art. 14(2); 25(2); *Palermo Protocol*, Art. 6(6); *CoE Convention*, Art. 15(3).

<sup>249</sup> *EU Directive*, Art. 18.

<sup>250</sup> Elisavet Symeonidou-Kastanidou, *op.cit.*, pp. 479-480.

<sup>251</sup> Alice Bosma and Conny Rijken, “Key Challenges in the Combat of Human Trafficking: Evaluating the EU Trafficking Strategy and EU Trafficking Directive”, in: *New Journal of European Criminal Law*, Vol. 7, Issue 3, 2016, pp. 326, doi:10.1177/203228441600700306 (accessed 9 March 2022).

<sup>252</sup> *CoE Convention*, Art. 5(3).

<sup>253</sup> *Palermo Protocol*, Art. 9(4).



Rapporteurs and Equivalent Mechanisms (NREMs), coordinated by an EU Anti-Trafficking Coordinator (EU ATC), all under the supervision of the European Commission. The *CoE Convention* shares the same advantage with the effective work GRETA has done since its first meeting in 2009. These two monitoring mechanisms will be further analysed in *Chapter 2.4* of this book. The *Palermo Protocol*, in turn, has not had any monitoring mechanism until recently; starting with 2020, a Review Mechanism was set in place for the UNTOC, which is viewed by many actors as unpromising due to its lack of a clear governing body.<sup>254</sup>

Furthermore, the *EU Directive* sets out a binding provision in Article 11(4) and Article 19, drafted in parallel to the similar provision in the CoE Convention, according to which appropriate mechanisms allowing for the early identification of victims are set in place. The Commission's Experts Group proposed to establish National Referral Mechanisms (NRM) that could detect victims at the initial stage and refer them to the competent authorities.<sup>255</sup>

Nonetheless, Gianmarinaro notices a strong deficiency of the NRM system in the majority of Member States, highlighting that the same government departments in charge of the implementation of anti-trafficking legislation have been appointed as "equivalent mechanisms" in charge of monitoring implementation, which compromises the checks-and-balances system. She recommends the revision of Article 11(4) of the Directive so as to introduce a binding provision on the autonomy of "equivalent mechanisms".<sup>256</sup>

### **3.2.4. Cooperation and coordination of efforts**

The NRM system, as well as the informal Network of NREMs and the EU ATC, are part of the overall efforts of the EU to promote cooperation between its Member States with regard to action against HT. Cooperation or partnerships is the fourth element of the "4Ps" policy on anti-trafficking. The focus is set on the coordination of efforts in the area of law enforcement and immigration, with special attention dedicated to cross-border cooperation, as well as enhanced cooperation with Europol and Eurojust and the setting-up of joint investigation teams.<sup>257</sup> Similar provisions are mentioned in the *Palermo Protocol*, which stresses the importance of bilateral and multilateral cooperation, and the *CoE Convention*, which mainly focuses on cooperation between State Parties.<sup>258</sup> International cooperation in the *EU Anti-Trafficking Directive* is highlighted in

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<sup>254</sup> Ian Tennant, "Fulfilling the Promise of Palermo?...", pp. 54-64.

<sup>255</sup> Katarzyna Gromek-Broc, *op. cit.*, p. 233.

<sup>256</sup> Maria Grazia Giammarinaro, *Revising EU Directive...*

<sup>257</sup> *Palermo Protocol*, Art. 10(1); *CoE Convention*, Art. 32; *EU Directive*, Recital 5.

<sup>258</sup> *Ibidem*, Art. 10(1); *CoE Convention*, Art. 32.

Recital 9 on the importance of cooperation with GRETA so that duplication of efforts can be avoided.<sup>259</sup> All three instruments strongly recommend the cooperation of state authorities with non-governmental organisations, other relevant organisations and other elements of civil society.<sup>260</sup>

### 3.3. The EU Policy Framework on Preventing and Combating Human Trafficking

In this section we will analyse the predominant and most challenging aspects of the EU anti-trafficking policy landscape after the adoption of the *EU Anti-Trafficking Directive* of 2011, as illustrated in the two EU anti-trafficking Strategies – *The EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016* (hereinafter, the *EU Anti-Trafficking Strategy for 2012-2016*)<sup>261</sup> and the *EU Anti-Trafficking Strategy for 2021-2025* – as well as the *Communication from the Commission to the European Parliament and The Council Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions* (hereinafter, *2017 Communication*)<sup>262</sup>, and the three Progress Reports issued in 2016 (hereinafter, *First Progress Report*)<sup>263</sup>, 2018 (hereinafter, *Second Progress Report*)<sup>264</sup>, and respectively 2020 (hereinafter, *Third Progress Report*)<sup>265</sup>, as a

<sup>259</sup> *EU Directive*, Recital 9.

<sup>260</sup> *Palermo Protocol*, Art. 10(2); *CoE Convention*, Art. 12, 16, 28; *EU Directive*, Recital 6.

<sup>261</sup> *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*, Brussels: European Commission, 19 June 2012, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN> (accessed 1 April 2022) [hereinafter, *EU Anti-Trafficking Strategy for 2012-2016*].

<sup>262</sup> *Communication from the Commission to the European Parliament and The Council Reporting on the follow-up to the EU Strategy towards the Eradication of trafficking in human beings and identifying further concrete actions*, Brussels: European Commission, European Commission, 4 December 2017, [Online] available at: <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A52017DC0728> (accessed 1 April 2022) [hereinafter, *2017 Communication*].

<sup>263</sup> *Report on the progress made in the fight against trafficking in human beings (2016)*, Brussels: European Commission, 19 May 2016 [Online] available at: [https://ec.europa.eu/anti-trafficking/first-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/first-report-progress-made-fight-against-trafficking-human-beings_en) (accessed 1 April 2022) [hereinafter, *First Progress Report*].

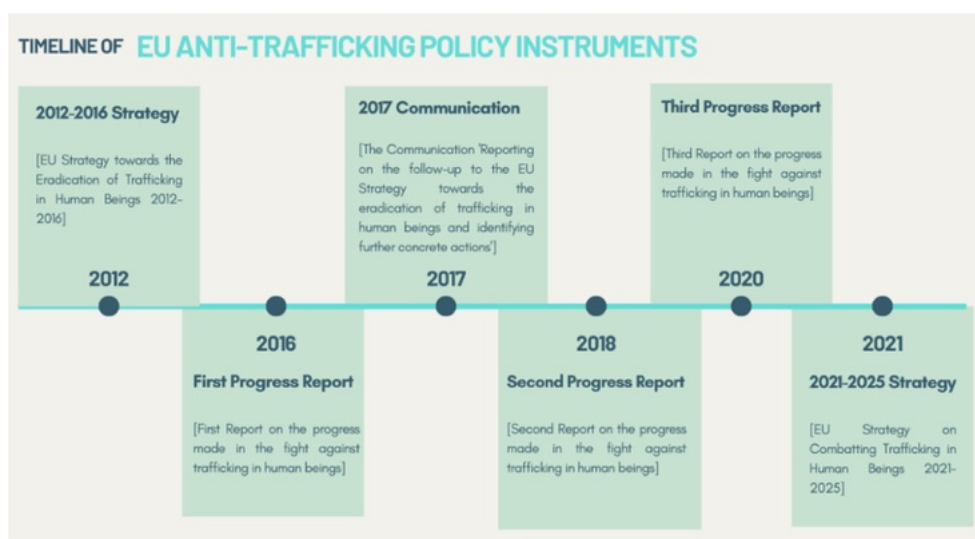
<sup>264</sup> *Second report on the progress made in the fight against trafficking in human beings (2018)*, Brussels: European Commission, 3 December 2018 [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0777&from=EN> (accessed 1 April 2022) [hereinafter, *Second Progress Report*].

<sup>265</sup> *Third report on the progress made in the fight against trafficking in human beings*, Brussels: European Commission, 20 October 2020, [Online] available at: <https://ec.europa.eu/anti->

response to the evaluation of the first Strategy and the anti-trafficking progress made by the EU between 2011 and 2021. *Figure 3.5* depicts the chronological order of these policy instruments.

The EU anti-trafficking policy framework follows the objectives of the *EU Anti-Trafficking Directive*, correlated with other international instruments, such as the *Palermo Protocol*, the *CoE Convention*, and reports and research published by European agencies, as well as other international organisations, such as IOM, ILO, Interpol, OSCE and others. Our analysis will be developed according to the “4P” paradigm of the anti-trafficking policy: prosecution, protection, prevention and partnerships (cooperation), highlighting the main challenges and progress made by the EU in each case.

*Figure 3. 5. Timeline of the EU anti-trafficking policy instruments*



### 3.3.1. Prosecution

As for the prosecution element, we will briefly analyse the four types of objectives with regard to the approximation of offences and prosecution discussed in the previous section (Chapter 3.2) and their evolution as illustrated in the period comprised between the *EU Anti-Trafficking Strategy for 2012-2016* and the *EU Anti-Trafficking Strategy for 2021-2025*.

Concerning the first and the second objectives, criminalisation of the main offence of trafficking and the secondary behaviour, the *EU Anti-Trafficking Strategy for 2021-2025* highlights under the fourth point (*Breaking the criminal*

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trafficking/third-report-progress-made-fight-against-trafficking-human-beings\_en (accessed 1 April 2022) [hereinafter, *Third Progress Report*].

*model to halt victims' exploitation*)<sup>266</sup> that a remaining problem is the persistence of the culture of impunity, proven by the low number of prosecutions and convictions of traffickers. Even though the previous Strategy had established an aggressive plan to combat all organised crime (under *priority C: Increased prosecution of traffickers*)<sup>267</sup> by establishing National Multidisciplinary Law Enforcement Units, as well as EMPACT<sup>268</sup>, ensuring proactive financial investigations, stepping up the cross-border police and judicial cooperation, through the setting up of joint investigation teams (JITs)<sup>269</sup> in collaboration with Europol and Eurojust, as well as developing cooperation with third-countries and international cooperation<sup>270</sup>, HT is still considered a “low-risk, high-return” crime.<sup>271</sup> Changing this pattern was established in the *2017 Communication* as a top priority (*Priority A: Disrupting the business model and untangling the trafficking chain*)<sup>272</sup> by emphasising some key actions such as facilitating financial and intelligence-led investigations, as well as asset recovery, freezing and confiscation of profits, and intensifying cooperation between Member States and EU agencies to increase the exchange of information and expertise.<sup>273</sup>

Analysing numbers shown in the three Progress Reports from data gathered during the period 2013-2018 from the EU Member States, it is evident that the number of traffickers prosecuted is significantly lower than the number of traffickers actually convicted, as shown in *Figure 3.6*, which further confirms the prevalence of a culture on impunity in the EU Member States. Moreover, the number of victims detected is disproportionately higher than the number of traffickers convicted, as illustrated in *Figure 3.7*, which also adds evidence to this argument.

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<sup>266</sup> *EU Anti-Trafficking Strategy for 2021-2025*, p. 9.

<sup>267</sup> *EU Anti-Trafficking Strategy for 2012-2016*, pp. 9-11.

<sup>268</sup> *EMPACT fighting crime together*, European Commission, [https://ec.europa.eu/home-affairs/policies/law-enforcement-cooperation/operational-cooperation/empact-fighting-crime-together\\_en](https://ec.europa.eu/home-affairs/policies/law-enforcement-cooperation/operational-cooperation/empact-fighting-crime-together_en) (accessed 1 April 2021).

<sup>269</sup> *Joint Investigation Teams – JITs*, Europol, 26 Nov 2021, <https://www.europol.europa.eu/partners-collaboration/joint-investigation-teams> (accessed 1 April 2021).

<sup>270</sup> *Second report on the implementation of the Action Oriented Paper*, Brussels: European Commission, 3 December 2012, [https://ec.europa.eu/anti-trafficking/second-report-implementation-action-oriented-paper\\_en](https://ec.europa.eu/anti-trafficking/second-report-implementation-action-oriented-paper_en) (accessed 1 April 2021).

<sup>271</sup> *Commissioner Johansson's speech at the Joint Session of the EU Network of National Rapporteurs and/or Equivalent Mechanisms and EU Civil Society Platform against trafficking in human beings*, European Commission, 21 October 2020, [Online] available at: [https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-joint-session-eu-network-national-0\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-joint-session-eu-network-national-0_en) (accessed 1 April 2021).

<sup>272</sup> *2017 Communication*, p. 3.

<sup>273</sup> *Ibidem*, p. 4.

Therefore, the *EU Anti-Trafficking Strategy for 2021-2025* proposes to allocate more funds and undertakes to coordinate capacity-building actions for law enforcement in the context of cross-border and transnational cooperation, as well as facilitate, with the help of Eurojust, the formation of a focus group of specialised prosecutors against HT<sup>274</sup>, for the purpose of judicial cooperation (*Priority 4.2 Tackling the culture of impunity by building capacity for a robust criminal justice response*).<sup>275</sup>

Figure 3. 6. Comparison between prosecution and actual conviction of traffickers between 2013 and 2018

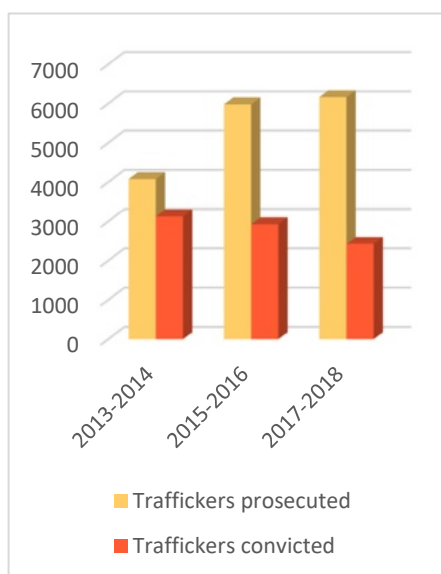


Figure 3. 7. Comparison between number of victims detected and number of traffickers convicted between 2013 and 2018



Source: European Commission, *First, Second and Third Progress Reports*

Concerning the third objective with regard to prosecution, namely the criminalisation of clients' behaviour, it will be analysed under *Section 3.3.3* concerning the "prevention" element later in this chapter, as it closely connects with the priority of demand reduction.

As for the fourth objective – the non-penalisation and non-prosecution of victims – the EU policy instruments do not specifically mention it. Rather, it might be considered part of various priorities and key actions envisaged by

<sup>274</sup> *Eurojust Report on Trafficking in Human Beings Best practice and issues in judicial cooperation*, Eurojust, February 2021, pp. 10-17, <https://www.cig.gov.pt/wp-content/uploads/2021/02/Relatorio-Eurojust-TSH.pdf> (accessed 1 April 2022).

<sup>275</sup> *EU Anti-Trafficking Strategy for 2021-2025*, pp. 10-11.

all instruments. For instance, the *EU Anti-Trafficking Strategy for 2012-2016* mentions in *Priority E – Knowledge and response to emerging concerns related to all forms of human trafficking*<sup>276</sup>, the need to develop gender-sensitive and child-sensitive guidelines, as well as understand the status of victims, to develop training material for practitioners who might come into contact with victims, including police officers and prosecutors.<sup>277</sup> The *2017 Communication* also mentions the necessity of improving the understanding of the phenomenon<sup>278</sup>, whereas the *EU Anti-Trafficking Strategy for 2021-2025* highlights training for officials and practitioners and developing safe environments for victims to report their crimes<sup>279</sup> as key actions under point 5 – *Protecting, supporting and empowering the victims, especially women and children*.<sup>280</sup> The *EU Anti-Trafficking Directive* encourages the non-prosecution of victims but does not make it binding on States. However, the majority of EU countries have adopted in their criminal law general provisions stipulating that persons compelled to commit a crime while being trafficked shall not be prosecuted for their crimes.

### 3.3.2. Protection

The first priority of the *EU Anti-Trafficking Strategy for 2012-2016* (*PRIORITY A: Identifying, protecting and assisting victims of trafficking*) targeted the second element of the 4P anti-trafficking policy, namely the protection of victims. The first key action under this priority was the establishment of National and Transnational Referral Mechanisms (NTRMs), designed to encompass the following three key actions: identification of victims, protection of child victims of trafficking, and provision of information on the rights of victims.<sup>281</sup> The main purpose of such National Referral Mechanisms (NRMs) and Transnational Referral Mechanisms (TRMs) was to connect relevant national public authorities and civil society in order to ensure that victims of trafficking can access their rights and be referred to proper services, including cross-border cases.<sup>282</sup>

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<sup>276</sup> *EU Anti-Trafficking Strategy for 2012-2016*, pp. 14-15.

<sup>277</sup> *Ibidem*.

<sup>278</sup> *2017 Communication*, p. 7.

<sup>279</sup> *EU Anti-Trafficking Strategy for 2021-2025*, p. 16.

<sup>280</sup> *Ibidem*, pp. 12-17.

<sup>281</sup> *EU Anti-Trafficking Strategy for 2012-2016*, p. 6.

<sup>282</sup> *Commission Staff Working Document Accompanying the Third Report on the Progress Made in the Fight Against Trafficking in Human Beings (2020)*, Brussels: European Commission, 20 October 2020, p. 93, [Online] available at: [https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings_en) (accessed 4 April 2021).

In 2012, such cases demanded a lot of time and effort since such referral mechanisms were not in place; therefore, the *EU Anti-Trafficking Strategy for 2012-2016* aimed to encourage and assist MS to develop NRMs and to create, by 2015, a model for an EU-TRM which connected NRMs with the purpose of better identifying, referring, protecting and assisting victims.<sup>283</sup> In the *First Progress Report*, it was mentioned that only about half of EU MS had formalised referral mechanisms at national level (Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Greece, Hungary, Ireland, Latvia, Malta, Poland, Portugal, Romania, Slovakia, Spain, UK), while others had informal structures in place or were in the process of developing a NRM (Austria, Italy, Lithuania, Luxembourg, Slovenia, Sweden), and finally, five MS had not developed a NRM or any equivalent (Estonia, Finland, France, Germany, Netherlands).<sup>284</sup> The following *2017 Communication* highlighted, therefore, as a key action the review of the functioning of NRMs and TRMs, after having identified the ineffectiveness of the mechanisms which were already in place, the failure to properly identify victims and the inadequate access to assistance, all of which implied that victims of trafficking were unable to benefit from the rights they were legally entitled to.<sup>285</sup> In October 2018, the *Study on reviewing the Functioning of Member States' National and Transnational Referral Mechanisms*<sup>286</sup> was launched as a deliverable of the *2017 Communication* under Priority B – *Improving access to and realisation of the rights of the victims of trafficking in human being*. This study was finally published in 2020. The *Second Progress Report* mentioned the crucial aspect of stepping up the transnational cooperation in this regard, as by 2018, civil society was still highlighting a considerable lack of a multidisciplinary approach, as well as a lack of consistency in decisions concerning victims' referral.<sup>287</sup> The Study delivered in 2020, as well as the *Third Progress Report*, showed that by 2020, all MS had NRMs established, with the exception of one – Germany.<sup>288</sup> In other cases, similar mechanisms were available at the local level. *Figure 3.8* shows the proportion of EU countries that had an NRM in place by 2016 and, subsequently, by 2020; clearly, the majority of the EU MS have complied with this requirement, as it represents an important element in the anti-trafficking nexus which the EU has been developing since the *EU Directive*.

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<sup>283</sup> *EU Anti-Trafficking Strategy for 2012-2016*, p. 6.

<sup>284</sup> *First Progress Report*, p. 59.

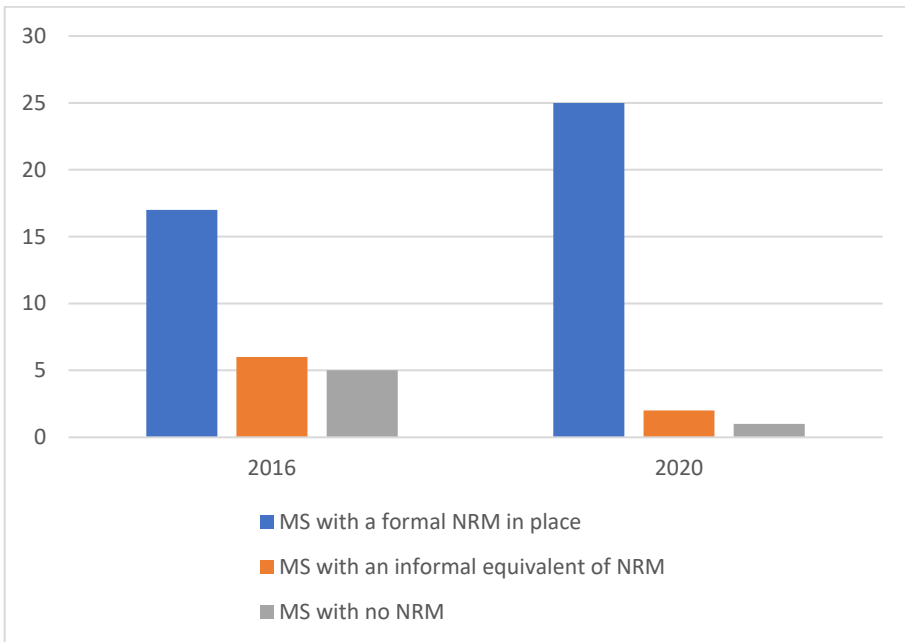
<sup>285</sup> *2017 Communication*, p. 5.

<sup>286</sup> Jagoda Gregulska, Claire Healy, Elena Petreska, et al., *Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms*, Luxembourg: European Commission, Directorate-General for Migration and Home Affairs, Publications Office, 2020, [Online] available at: <https://data.europa.eu/doi/10.2837/24454> (accessed 23 March 2022).

<sup>287</sup> *Second Progress Report*, p. 9.

<sup>288</sup> *2020 Staff Working Document*, p. 94.

Figure 3. 8. National Referral Mechanisms in EU Member States in 2016 as compared to 2020.



Source: First Progress Report

In 2019, a regional TRM was set in place by the Council of the Baltic Sea States (CBSS) Task Force against Trafficking in Human Beings (TF-THB), namely the Transnational Referral Mechanism of the Baltic Sea Region, which connected Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia and Sweden, with Bulgaria, Romania and Ukraine.<sup>289</sup> Then, in 2020, an online platform<sup>290</sup> featuring a Transnational Referral Mechanism Model (TACT) was launched by IOM, as a deliverable of the *EU Anti-Trafficking Strategy for 2012-2016*. This project was funded by the EU within the Transnational Action (TACT) project.<sup>291</sup> The TRM model has a significant role in cross-border referral cases, connecting practitioners from different countries involved in the identification, referral, assistance, return, and monitoring of assistance to victims of HT. Furthermore, it defines the roles

<sup>289</sup> *Ibidem*, p. 98.

<sup>290</sup> TACT – Transnational Referral Mechanism Model, IOM, [Online] available at: <http://www.iomfrance.org/tact/> (accessed 23 March 2022).

<sup>291</sup> Transnational Referral Mechanism Model – TRM, European Commission, 23 May 2017, [https://ec.europa.eu/anti-trafficking/transnational-referral-mechanism-model-trm\\_en](https://ec.europa.eu/anti-trafficking/transnational-referral-mechanism-model-trm_en) (accessed 23 March 2022).



of each stakeholder taking part in NRMs and helps inform and link anti-trafficking experts and professionals in the EU as well as non-EU states.<sup>292</sup>

The *EU Anti-Trafficking Strategy for 2021-2025* highlights, as one of the key actions which the Commission undertakes, the enhancement of cooperation towards a European Transnational Referral Mechanism (EU-TRM), as well as the improvement of the functioning of NRMs, under *Point 5 – Protecting, supporting and empowering the victims, especially women and children*.<sup>293</sup> It is to be noticed that the “protection” element of the 4P policy is not mentioned here as the primary priority, as in the *EU Anti-Trafficking Strategy for 2012-2016*, which might imply that the other elements have evolved since 2012, as more urgent matters in the anti-trafficking policy-making programme. Indeed, *Table 3.2* shows a wide variety of aspects of assistance and protection provided through NTRs in the EU MS as of 2020, such as risk and needs assessment of victims (23 Member States), repatriation and social inclusion functions (22 MS), child-specific aspects (22 MS), as well as long-term support and social inclusion functions (20 MS) and others.

Nevertheless, the *EU Anti-Trafficking Strategy for 2021-2025* acknowledges some other aspects concerning protection which are detrimental to human rights, and makes provisions for their amendment. For instance, victims still have difficulty accessing their rights, especially compensation, due to the complex proceedings, and there are still limited opportunities for them to restore their lives; therefore, the Commission provides targeted funding allocated to special shelters for victims through the Asylum, Migration and Integration Fund, as well as through the Internal Security Fund. The Strategy also highlights the issue of conditional assistance granted to third-country nationals based on their cooperation in criminal proceedings, as well as the disparities across the member states regarding the reflection period for non-EU victims, but does not provide any solution as to future actions.<sup>294</sup>

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<sup>292</sup> *Ibidem*.

<sup>293</sup> *EU Anti-Trafficking Strategy for 2021-2025*, p. 16.

<sup>294</sup> *Ibidem*, pp. 12-17.

Table 3. 2. Scope of NRMs in EU Member States by 2020

Elements within the NRM's scope	
Includes identification processes	AT, BE, BG, CY, CZ, DE, DK, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SI, ES, SE, UK
Includes risk and needs assessment of victims	AT, BG, CY, CZ, DK, EE, FI, FR, HR, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SI, ES, SE, UK
Includes assessment of the best interests of the child	AT, BG, DK, EE, FI, FR, HR, IE, IT, LU, MT, PT, RO, SK, SI, ES, SE, UK
Includes short-term support and protection services	AT, BE, BG, CY, CZ, DE, DK, EE, EL, FI, FR, HR, HU, IE, IT, LT, LU, LV, MT, NL, PL, PT, RO, SK, SI, ES, SE, UK
Includes long-term support and social inclusion functions	AT, BE, BG, CY, CZ, EE, EL, FI, FR, HR, IE, IT, LT, LU, MT, PT, RO, SK, SI, ES, SE
Includes repatriation and social inclusion functions	AT, BE, BG, CY, CZ, DK, EE, EL, FI, FR, HR, HU, IE, IT, LU, MT, NL, PL, PT, RO, SK, SI, ES, SE
Includes monitoring	BG, CZ, DE, DK, FI, IE, IT, LU, MT, NL, PT, RO, SK, SI, ES, SE, UK
Includes capacity-building and organisation of training	AT, BG, CY, CZ, DK, EE, FI, FR, HR, IE, IT, LU, MT, NL, PL, PT, RO, SK, SI, SE
Includes gathering and promotion of knowledge about trafficking in human beings	AT, BG, CZ, DK, EE, EL, FI, FR, IE, IT, LU, LV, MT, NL, PT, RO, SK, SI, UK
Includes prevention measures	AT, BG, CZ, DK, EE, EL, FR, HR, HU, IE, IT, LU, MT, NL, PT, RO, SK, SI, ES
Includes gender-sensitive approaches	AT, BG, DE, DK, FI, FR, IE, LT, LU, PT, RO, SI, ES, SE
Includes child-specific aspects	AT, BE, BG, CY, CZ, DK, EE, FI, FR, HR, IE, IT, LT, LU, MT, NL, PT, RO, SK, SI, ES, SE, UK

Source: Jagoda Gregulska *et al.*, *op. cit.*, p. 20.

### 3.3.3. Prevention

The Third aspect of the 4P anti-trafficking paradigm, prevention, occupies an important place in all policy documents of the EU, according to requirements stipulated in the *EU Anti-Trafficking Directive*. The prevention aspect is developed in both EU anti-trafficking Strategies and in the Progress Reports through specific key actions, such as:

1. understanding and reducing demand
2. promoting the establishment of a Private Sector Platform
3. EU-wide Awareness Raising Activities and Prevention Programmes

4. Establishment of a European Business Coalition against HT

As for reducing demand, one of the most important actions that the Commission has envisaged is assessing the possibility of modifying the provisions of the Anti-Trafficking Directive on criminalising the use of exploited services from victims of trafficking.<sup>295</sup> This means imposing some sort of obligation on States to criminalise buyers of sexual services.

Concerning labour exploitation, as mentioned in the *First Progress Report*<sup>296</sup>, the Commission has already adopted the *Employers' Sanctions*

<sup>295</sup> *Ibidem*, p. 8.

<sup>296</sup> *First Progress Report*, p. 13.

*Directive*<sup>297</sup>, by which Member States are obliged to criminalise employers who use the labour of illegally staying non-EU nationals while knowing that they are victims of trafficking. Additionally, the EU has imposed strict legislation concerning the sexual exploitation of children through the *Child Sexual Abuse Directive*<sup>298</sup>, which ensures that such offence is criminalised even if recourse is made to child prostitution. This implies that the client of children in prostitution has no legal loophole to evade prosecution since national authorities are now entitled to convict him without the need to prove the existence of components in the main trafficking offence or the fact that the client was aware of the victim's condition.<sup>299</sup> Regarding the sexual exploitation of adults (persons over eighteen years old), the *2017 Communication* aimed, as one of its core priorities, to “further encourage those EU Member States, to the extent they have not done so, to criminalise those knowingly using services exacted from victims of trafficking.”<sup>300</sup> As a result of this, by the end of 2020, in EU28, a number of 16 out of 28 Member States (BG, HR, CY, EE, FI, FR, DE, EL, IE, LT, LU, MT, PT, RO, SI, SE)<sup>301</sup> had established as a separate criminal offence the use of services of a victim of trafficking, with the awareness that the person is a victim, as compared to 2016, when 13 countries had done so (BG, CY, EL, FI, HR, IE, LT, MT, PT, RO, SE, SI, UK).<sup>302</sup>

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<sup>297</sup> *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*, European Union, 18 June 2009, 2009/52/EC, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009L0052> (accessed 15 April 2022).

<sup>298</sup> *Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA*, OJ L 335, European Union, 13 December 2011, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093> (accessed 15 April 2022) [hereinafter, *Directive 2011/93/EU*].

<sup>299</sup> *Commission Staff Working Document Accompanying the Second report on the progress made in the fight against trafficking in human beings (2018)*, Brussels: European Commission, 3 December 2018, p. 29, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0473&from=EN> (accessed 15 April 2022).

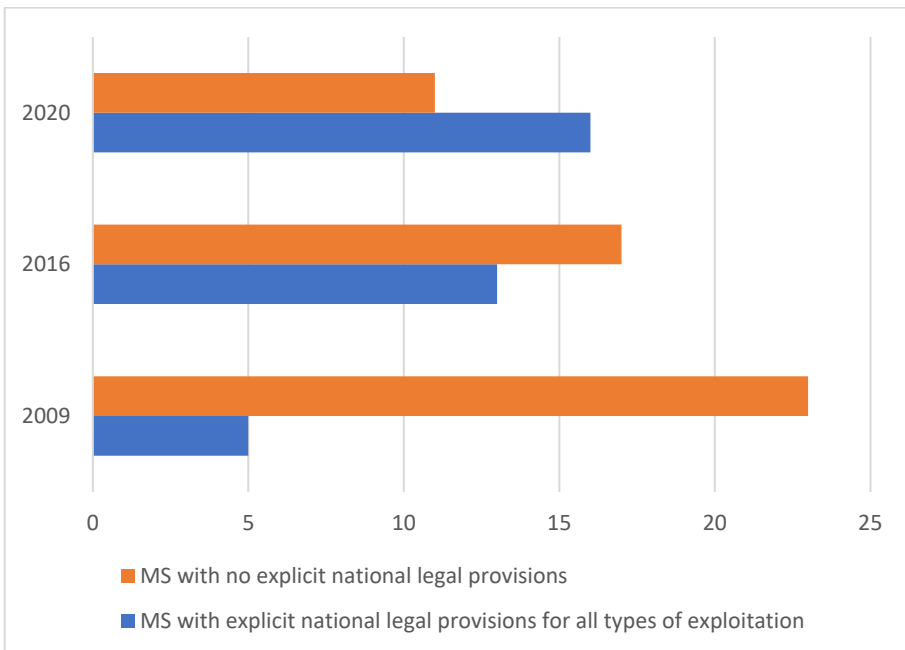
<sup>300</sup> *2017 Communication*, p. 3.

<sup>301</sup> *GRETA country reports*, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/country-reports> (accessed 28 March 2022).

<sup>302</sup> *Report from the Commission to the European Parliament and the Council assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/EU*, COM(2016) 719 final, Brussels: European Commission, 2 December 2016, pp. 3-5, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0719&rid=2> (accessed 28 March 2022) [hereinafter, *COM(2016) 719 final*].

As seen in *Figure 3.9*, the increase has not been so substantial compared to the number of states which established an NRM as a consequence of the requirement set out in the *EU Anti-Trafficking Strategy for 2012-2016* – from 17 EU countries in 2016 to 25 in 2020 (see *Figure 3.8*). Curiously, by the end of 2020, 11 countries still lacked legislation concerning the criminalisation of clients' behaviour, while only one country lacked an NRM. This differing reaction from states can be explained first by the use of soft versus hard obligation language making a requirement non-binding or binding, and secondly, by the consequences brought by such a change of legislation, which would affect more or less the judicial, institutional and law enforcement systems of a country in this respect.

*Figure 3. 9. National legal provisions establishing as a criminal offence the use of services which are the objects of exploitation of human trafficking in EU Member States in 2016 as compared to 2020*



*Source:* Created by the author compiling information from *COM(2016) 719 final*, pp. 3-5.

Therefore, the reason why states are still hesitating on this issue is that such criminalisation continues to be a controversial aspect due to its connection to legislation on prostitution. As seen in *Table 3.3*, EU Member States have differing legal models regulating prostitution, which are *legalisation* (the prostitute and the client are not criminalised, but there is a direct

regulation of prostitution by the government), *decriminalisation* (the prostitute and the client are not criminalised, and laws and regulations on prostitution are completely removed), *prohibition* (the prostitute is criminalised, while the client is most often not, and there are strict laws criminalising prostitution), and *neo-abolitionism* or the *Equality model*<sup>303</sup> (the prostitute is not criminalised, while the client is, and the government provides for exit programmes for the person in prostitution).<sup>304</sup> Currently, only three countries in the EU have a neo-abolitionist model on prostitution (more recently known as the Equality Model), which implies that not only clients of VOTs but also clients of consenting prostitutes are criminalised, while the rest of the EU countries have criminalised, legalised or decriminalised prostitution, models which do not necessarily impose any sanctions on the buyer of sexual services. The fact that, by 2020, 16 countries have adopted legislation criminalising clients' behaviour as concerns exploited sexual services is due to the pressure imposed on States primarily by GRETA, the expert body of the monitoring mechanism of the Council of Europe, in charge with overseeing the implementation of the *CoE Convention*, and respectively of Article 19 concerning the subject under discussion, and secondly, due to the softer pressure exercised by the EU and the Anti-Trafficking Coordinator, in charge with monitoring the implementation of the EU anti-trafficking legislation and policies (see next section – *Chapter 3.4* for more details). In spite of this progress, establishing as a criminal offence the use of services which are the objects of exploitation (and especially sexual exploitation) has proven difficult to apply in practice because it is a questionable aspect and, therefore, it is complicated to prove that the user of sexual services was aware that the person who provided the services was a victim of trafficking.<sup>305</sup>

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<sup>303</sup> At first, it was known as “the Swedish Model”, since Sweden was the first country in the world to adopt such a legal model in 1999. Afterwards, as it was adopted by other countries in the north of Europe and America, such as Norway, Iceland and Canada, it was referred to as “the Nordic Model”. More recently, it has been referred to as “the Equality Model”, having been adopted by Northern Ireland and France also (A/N).

<sup>304</sup> Milan Jung Katwal, “Neo-Abolitionism of Prostitution, It Works”, in: *The Kathmandu Post*, 24 February 2020, [Online] available at: <https://kathmandupost.com/16/2020/02/24/neo-abolitionism-of-prostitution-it-works> (accessed 30 March 2022).

<sup>305</sup> Blanka Hancilova and Camille Massey, *Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States*, Vienna: International Centre for Migration Policy Development (ICMPD) 2009, p. 52, [Online] available at: [https://www.icmpd.org/file/download/48679/file/Evaluation\\_EU\\_MS\\_THB\\_legislation.pdf](https://www.icmpd.org/file/download/48679/file/Evaluation_EU_MS_THB_legislation.pdf), (accessed 31 March 2022) [hereinafter, *Legislation and the Situation Concerning THB for the Purpose of Sexual Exploitation...*].

Table 3. 3. Criminalisation of knowingly using exploited sexual services from trafficked victims in 2009, 2016 and 2022, as compared to the legal status of prostitution in EU Member States

	Is knowingly using exploited sexual services from trafficked victims criminalized?			Legal status of prostitution
EU Member States	2009	2016	2020	2020
<b>AT – Austria</b>	NO	NO	NO	Legal and regulated
<b>BE – Belgium</b>	NO	NO	NO	Legal and unregulated
<b>BG – Bulgaria</b>	NO	YES	YES	Legal and unregulated
<b>HR – Croatia</b>	NO	YES	YES	Partially criminalised: prostitutes criminalised; clients not criminalised
<b>CY – Cyprus</b>	NO	YES	YES	Legal and unregulated
<b>CZ – Czech Republic</b>	NO	NO	NO	Legal and unregulated
<b>DK – Denmark</b>	NO	NO	NO	Partially decriminalised (only organised forms are criminalised)
<b>EE – Estonia</b>	NO	NO	YES	Legal and unregulated
<b>FI – Finland</b>	YES <sup>306</sup>	YES	YES	Legal and unregulated
<b>FR – France</b>	NO	NO	YES	Neo-abolitionism: clients criminalised; prostitutes not criminalised (i.e.: the Equality Model)
<b>DE – Germany</b>	NO	NO	YES	Legal and regulated
<b>EL – Greece</b>	NO	YES	YES	Legal and regulated
<b>HU – Hungary</b>	NO	NO	NO	Legal and regulated
<b>IE – Ireland</b>	YES <sup>307</sup>	YES	YES	Neo-abolitionism: clients criminalised; prostitutes not criminalised (i.e.: the Equality Model).
<b>IT – Italy</b>	NO	NO	NO	Legal and unregulated
<b>LV – Latvia</b>	NO	NO	NO	Legal and regulated

<sup>306</sup> Criminalised in 2006 (A/N).

<sup>307</sup> Criminalised in 2008 (A/N).

<b>LT – Lithuania</b>	NO	<b>YES</b>	<b>YES</b>	Fully criminalised: both prostitutes and clients criminalised
<b>LU – Luxembourg</b>	NO	NO	<b>YES</b>	Legal and unregulated
<b>MT – Malta</b>	NO	<b>YES</b>	<b>YES</b>	Legal and unregulated
<b>NL – Netherlands</b>	NO	NO	NO	Legal and unregulated
<b>PL – Poland</b>	NO	NO	NO	Legal and unregulated
<b>PT – Portugal</b>	<b>YES</b> <sup>308</sup>	<b>YES</b>	<b>YES</b>	Legal and unregulated
<b>RO – Romania</b>	NO	<b>YES</b>	<b>YES</b>	Partially decriminalised: prostitutes not criminalised (administrative fees apply only); clients not criminalised
<b>SK – Slovakia</b>	NO	NO	NO	Legal and unregulated
<b>SI – Slovenia</b>	NO	<b>YES</b>	<b>YES</b>	Legal and unregulated
<b>ES – Spain</b>	NO	NO	NO	Decriminalised and unregulated
<b>SE – Sweden</b>	<b>YES</b> <sup>309</sup>	<b>YES</b>	<b>YES</b>	Neo-abolitionism: clients criminalised; prostitutes not criminalised (i.e.: the Equality Model).
<b>UK – United Kingdom</b>	<b>YES</b>	<b>YES</b>	– <sup>310</sup>	Legal and regulated

Source: Blanka Hancilova and Camille Massey, *Legislation and the Situation Concerning THB for the Purpose of Sexual Exploitation...*, pp. 100-101, 246-255; GRETA Country Reports.

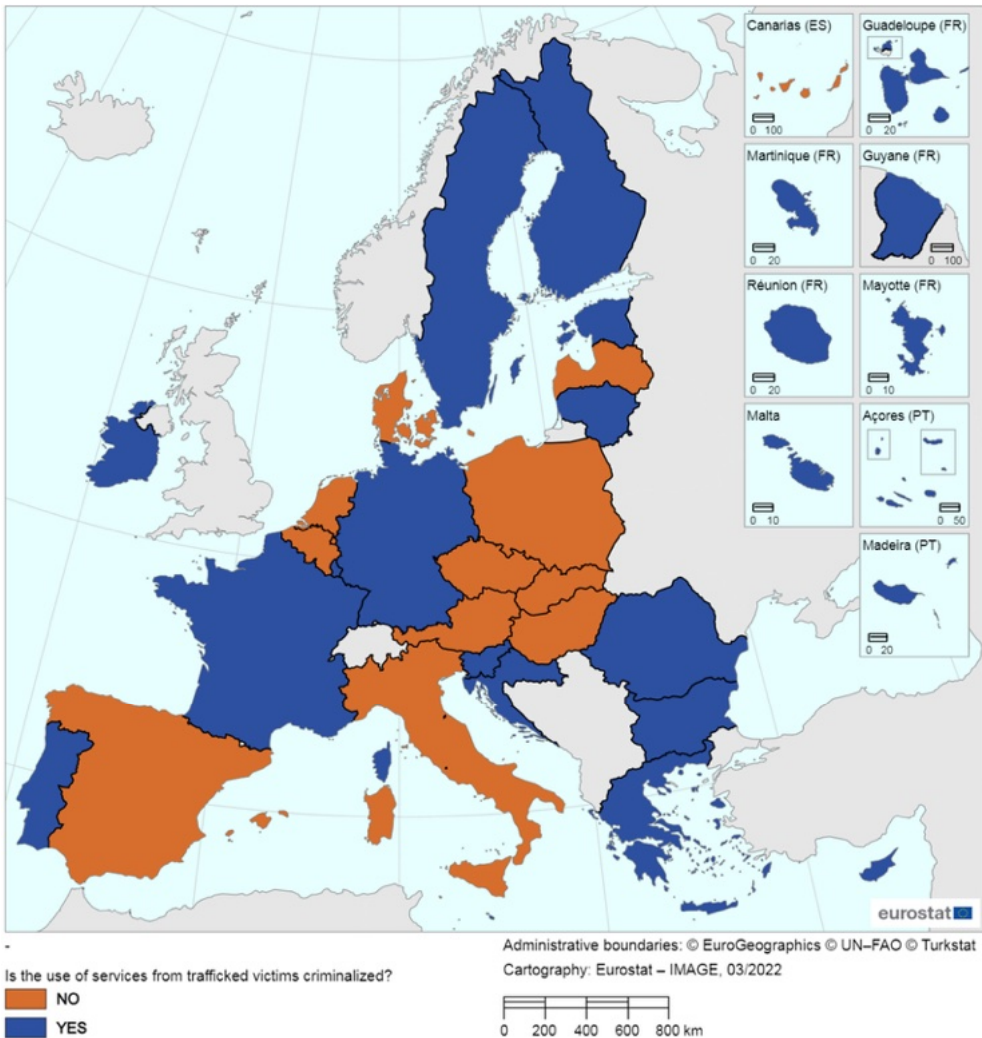
Table 3.3 and Figure 3.10 show the EU countries that have already adopted legislation criminalising clients' behaviour.

<sup>308</sup> Criminalised in 2007 (A/N).

<sup>309</sup> Criminalised as use of Sex services Fine/< 6 M imprisonment (A/N).

<sup>310</sup> Not an EU member as of 1 February 2020 (A/N).

Figure 3. 10. EU States where the knowing use of exploited services/products from victims is criminalised as of 2021



Source: Made by the author with *Map Generator*,  
<https://ec.europa.eu/eurostat/web/gisco/gisco-activities/map-generator>. 31  
 December 2020 (date of the latest published GRETA report).

Other areas concerning the element of prevention, targeted by both Strategies, have been: the establishment of a European Business Coalition against HT, the collaboration of Member States with relevant EU agencies such as Europol, Eurojust, CEPOL, Frontex supported by the Commission, the promotion of sustainable corporate governance by the Commission, as



well as several awareness-raising campaigns.<sup>311</sup> As regards demand, one added value that the *EU Anti-Trafficking Strategy for 2021-2025* brings is the guidance on due diligence for EU businesses regarding labour exploitation<sup>312</sup>, which encourages EU businesses to take responsibility for detecting and addressing forced labour risk in their supply chains, even before the Commission's upcoming legislative proposal on Sustainable Corporate Governance.<sup>313</sup>

#### 3.3.4. Partnerships/Cooperation

As for the fourth element of the “4P” policy – partnerships – it has an important place in all anti-trafficking policy instruments of the EU. The *EU Anti-Trafficking Strategy for 2012-2016* mentions it in *Priority D: Coordination and Cooperation*, along with a series of key actions aiming to give the anti-trafficking efforts a multi-disciplinary aspect.<sup>314</sup> Some of the main actions were strengthening the EU Network of National Rapporteurs and Equivalent Mechanisms (NREMs) (which had been established in 2009 – further analysed in *Section 3.4* of this chapter), setting up a Civil Society Platform, uniting civil society organisations and service providers working in the field of victim protection and assistance (which was later established in 2013), reviewing anti-trafficking projects funded by the EU (which was finished in 2016 and studied the impact of the 321 projects the EU funded between 2004 and 2015<sup>315</sup>), training practitioners and cross-border law-enforcement officers and judiciary, as well as strengthening partnerships with international organisations. The *2017 Communication* highlights the importance of renewed commitment by the EU Justice and Home Affairs Agencies to cooperate against HT in *Priority C*.<sup>316</sup> The *EU Anti-Trafficking Strategy for 2021-2025* builds extensively on this fourth element, partnerships, and develops it under *Point 1 – Comprehensive response to combat HT*, focusing primarily on the need to ensure cross-border,

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<sup>311</sup> *EU Anti-Trafficking Strategy for 2021-2025*, pp. 6-8.

<sup>312</sup> *Guidance on Due Diligence for EU Businesses to Address the Risk of Forced Labour in Their Operations and Supply Chains*, European Union External Action, 12 July 2021, [Online] available at: [https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc\\_159709.pdf](https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159709.pdf) (accessed 31 March 2022)

<sup>313</sup> *Sustainable Corporate Governance*, European Commission, [Online] available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance_en) (accessed 1 April 2022).

<sup>314</sup> *EU Anti-Trafficking Strategy for 2012-2016*, pp. 11-13.

<sup>315</sup> Sylvia Walby, Jude Towers, Brian Francis *et al.*, *Study on comprehensive policy review of anti-trafficking projects funded by the European Commission*, Luxembourg: European Commission, 23 September 2016, file:///C:/Users/Asus/Downloads/study\_on\_comprehensive\_policy\_review%20(1).pdf (accessed 04 April 2022).

<sup>316</sup> *2017 Communication*, pp. 6-7.

as well as regional and international cooperation, through the sharing of data and the interoperability of information systems.<sup>317</sup> Later, under *Point 6 – International dimension*, the Commission aims to adopt a renewed EU Action Plan against Migrant Smuggling (actually released in September 2021), enhance cooperation with relevant actors in relation to the *Palermo Protocol*, including the Inter-Agency Coordination Group against HT of the UN, as well as with CoE and GRETA, and bolster the European External Action Service's systematic engagement of EU delegations.<sup>318</sup>

### **3.4. The CoE and the EU Monitoring Mechanisms on Preventing and Combatting Human Trafficking (Institutional Framework)**

The present section will analyse the institutional framework of HT in Europe, focusing on the monitoring mechanisms of the Council of Europe and the European Union, as the EU Member States are bound by both the *CoE Convention* and the *EU Anti-Trafficking Directive*. Moreover, we will expound on the drafting history of such mechanisms, as well as their roles and processes of evaluation and their interaction with State Parties in the overall nexus of European cooperation in the area of action against HT.

#### **3.4.1. The anti-trafficking monitoring mechanism of the Council of Europe**

Since the first negotiations concerning the need for a Council of Europe (CoE) Convention on Action against Trafficking in Human Beings, two fundamental pillars have been established for such a Convention: a human-rights approach and the creation of a monitoring instrument to ensure its implementation.<sup>319</sup> So far, the *CoE Convention* is the only anti-trafficking treaty endowed with an independent monitoring mechanism – neither the *Palermo Protocol*, the *EU Anti-Trafficking Directive*, nor any of the other documents in other parts of the world have developed such an instrument up to date.<sup>320</sup>

The monitoring mechanism of the *CoE Convention* is created as a two-pillar structure, composed, first of all, of an independent expert body with technical expertise in the area of combating HT, namely the Group of Experts on Action against Trafficking in Human Beings (hereinafter, GRETA), and secondly, of a political body, the Committee of the Parties.<sup>321</sup>

<sup>317</sup> *EU Anti-Trafficking Strategy for 2021-2025*, p. 4.

<sup>318</sup> *Ibidem*, pp. 17-19

<sup>319</sup> *Explanatory Report to the CoE Convention...*, para 36.

<sup>320</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the CoE Convention...*, p. 411.

<sup>321</sup> Julia Planitzer, "GRETA's First Years of Work: Review of the monitoring of implementation of the Council of Europe Convention on Action against Trafficking in Human Beings", in: *Anti-Trafficking Review*, Issue 1, June 2012, pp. 32-33, DOI: 10.14197/atr.201212, [Online] available

Chapter VII of the *CoE Convention* on the “Monitoring mechanism” explains the composition and the rules of election and the functioning of these two pillars in three articles. Article 36 refers to the creation of GRETA, highlighting its role of evaluating the implementation of the *CoE Convention* by the State Parties and authorising GRETA to function as a legal body<sup>322</sup>, composed of 10 to a maximum of 15 members, chosen from among citizens of the States Parties and acknowledged as:

“... persons of high moral character, known for their recognised competence in the fields of Human Rights, assistance and protection of victims and of action against trafficking in human beings or having professional experience in the areas covered by this Convention.”<sup>323</sup>

Article 37 establishes the Committee of the Parties (CoP) to the Convention, which is a separate political body of State representatives composed of:

“... the representatives on the Committee of Ministers of the Council of Europe of the member States Parties to the Convention and representatives of the Parties to the Convention, which are not members of the Council of Europe.”<sup>324</sup>

Finally, Article 38 describes the principal aspects of the evaluation process, empowering GRETA to adopt its own rules of procedure.<sup>325</sup> The entire workflow of the monitoring mechanism of the *CoE Convention* and the interaction of GRETA with the CoP is further explained later in this section, as well as in *Appendix 1*.

### **A. Drafting History of the CoE Anti-Trafficking Monitoring Mechanism**

The drafting history of the monitoring mechanism of the *CoE Convention* on HT involved major controversies among State Parties, especially in relation to the European Union Member States (EU MS). The two main areas of debate revolved around, first, the entity empowered to monitor implementation – either an independent expert body or state representatives

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at: <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/18/21> (accessed 5 April 2022) [hereinafter, *GRETA's First Years of Work...*]; *Monitoring mechanism*, Council of Europe, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/monitoring-mechanism> (accessed 5 April 2022).

<sup>322</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the CoE Convention...*, p. 411.

<sup>323</sup> *CoE Convention*, Art. 36(3a).

<sup>324</sup> *Ibidem*, Art. 37(1).

<sup>325</sup> *Ibidem*, Art. 38(2).

– and, second, the overlapping of competencies of the *CoE Convention* monitoring with EU competencies in the anti-trafficking field.<sup>326</sup>

At the 1st CAHTEH meeting, delegations discussed different monitoring models already created by the CoE and the UN, with the purpose of establishing an “innovatory, *sui generis* monitoring system”, which “should be at once flexible, effective and active”, “distinguished by its independence and expertise and cooperation with the States Parties”, while, at the same time, “involving civil society in the monitoring process”.<sup>327</sup>

At this 1<sup>st</sup> meeting of the CAHTEH, it was proposed that the main pillar in charge of monitoring the CoE Convention's implementation should be the Committee of Ministers (CM) of the Council of Europe, assisted by the second pillar – GRETA.<sup>328</sup> Later, at the 4<sup>th</sup> meeting of the CAHTEH, a majority of delegations opted for a model which placed GRETA as the first pillar, independent of the CM. However, no agreement could be reached at that point. At the 6<sup>th</sup> CAHTEH meeting, a consultation with civil society organisations took place, calling for a strong independent body made of specialists in human rights and anti-trafficking, entitled to engage with civil society and adopt its collective complaints, much like the European Social Charter's mechanism. Moreover, the relation between the CoE and the EU was also called into question, as the EU was concerned that even in the case of accession to the Convention, the EU would still not be represented in the CM.<sup>329</sup> To appease both sides, CAHTEH agreed that the European Commission and the CoE Secretariat work together to draft proposals for discussion. At the 7<sup>th</sup> CAHTEH meeting, a strong majority (19 to 4) of delegations voted for GRETA's independence. However, to satisfy the requests of the minority, a new compromise model was proposed, envisioning a two-step monitoring process, with an expert assessment made by GRETA, followed by a second consultation by a ‘Committee of the Parties’, which was to be created, consisting of representatives of State Parties. However, the European Commission delegation advocated for a third discussion at a political level, and therefore, no consensus could be reached in the 7<sup>th</sup> meeting.<sup>330</sup>

During the 8<sup>th</sup> meeting, the controversy expanded, as the EU delegates proposed dividing the monitoring competencies between GRETA and the European Commission so that provisions of the Convention falling under the competence of the European Community be monitored by the latter. Such a

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<sup>326</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the CoE Convention...*, p. 411.

<sup>327</sup> *Ibidem*, p. 412.

<sup>328</sup> *Ibidem*.

<sup>329</sup> *Ibidem*.

<sup>330</sup> *Ibidem*, p. 413.

proposal implied that double monitoring standards would be created, and therefore, the proposal was eventually denied. Moreover, the CoE Parliamentary Assembly had been in favour of the NGOs' request for a collective complaint mechanism as part of GRETA's competencies, but such a request was not supported by the governments of State Parties, and in the end, it was rejected. Julia Planitzer and Helmut Sax<sup>331</sup> consider this to be a major disadvantage of GRETA, as neither individual nor collective complaints can be submitted to GRETA on any aspect of HT. However, individual applications reporting human rights violations can still be submitted under Article 34 of ECHR, as well as collective complaints in line with the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints.<sup>332</sup>

### **B. The only independent anti-trafficking monitoring mechanism in the world**

Julia Planitzer and Helmut Sax<sup>333</sup> highlight the unique characteristic of the CoE anti-trafficking monitoring mechanism as being the only independent mechanism in the world, composed of an expert body and a political body, with the exception of a more recent mechanism assessing the *CoE Convention on preventing and combating violence against women and domestic violence*.<sup>334</sup> Some other CoE human rights monitoring mechanisms are made up of state representatives only, thus being exclusively political, such as GRECO in the area of monitoring anti-corruption standards or the "Lanzarote Committee" responsible for the evaluation of the *CoE Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse*. On the other hand, other mechanisms have expert bodies only, such as the "Advisory Committee" on the *Framework Convention for the Protection of National Minorities*, as a support branch of the CoE Committee of Ministers.

Concerning the EU institutions and mechanisms, there is no similar anti-trafficking monitoring mechanism or body. An EU Group of Experts on trafficking in human beings activated from 2003 to 2015, acting as a support expert team to the European Commission, and currently, the EU has in place

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<sup>331</sup> *Ibidem*, p. 415.

<sup>332</sup> *Additional Protocol to the European Social Charter Providing for a System of Collective Complaints*, CETS No 158, Strasbourg: Council of Europe, 9 November 1995, [Online] available at: <https://rm.coe.int/168007cdad> (accessed 6 April 2022).

<sup>333</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the CoE Convention...*, pp. 414-415.

<sup>334</sup> *Council of Europe Convention on preventing and combating violence against women and domestic violence*, CETS No. 210, Istanbul: Council of Europe, 11 May 2011, [Online] available at: <https://rm.coe.int/168008482e> (accessed 6 April 2022) - (entered into force 1 August 2014, establishing the Group of experts on action against violence against women and domestic violence (GREVIO)).

an informal network of National Rapporteurs or Equivalent Mechanisms presided by a European Anti-Trafficking Coordinator, affiliated to the European Commission.<sup>335</sup>

At the international level, UNTOC, to which the *Palermo Protocol* is annexed as an additional document, stipulated the creation of a “Conference of the Parties” with the task of developing a mechanism to monitor the implementation of UNTOC and its protocols. Nevertheless, the lack of consent between State Parties led to a long delay to such an achievement – until 2018 – when *Resolution 9/1*<sup>336</sup> was adopted, leading to the creation of a review mechanism for the UNTOC and its Protocols, including the *Palermo Protocol*. As a result, an open-ended intergovernmental expert group was tasked with preparing self-assessment questionnaires, guidelines for country evaluations and lists of comments.<sup>337</sup> However, no separate independent body for evaluation has been created yet. Additionally, the UN mechanism does not provide for opportunities to engage with civil society organisations other than through a “constructive dialogue”.<sup>338</sup>

Therefore, at the moment, there is no independent expert monitoring body dedicated exclusively to HT at the international level, even if other human rights conventions have developed such type of mechanisms (such as the CEDAW Committee for the 1979 *UN Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW), or the CRC Committee for the 1989 *UN Convention on the Rights of the Child* (CRC)).<sup>339</sup>

### C. Comparison with the UN monitoring mechanisms in the area of human rights

As compared to these UN mechanisms, GRETA has a few advantages when it comes to its independent character, as well as some disadvantages, related to its availability to the public.

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<sup>335</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the CoE Convention...*, p. 415.

<sup>336</sup> *Resolution 9/1: Establishment of the Mechanism for the Review of the Implementation of the United Nations Convention against Transnational Organized Crime and the Protocols thereto*, Vienna: United Nations, 16 October 2020, [Online] available at: <https://www.unodc.org/documents/treaties/UNTOC/Review%20Mechanism/Resolution/English.pdf> (accessed 6 April 2022) [hereinafter, *Resolution 9/1*].

<sup>337</sup> *Mechanism for the Review of the Implementation of the UNTOC and the Protocols thereto*, United Nations: UNODC, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/home.html#:~:text=The%20UNTOC%20Review%20Mechanism%20is,and%20to%20promote%20international%20cooperation> (accessed 6 April 2022).

<sup>338</sup> *Resolution 9/1*, para 53.

<sup>339</sup> Julia Planitzer and Helmut Sax (eds.), *A Commentary on the CoE Convention...*, pp. 417-418.

As for the advantages, GRETA is empowered to perform country visits<sup>340</sup> without the need for specific permission from the State Party. Furthermore, GRETA draws up its own detailed report, compared to the UN monitoring bodies, which only investigate the published reports of State Parties and initiate a constructive discussion with the respective State Parties.<sup>341</sup>

On the other hand, disadvantages include the fact that the *CoE Convention* does not stipulate the State's obligation to publish their comments on GRETA's reports, and there is also no public discussion either between GRETA and the State, or between the Committee of Parties and the State. Another important drawback is that GRETA does not encourage, nor has it created guidelines for substantial input from the civil society through "shadow reports", something which the UN treaty bodies have been actively promoting, thus creating room for more collaboration. Moreover, GRETA does not provide for individual complaints, as do some UN treaty bodies.<sup>342</sup>

#### **D. Evaluation process of the CoE Anti-Trafficking Monitoring Mechanism**

The evaluation process of the CoE Anti-Trafficking Monitoring Mechanism is illustrated in *Appendix 1*. The first step of the monitoring process is the elaboration of the GRETA questionnaire, which is afterwards sent to State Parties. Since 2009 and up to the present, there have been three evaluation rounds, and for each of them, GRETA established certain subjects to be evaluated. For the first round of monitoring<sup>343</sup>, the focus was the general overview of the Convention's implementation by State Parties. Therefore, the questions were relatively general. The second evaluation round<sup>344</sup> investigated the impact of legal, policy and practical measures on the prevention, protection and prosecution aspects of HT, with a particular focus on steps taken to address new trends in HT and the vulnerability of children to trafficking. As

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<sup>340</sup> *CoE Convention*, Art. 38(4).

<sup>341</sup> Julia Planitzer, *GRETA's First Years of Work...*, p. 34.

<sup>342</sup> *Ibidem*, pp. 34-35.

<sup>343</sup> See GRETA, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties First evaluation round*, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ab822> (accessed 6 April 2022).

<sup>344</sup> See GRETA, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties Second evaluation round*, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ab825> (accessed 6 April 2022).

for the third evaluation round<sup>345</sup> of the Convention, the highlight was laid on the access of trafficking victims to justice and effective remedies.

The response of State Parties is confidential unless a State Party decides to have it published. Julia Plannitzer states that such a decision is unfavourable for civil society participation, as confidentiality of such information impedes early public discussion at the national level. In contrast, if States Parties' replies were made public, civil society could be more accurate in their reports to GRETA and in discussions with GRETA during a country visit. The questionnaire requests qualitative, as well as quantitative data, which would be an invaluable source of comparable data in Europe in the area of HT.<sup>346</sup>

Aside from the replies of States Parties to the questionnaire, GRETA's sources of information include responses from civil society, as well as input from its own country visits. All this information is gathered to elaborate a draft report, on which the government is required to submit comments, if any. These comments are used to elaborate a final report, which is to be published, together with an additional round of comments from the State Party. Eventually, based on GRETA's report and the government's comments, the Committee of the Parties may adopt recommendations for the respective State Party and keep it accountable towards the implementation of those recommendations.<sup>347</sup>

### **E. Language of recommendations**

The recommendations issued by the CoE monitoring mechanism to the State Parties to the *CoE Convention* generally follow a structure based on three types of verbs – “urge”, “consider”, and “invite” – each carrying a different level of commitment. For instance, “urge” is a strong obligation verb, used when the State Party's legislation or policy is not in compliance with the *CoE Convention*, or, even if they are, the implementation thereof is lacking. Further, “consider” conveys softer obligation language when a State Party is informed that improvements need to be made to fully comply with obligations under the Convention. Finally, “invite” is used when a state's government is appreciated for complying with its responsibilities and further encouraged to pursue its efforts in a specific area.<sup>348</sup>

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<sup>345</sup> See GRETA, *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 Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings*, [Online] available at: <https://rm.coe.int/greta-2018-26-en/16808f0990> (accessed 6 April 2022).

<sup>346</sup> Julia Planitzer, *GRETA's First Years of Work...*, pp. 36-37.

<sup>347</sup> *Ibidem*, p. 33.

<sup>348</sup> *Council of Europe - Group of Experts on Action against Trafficking in Human Beings (CoE-GRETA)*, Austrian Red Cross' Department ACCORD: Country of Origin Information System, 7 May 2020, [Online] available at: <https://www.ecoi.net/en/source/11061.html> (accessed 5 April 2022)



Overall, the CoE monitoring mechanism has had a positive impact on its States Parties (including EU Member States) as far as pressuring them to comply with their obligations to prosecute traffickers, step up the protection and assistance for victims from a human-rights based approach and intensify prevention and collaboration in the anti-trafficking field.<sup>349</sup>

### **3.4.2. The anti-trafficking monitoring mechanism of the European Union**

At the EU level, there is an additional anti-trafficking monitoring mechanism – the informal EU Network of National Rapporteurs or equivalent mechanisms (hereinafter, NREMs) – established by the *Council Conclusions, adopted on 4 June 2009*.<sup>350</sup> However, the basis for this proposal was settled even before, in 1997, by the *Hague Ministerial Declaration on European guidelines for effective measures to prevent and combat trafficking in women for the purpose of sexual exploitation*<sup>351</sup>, following a ministerial conference on trafficking in women organised by the Netherlands.<sup>352</sup>

Additionally, the 2003 *OSCE Action Plan to Combat Trafficking in Human Beings*<sup>353</sup> encouraged OSCE participating States to consider designating NREMs

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<sup>349</sup> *Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states*, Strasbourg: Council of Europe (Directorate General Human Rights and Rule of Law), 2014, pp. 11-12, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806d22c8> (accessed 11 April 2022).

<sup>350</sup> *Council conclusions on establishing an informal EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings*, 2946th Justice and Home Affairs Council meeting, Luxembourg: Council of the European Union, 4 June 2009, [Online] available at: [https://www.osservatoriointerventitratita.it/wp-content/uploads/2018/03/Council\\_Conclusion\\_National\\_Rapporteur.pdf](https://www.osservatoriointerventitratita.it/wp-content/uploads/2018/03/Council_Conclusion_National_Rapporteur.pdf) (accessed 11 April 2022) [hereinafter, *Council conclusions on establishing an informal EU Network of NREMs...*].

<sup>351</sup> *The Hague Ministerial Declaration On European Guidelines For Effective Measures To Prevent And Combat Trafficking In Women For The Purpose Of Sexual Exploitation*, The Hague: Ministerial Conference under the Presidency of the European Union, 24-26 April 1997, Art. III.1.4, [Online] available at: <https://www.legislationline.org/documents/action/popup/id/8747#:~:text=The%20objective%20of%20the%20present,and%20appropriate%20assistance%20and%20support> (accessed 14 April 2022).

<sup>352</sup> Marjan Wijers, *Comparative study on National Rapporteurs on Trafficking in Human Beings and Equivalent Mechanisms*, Project Balkans ACT (Against Crime of Trafficking) Now!, November 2018, p. 3, [Online] available at: [https://www.qag-al.org/ang/publication/comparative\\_research.pdf](https://www.qag-al.org/ang/publication/comparative_research.pdf) (accessed 14 April 2022).

<sup>353</sup> *Decision no. 2/03 Combating Trafficking in Human Beings*, MC.DEC/2/03, Maastricht: Organization for Security and Co-operation in Europe (OSCE), 2 December 2003, [Online] available at: <https://www.osce.org/files/f/documents/7/5/23866.pdf> (accessed 15 April 2022) [hereinafter, *Decision no. 2/03 Combating Trafficking in Human Beings*].

empowered to monitor the anti-trafficking activities of State institutions and to ensure the implementation of national legislation provisions.<sup>354</sup> Except for NREMs, OSCE also called for establishing “inter-ministerial bodies (Anti-Trafficking Commissions (or task forces) and national co-ordinators”<sup>355</sup>, thus proposing three main pillars of the anti-trafficking structure which should be the foundation for national anti-trafficking efforts. These three pillars – National Coordinator, National Rapporteur, and multiagency Task Force – were intended to bring interconnectedness and guarantee that national anti-trafficking institutions are transparent and efficient. Since all EU member states are currently State Parties of OSCE, they should follow the recommendation for the three-pillar structure. However, the anti-trafficking institutional structures at the national level are very diverse within the EU. While many states have both a national multi-agency commission or task force and also a National Coordinator, only the Netherlands has a separate independent National Rapporteur, whereas five other EU countries have an independent, but not separate Rapporteur (see *Table 3.4*).

The *Council Conclusions, adopted on 4 June 2009*, mentioned the need to develop NREMs so as to better understand the phenomenon of HT and provide “objective, reliable, comparable and up-to-date strategic information in the field of trafficking in human beings”.<sup>356</sup> Furthermore, the document stated that the network should function as “a forum for exchange of experience and best practices” and that information gathered by a Member State in the area of HT is to be exchanged only if the national legislation of the respective MS allows it.<sup>357</sup>

The *EU Anti-Trafficking Directive* uses strong language regarding the obligation of Member States to establish NREMs; nonetheless, the actual structure and administration performed by the NREM are left to the discretion of each MS. Until 2011, there were just a few countries that had appointed a National Rapporteur, with The Netherlands having particularly good practices in this field, but since 2011, almost all EU MS have developed some sort of National Rapporteurs or some other kind of equivalent mechanism, such as a government official or a team of officials with the role of national coordinator, or an agency, be it under some Ministry or independent of any political influence.<sup>358</sup> The role of the NREMs is specified in Article 19 of the *EU Anti-Trafficking Directive*:

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<sup>354</sup> *Ibidem*, p. 17.

<sup>355</sup> *Declaration on Trafficking in Human Beings*, MC(10).JOUR/2, Porto: Organization for Security and Co-operation in Europe (OSCE), 7 December 2002, p. 3, [Online] available at: <https://www.osce.org/files/f/documents/d/c/23862.pdf> (accessed 15 April 2022).

<sup>356</sup> *Council conclusions on establishing an informal EU Network of NREMs...*, p. 3.

<sup>357</sup> *Ibidem*.

<sup>358</sup> Marjan Wijers, *op. cit.*, p. 3.

„The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.”<sup>359</sup>

The informal network of NREMs meets twice a year under the supervision of the European Commission and the incumbent EU Presidency, is chaired by the EU Anti-Trafficking Coordinator (hereinafter, EU ATC), and openly collaborates with other EU agencies, as well as with international institutions, such as OSCE, UNODC, IOM, ILO, the UN Special Rapporteur on trafficking in persons, particularly of women and children and the ICMPD, in the role of observers.<sup>360</sup> Additionally, as a key action of the EU Anti-Trafficking Strategy for 2012-2016, in 2013, the European Commission established the EU Civil Society Platform against THB<sup>361</sup>, mobilising around 100 civil society organisations (CSOs)<sup>362</sup> from all over the EU and some other non-EU Member States. A further online ePlatform<sup>363</sup> was later launched in 2014, inviting additional participants. The Platform meets twice a year, including in common session with the EU Network of NREMs.<sup>364</sup> The *EU Anti-Trafficking Directive* encourages EU countries to collaborate closely with CSOs, including NGOs activating in the area of HT, to jointly elaborate policies, organise awareness-raising campaigns, conduct research and education and training programmes, and monitor and assess the impact of anti-trafficking efforts.<sup>365</sup>

The overall synergy between the EU ATC, the Informal Network of NREMs and the EU Civil Society Platform against THB is illustrated in *Figure 3.11* below:

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<sup>359</sup> *EU Directive*, Art. 19.

<sup>360</sup> *Council conclusions on establishing an informal EU Network of NREMs...*, p. 4.

<sup>361</sup> *Launch of the EU Civil Society Platform against Trafficking in Human Beings*, Brussels: European Commission, 31 MAY 2013, [Online] available at: [https://ec.europa.eu/anti-trafficking/launch-eu-civil-society-platform\\_en](https://ec.europa.eu/anti-trafficking/launch-eu-civil-society-platform_en) (accessed 13 April 2022).

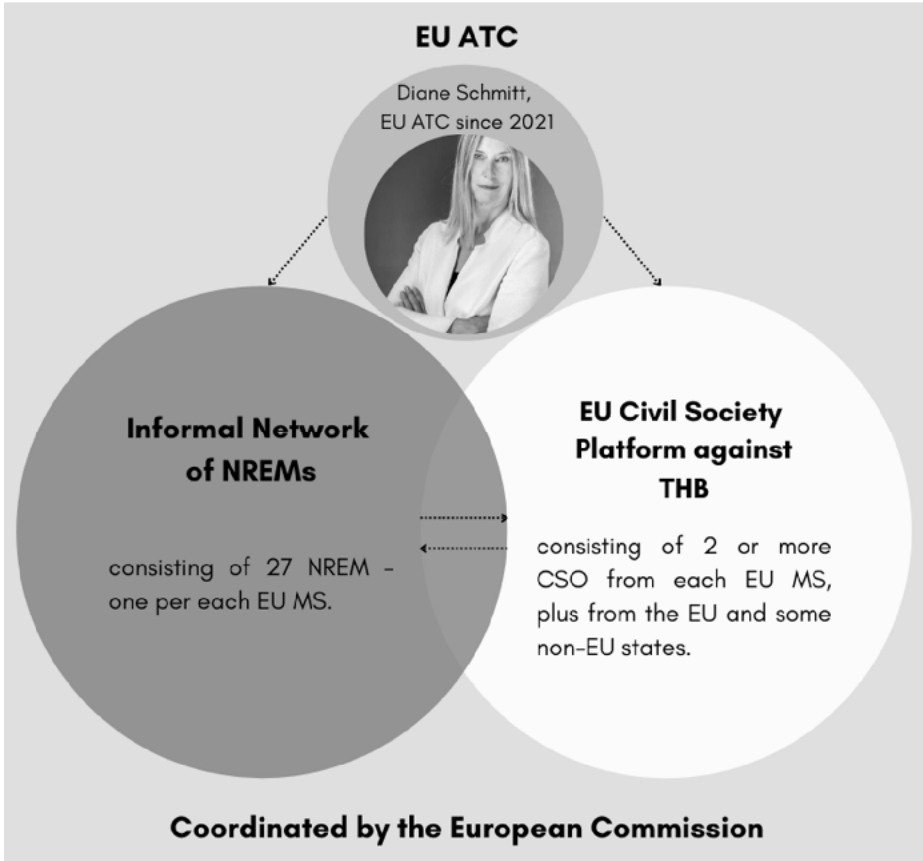
<sup>362</sup> *EU Civil Society Platform against THB 2021*, European Commission, [Online] available at: <https://ec.europa.eu/anti-trafficking/system/files/2021-10/EU%20Civil%20Society%20Platform%20against%20THB%202021.pdf> (accessed 13 April 2022).

<sup>363</sup> *EU Civil Society E-Platform against THB*, European Commission, [Online] available at: [https://europa.eu/sinapse/sinapse/index.cfm?fuseaction=login.redirect&redirect=cmyrestrict.ed.home&CMTY\\_ID=3AEF24D6-C7A2-D9CE-B4A38C12F64D7C70&request=1](https://europa.eu/sinapse/sinapse/index.cfm?fuseaction=login.redirect&redirect=cmyrestrict.ed.home&CMTY_ID=3AEF24D6-C7A2-D9CE-B4A38C12F64D7C70&request=1) (accessed 13 April 2022).

<sup>364</sup> Jagoda Gregulska *et al.*, *op. cit.*, p. 16.

<sup>365</sup> *EU Directive*, Recital 6, Art. 18(2).

Figure 3. 11. The EU anti-trafficking monitoring mechanism



Source: <https://ec.europa.eu/>

### A. Types of National Rapporteurs or Equivalent Mechanisms (NREMs)

Table 3.4 shows the various types of anti-trafficking institutional structures of the EU Member States and the status of the National Rapporteur as of 2021, where there are any. A more detailed exposition of the role and structure of NREMs in each of the 27 EU Member States can also be reviewed in Appendix 2.

Table 3. 4. Anti-Trafficking institutional structures in the EU Member States as of 2021

The National Rapporteur falls under:	No.	EU Member State	NR*	NC*	
Part of the government	Ministry of Interior	Czech Republic	yes	-	
		Cyprus	de facto	yes	
		Hungary	-	yes	
		Latvia	-	yes	
		Lithuania	yes	-	
		Romania	yes	-	
		Slovakia	yes	-	
		Slovenia	-	yes	
		Spain	yes	-	
	Ministry of Foreign Affairs/ European and International Affairs	2	Greece	yes	-
			Austria	-	yes
	Ministry of Justice	1	Estonia	-	yes
	Government body on Human rights/ Gender Equality/Dept. of Equal Opportunities	3	Croatia	-	yes
			Italy	yes	-
Portugal			-	yes	
Collective governmental bodies	3	Bulgaria	de facto	-	
		Malta	yes	-	
		Poland	-	yes	
Part of law	Police Authority	3	Denmark	-	-
			Germany	-	-
			Sweden	yes	-
Part of an independent body	Human Rights Institute	3	France	yes (independent)	yes
			Luxembourg	yes (independent)	-
			Ireland	yes (independent)	-
	Ombudsman for Minorities	1	Finland	yes (independent, but administratively placed under the ministry of justice)	yes
				Federal Migration Centre	1
Separate, independent office	1	Netherlands	yes (independent institution)		
Total					

\*NR – National Rapporteur; NC – National Coordinator.

Source: ec.europa.eu

There are EU countries where no official National Rapporteur (hereinafter, NR) is assigned, such as Denmark and Germany. In Denmark, for instance, the National Centre of Investigation (NCI) of the Danish National Police and the Danish Centre against Human Trafficking (CMM) play a monitoring role, measuring the impact of anti-trafficking activities at the national level.<sup>366</sup> Germany has not established an NR nor an equivalent mechanism, either, but the Federal Criminal Police (BKA) has published an annual *Situation Report Trafficking in Human Beings* since 1994.<sup>367</sup>

In some EU countries, the role of National Rapporteur or an Equivalent Mechanism (NREM) is played by a National Coordinator (hereinafter, NC), and in the majority of EU Member States, the NREM or the NC is placed within a relevant ministry or its subordinated body.<sup>368</sup> GRETA reports mention the difference between an NR and an NC<sup>369</sup>, highlighting that the role of an NR, as explained in Article 29(4) of the CoE Convention, is “to monitor the anti-trafficking activities of State institutions and the implementation of national legislation requirements”.<sup>370</sup> In a 2021 report evaluating the implementation of the *CoE Convention* by Romania, GRETA further explains the implications of such an independent position, criticising the lack of such an institution in Romania. An independent NR should be able to:

“(…) critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. A *structural separation* between these *monitoring functions* and *executive functions* makes possible an *objective evaluation* of the implementation of anti-trafficking legislation, policies and activities, identification of

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<sup>366</sup> *Denmark: Together Against Trafficking in Human Beings*, European Commission, [Online] available at: [https://ec.europa.eu/anti-trafficking/denmark\\_en#:~:text=The%20Danish%20government%20has%20not,anti%2Dtrafficking%20efforts%20in%20Denmark](https://ec.europa.eu/anti-trafficking/denmark_en#:~:text=The%20Danish%20government%20has%20not,anti%2Dtrafficking%20efforts%20in%20Denmark) (accessed 12 April 2022).

<sup>367</sup> *Germany: Together Against Trafficking in Human Beings*, European Commission, [Online] available at: [https://ec.europa.eu/anti-trafficking/germany\\_en#:~:text=Germany%20has%20not%20established%20a,included%20in%20this%20situation%20report](https://ec.europa.eu/anti-trafficking/germany_en#:~:text=Germany%20has%20not%20established%20a,included%20in%20this%20situation%20report) (accessed 12 April 2022).

<sup>368</sup> Jagoda Gregulska *et al.*, *op. cit.*, p. 29.

<sup>369</sup> *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland – Second Evaluation Round*, Strasbourg: Council of Europe, 17 November 2017, pp. 8-9, [Online] available at: <https://rm.coe.int/greta-2017-29-fgr-pol-en/168077c9ce> (accessed 11 April 2022).

<sup>370</sup> *CoE Convention*, Art. 29(4).

lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.”<sup>371</sup>

Therefore, as interpreted in the *CoE Convention*, the NR should be a separate, independent body from State institutions, endowed with the power to control the anti-trafficking activities of the State and function under a check-and-balances principle. However, the majority of the EU Member States do not have an independent NR (21 out of 27)<sup>372</sup>, and as a result, GRETA strongly recommends Romania, as well as all other EU Member States in the same situation to:

„(...) examine the possibility of establishing an independent National Rapporteur or designating another already existing mechanism as an independent organisational entity, with a view to ensuring an effective monitoring of the anti-trafficking activities of state institutions and making recommendations to persons and institutions concerned”<sup>373</sup>

At the moment, the National Agency against Trafficking in Human Beings (ANITP)<sup>374</sup> of the Ministry of Interior (MAI) plays the role of NR in Romania. Similarly, there are other 14 EU countries whose NR is part of a ministry or other governmental agency. For instance, eight other EU countries (Cyprus, Czech Republic, Hungary, Latvia, Lithuania, Slovakia and Slovenia and Latvia), have established the NR/NC role to be held either by an official or by an agency or a department within the Ministry of Interior.<sup>375</sup> In other Member States, this responsibility was placed under another type of ministry. In Austria, for example, the Federal Ministry of Europe, Integration and Foreign Affairs coordinates the National Task Force on Combating Human Trafficking, which is governed by the National Coordinator on Combating Human Trafficking playing the role of NR.<sup>376</sup> Croatia has no NR, either, but instead, has designated an NC for Combating Trafficking in Human Beings as the Head of the Government Office for Human Rights and Rights of National

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<sup>371</sup> *Evaluation Report Romania – Third Evaluation Round*, Strasbourg: Council of Europe, 3 June 2021, p. 10, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8> (accessed 12 April 2022) [hereinafter, *Evaluation Report Romania – Third Evaluation Round*] (*Emphasis added*).

<sup>372</sup> Jagoda Gregulska *et al.*, *op. cit.*, p. 29.

<sup>373</sup> *Evaluation Report Romania – Third Evaluation Round*, p. 10.

<sup>374</sup> “Romania: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/romania\\_en](https://ec.europa.eu/anti-trafficking/romania_en) (accessed 12 April 2022).

<sup>375</sup> Jagoda Gregulska *et al.*, *op. cit.*, p. 29.

<sup>376</sup> “Austria: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/austria\\_en](https://ec.europa.eu/anti-trafficking/austria_en) (accessed 12 April 2022).

Minorities.<sup>377</sup> In Estonia, the NC is represented by a senior advisor of the Criminal Policy Department at the Ministry of Justice.<sup>378</sup> In Greece, the Office of the National Rapporteur on Trafficking in Human Beings functions under the Ministry of Justice.<sup>379</sup> In Italy, the Department of Equal Opportunities of the Presidency of the Council of Ministers is appointed in this position.<sup>380</sup> In Portugal, the NR is named by the Ministry of Interior, under the Commission for Citizenship and Gender Equality (CIG).<sup>381</sup> In Spain, The Director of the Private Office of the Secretary of State for Security is delegated as NR and is supported by the Intelligence Centre against Terrorism and Organised Crime (CITCO).<sup>382</sup> In Sweden, the role of NR is played by the National Police Board.<sup>383</sup>

In a few other Member States, NREMs are structured as collective governmental bodies. For example, in Bulgaria, the National Commission for Combating Trafficking in Human Beings (NCCTHB) fulfils the role of NR. The NCCTHB is a collective body of the Council of Ministers, consisting of high-level officials from twelve ministries and institutions.<sup>384</sup> In Malta, the function of the NR is played by the Anti-Trafficking Monitoring Committee, which is appointed by the Prime Minister and is composed of a representative of the Prime Minister, the Ministry for Home Affairs and National Security, the Ministry for the Family and Social Solidarity, the Office of the Commissioner of Police, the Office of the Attorney General and Caritas Malta.<sup>385</sup> In Poland, the Inter-ministerial Committee for Combating and Preventing THB acts as an equivalent mechanism.<sup>386</sup>

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<sup>377</sup> “Croatia: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/croatia\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/croatia_en) (accessed 12 April 2022).

<sup>378</sup> “Estonia: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/estonia\\_en](https://ec.europa.eu/anti-trafficking/estonia_en) (accessed 12 April 2022).

<sup>379</sup> “Greece: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/greece\\_en](https://ec.europa.eu/anti-trafficking/greece_en) (accessed 12 April 2022).

<sup>380</sup> “Italy: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/italy\\_en](https://ec.europa.eu/anti-trafficking/italy_en) (accessed 12 April 2022).

<sup>381</sup> “Portugal: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/portugal\\_en](https://ec.europa.eu/anti-trafficking/portugal_en) (accessed 12 April 2022).

<sup>382</sup> “Spain: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/spain\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/spain_en) (accessed 12 April 2022).

<sup>383</sup> “Sweden: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/sweden\\_en](https://ec.europa.eu/anti-trafficking/sweden_en) (accessed 12 April 2022).

<sup>384</sup> “Bulgaria: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/bulgaria\\_en#:~:text=The%20Bulgarian%20government%20has%20not,function%20as%20a%20national%20Rapporteur](https://ec.europa.eu/anti-trafficking/bulgaria_en#:~:text=The%20Bulgarian%20government%20has%20not,function%20as%20a%20national%20Rapporteur) (accessed 12 April 2022).

<sup>385</sup> “Malta: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/malta\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/malta_en) (accessed 12 April 2022).

<sup>386</sup> “Poland: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/poland\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/poland_en) (accessed 12 April 2022).



In four EU countries, the NR is part of an independent body. As an illustration, in Belgium, the functions of NR are accomplished jointly by Myria, the Federal Migration Centre, as an independent public body, and the Interdepartmental Coordination Unit on THB (ICU) as a coordination entity and a State rapporteur.<sup>387</sup> The same type of collaboration is seen in Finland, where NR is represented by the Nondiscrimination Ombudsman, situated within the Ministry of Justice,<sup>388</sup> and in Luxembourg – by the National Human Rights Commission, as an independent body, working together with the Committee to monitor trafficking in human beings.<sup>389</sup>

There are also three Member States where the NR is a separate independent agency, such as the Commission Nationale Consultative des Droits de l'Homme (National Human Rights Institute) in France, assigned as an independent NR since 2014<sup>390</sup>, the National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children in the Netherlands, whose independent position has been stipulated by law since 2000, and the Irish Human Rights and Equality Commission in Ireland, appointed as independent NR in 2020.<sup>391</sup>

Some general conclusions can be drawn from *Table 3.4. Anti-Trafficking institutional structures in the EU Member States as of 2021*. It can be noticed that in almost all EU Member States, the NR is part of the government. Twelve countries have no officially designated NR; instead, a National Coordinator fulfils the role of Rapporteur. In 9 countries, the activities of the NR or NC fall under the responsibility of the Ministry of Interior; in 2 countries – under the Ministry of Foreign Affairs or the Ministry of European and International Affairs; in 1 – under the Ministry of Justice. In 3 countries, the NR/NC is placed under collective governmental bodies, and in the other 3 – under the police authority. Only in 3 Member States, the Coordinator falls under a human rights-oriented governmental body: in one case under the Government

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<sup>387</sup> “Belgium: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/belgium\\_en](https://ec.europa.eu/anti-trafficking/belgium_en) (accessed 12 April 2022).

<sup>388</sup> “Finland: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/finland\\_en](https://ec.europa.eu/anti-trafficking/finland_en) (accessed 12 April 2022).

<sup>389</sup> “Luxembourg: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/luxembourg\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/luxembourg_en) (accessed 12 April 2022).

<sup>390</sup> “France: Together Against Trafficking in Human Beings”, *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/france\\_en](https://ec.europa.eu/anti-trafficking/france_en) (accessed 12 April 2022).

<sup>391</sup> “Commission Takes on New Role as Ireland’s National Rapporteur on the Trafficking of Human Beings”, *Irish Human Rights and Equality Commission*, 22 October 2020, [Online] available at: <https://www.ihrec.ie/commission-takes-on-new-role-as-irelands-national-rapporteur-on-the-trafficking-of-human-beings/#:~:text=The%20Irish%20Human%20Rights%20and,the%20Trafficking%20of%20Human%20Beings> (accessed 12 April 2022).

Office for Human Rights and Rights of National Minorities (Croatia), in another, under the Department for Equal Opportunities (Italy), and in the third – under the Commission for Citizenship and Gender Equality (Portugal). Only in the Netherlands, the NR is a separate independent institution, while in other 5 countries, the NR is part of an independent body: in France, Luxembourg and Ireland, the Human Rights Institute was designated in the role of National Rapporteur; in Belgium, it is the Federal Migration Centre; and in Finland, NR is the Ombudsman for Minorities.

### **B. The EU Anti-Trafficking Coordinator**

The EU Anti-Trafficking Coordinator (hereinafter, EU ATC)<sup>392</sup> was appointed by the European Commission, with the mandate to enhance coordination and coherence among EU institutions, agencies, Member States and international organisations, as well as to develop existing and new anti-trafficking policies at the EU level.<sup>393</sup> The EU ATC's position was envisaged in the *Stockholm Programme* (2009)<sup>394</sup> and developed in the *EU Anti-Trafficking Directive*, and its responsibilities include gathering data from the NREMs in collaboration with Eurostat, sending questionnaires to MS requesting information, and monitoring the implementation of the EU Strategy.<sup>395</sup>

Article 20 of the *EU Anti-Trafficking Directive* imposes an obligation on EU MS and their NREMs to report to the EU ATC.

“Member States shall transmit to the ATC the information referred to in Article 19, on the basis of which the ATC shall contribute to reporting carried out by the Commission every two years on the progress made in the fight against trafficking in human beings.”<sup>396</sup>

Twice a year, the EU ATC chairs meetings with the NREMs and civil society to draft the European Commission's progress reports, which analyse the progress made in the fight against HT and propose priority actions that EU MS need to further address. The European Commission has issued up to date the three progress reports mentioned in the previous section, based on the research made jointly by NREMs and civil society in the EU MS. Except for the progress

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<sup>392</sup> This is not to be confused with the Special Rapporteur on trafficking in persons, especially women and children under OHCHR (A/N).

<sup>393</sup> Jagoda Gregulska *et al.*, *op. cit.*, p 8.

<sup>394</sup> *The Stockholm Programme – An Open and Secure Europe Serving and Protecting the Citizens*, 17024/09, European Union: Council of the European Union, 2 December 2009, p. 45, [Online] available at: [https://ec.europa.eu/anti-trafficking/stockholm-programme-open-and-secure-europe-serving-and-protecting-citizens-0\\_en](https://ec.europa.eu/anti-trafficking/stockholm-programme-open-and-secure-europe-serving-and-protecting-citizens-0_en) (accessed 16 April 2022), (accessed 13 April 2022).

<sup>395</sup> Jonathan Dupont, *op.cit.*; Jagoda Gregulska *et al.*, *op. cit.*, p. 16.

<sup>396</sup> *EU Directive*, Art. 20.

reports, NREMs have contributed to the *Data collection on trafficking in human beings in the EU*<sup>397</sup>, a statistical report on HT at the EU level.

### **3.4.3. Comparison between the CoE and the EU anti-trafficking monitoring mechanisms**

Comparing the COE and the EU anti-trafficking monitoring mechanisms, it can be noticed that the former has been exerting a stronger influence on the EU MS as regards the imposition of certain changes in the national anti-trafficking legislation, policies, and actions. Every four years, GRETA issues a separate report for each State Party, making it widely available to the public, an aspect which implies transparency and, implicitly, increased pressure by making use of soft power instruments so that states fulfil their responsibilities as signatories of the *CoE Convention*. Also, the process of electing the EU ATC is less transparent than the process of electing the GRETA members (which is specifically mentioned in *Resolution CM/Res(2013)28*<sup>398</sup>). The renowned NGO La Strada International complained in a 2021 article that their demands for a more transparent process of appointment of the EU ATC were not taken into consideration.<sup>399</sup> Moreover, this increased pressure is due to the country visits performed by two GRETA members (specifically non-nationals of the respective country), which increases the rate of objectivity of the monitoring process.

The last, and perhaps the most important aspect, is that GRETA is an independent body, non-affiliated politically, and higher in status than the Committee of the Parties (the political branch of the CoE anti-trafficking mechanism), in contrast to the informal Network of NREMs, which is made up of a very diverse landscape of national rapporteurs or coordinators, the majority of which are under the authority of a government ministry, and thus politically affiliated. In a 2018 article<sup>400</sup>, Jones and Winterdyk point out some

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<sup>397</sup> *Data collection on trafficking in human beings in the EU*, Brussels: European Commission, Directorate-General for Migration and Home Affairs, Publications Office, 2020, [Online] available at: <https://data.europa.eu/doi/10.2837/897741> (accessed 13 April 2022) [hereinafter, *Data collection on trafficking in human beings in the EU*, 2020].

<sup>398</sup> *Resolution CM/Res(2013)28. Rules on the election procedure of the members of the Group of Experts on Action against Trafficking in Human Beings (GRETA)*, Council of Europe: Committee of Ministers, 24 October 2013, [Online] available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805c7260](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c7260) (accessed 13 April 2022).

<sup>399</sup> *New EU Anti-Trafficking Coordinator Appointed*, La Strada International, 1 July 2021, [Online] available at: <https://www.lastradainternational.org/news/new-eu-anti-trafficking-coordinator-appointed/> (accessed 13 April 2022).

<sup>400</sup> Jackie Jones and John Winterdyk, "Human Trafficking: Challenges and Opportunities for the 21st Century. Outcomes and Proposals", in: *Oñati Socio-legal Series*, Vol. 8, No. 1, p. 171, 2018, [Online] available at: <https://opo.iisj.net/index.php/osls/article/view/920> (accessed 14 April 2022).

recommendations for updating the *EU Anti-Trafficking Directive*, of which the independence of the EU ATC, based on the model of the Netherlands, is considered of paramount importance. They also propose that NREMs be endowed with “innovative powers”, including proposing amendments to the budget, and that an “EU coordination body” be created so as to ensure effective collaboration between EU MS and “take into account the laws of the different legal jurisdictions”.<sup>401</sup>

All these considered, it might be concluded that the CoE has a higher chance of demanding Member States to adhere to their responsibilities under the *CoE Convention* specifically according to a human-rights – and therefore, more liberal – approach than the EU.

## Conclusions

We started from a set of hypotheses before starting the research and drawing up the conclusions, as follows:

Concerning the legislative framework:

**H1.** *EU legislation is not adequately tailored to international human rights requirements.*

This hypothesis has proven to be mainly false, as the EU legislation is to a large extent in line with the highest requirements of the international legislation on human rights, as compared to the *Palermo Protocol* and the *CoE Convention*, but it also contains a discriminatory article implying that third-country nationals are not entitled to assistance and residence permits unless they agree to cooperate in the criminal proceedings.

Concerning the policy framework:

**H2.** *EU policy is not adequately implemented.*

This hypothesis has proven to be true to a certain extent, meaning that many objectives have been achieved, but also important objectives have been delayed such as the creation of a European Transnational Referral Mechanism (EU-TRM), due to the lack of National Referral Mechanisms (NRMs) in some Member States and also to the political diversity of NRMs where they do exist. Another reason for this is that HT trends evolve from year to year, making it highly challenging to implement a policy in constant need of adaptation.

Concerning the institutional framework:

**H3.** *EU Mechanisms are not properly defined and implemented.*

This hypothesis has been proven to be mainly true due to the very diverse political spectrum of the EU Member States and their National Rapporteurs and equivalent Mechanisms (NREMs), and therefore, the lack of coordination and proper collaboration between them and the impossibility of creating the EU-TRM which the *EU Directive* and the Strategies require.

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<sup>401</sup> *Ibidem.*

## The Legislative, Policy and Institutional Framework of Romania in the Area of Preventing and Combatting Human Trafficking

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### Introduction

The purpose of this chapter is to analyse the Romanian legislative and institutional framework in the area of preventing and combatting HT, as compared to the legislative and institutional framework of the EU in the same field so as to pinpoint key areas of non-compliance with the provisions outlined in the *EU Directive*.

This chapter aims to achieve the above-mentioned purpose by reaching objectives O3, O4 and O7:

**O3.** Describe and analyse the phenomenon of human trafficking in Romania, with the aim of proving that Romania is still the top source country in Europe for victims of human trafficking.

**O4.** Describe and analyse the Romanian anti-trafficking framework as compared to the EU anti-trafficking framework.

**O7.** Elaborate policy recommendations to enhance EU transnational cooperation in the context of preventing and combating human trafficking, especially targeting proactive identification of victims and investigation of cases.

The hypothesis that we started from before analysing the phenomenon of human trafficking in Romania was the following:

**H4:** *Romania has been the main source country for victims of human trafficking, mainly for sexual exploitation and also for labour exploitation in the European Union, in the last 10 years.*

The hypothesis that we started from before analysing the Romanian anti-trafficking framework as compared to the EU anti-trafficking framework was the following:

**H5.** *The Romanian anti-trafficking system (legislative, policy and institutional framework) is not adequately tailored to the EU requirements, and the main consequence of this is the inadequate assistance offered to victims of human trafficking.*

## **Methodology and Structure**

The chapter is divided into three main subchapters, as follows:

**4.1. The Phenomenon of Human Trafficking in Romania.** For this section, we gathered and analysed statistics from 2011 to 2021, in order to make a general presentation of the trends in the area of HT in Romania and the EU, aiming to verify whether Romania has been indeed the top source country for VOTs in the period analysed, and the implications thereof. This subchapter aims to cover objective O3, while objective O4 is reached in the following two subchapters, 4.2 and 4.3.

**4.2. The Romanian Legislative Framework in the Area of Preventing and Combatting Human Trafficking.** For this section, we employed various levels of analysis in order to discover the main gaps in the Romanian legislation in the area of HT. First, in Section 4.2.1, the main concepts of the definition of HT were analysed in comparison with the three main international legal instruments analysed in Chapter 3. Secondly, in Section 4.2.2, Romanian legislation on HT was analysed according to the “4P” Paradigm, following the analysis structure used in Chapter 3, as follows: prosecution and approximation of penalties were analysed, as well as the protection and assistance of victims, prevention, and finally, partnerships or cooperation. Thirdly, in Section 4.2.3, the definition of HT in the Romanian legislation was analysed according to its three constitutive elements: the “action”, the “means”, and the “purpose”, also using three Case Studies based on Romanian case law on the crime of HT in order to evaluate at a glance how these three main components are proven in court and the main intricacies and obstacles that the judicial bodies encounter in practice.

**4.3. The Romanian Institutional Framework in the Area of Preventing and Combatting Human Trafficking.** In this segment, our aim was to outline the organisational structure of institutional entities tasked with combating HT in Romania, as compared to international and EU recommendations in this area. This endeavour aimed to enhance our comprehension of the distinct functions of each body and the dynamics of their interrelationships.

## **4.1. The Phenomenon of Human Trafficking in Romania**

The following section will focus on providing a comparative analysis of statistics on HT from 2011 to 2021 concerning Romanian VOTs (hereinafter, VOTs) and Romanian perpetrators, or persons suspected, prosecuted and convicted of HT, taking into consideration the transnational character of this phenomenon (including both national and international trafficking).

The main sources used for the comparative analysis of statistics, covering a period of 11 years, from 2011 to 2021, are the following:

- *The National Annual Reports on Trafficking in Persons* (hereinafter, *ANITP Reports*)<sup>1</sup>, published each year by the Romanian National Agency against Trafficking in Persons (ANITP);
- *EUROSTAT statistics on HT in the EU*<sup>2</sup>;
- *The Trafficking in Persons Reports* (hereinafter, *TIP Reports*)<sup>3</sup>, published each year by the US Department of State;
- *The Romanian Government's Reply to GRETA's 3rd Questionnaire*<sup>4</sup> (22 October 2019), and its subsequent *Third Round Evaluation Report on Romania* (hereinafter, *GRETA Third Round Evaluation Report*, or *GRETA Report*)<sup>5</sup> (3 June 2021).

Nevertheless, in the anti-trafficking field, it might be quite challenging to draw conclusions from comparing statistics for a number of reasons, which should be taken into account for any future endeavour to create policies, strategies and operational plans concerning data collection:

- 1. Diverse Legal Frameworks:** The EU lacks regulations or even guidelines regarding data collection indicators<sup>6</sup>. Despite the fact that the *EU Directive* has been transposed into the national legislation of Member States, the Directive adopts only soft language on harmonising methodologies and methods of data collection<sup>7</sup>. Therefore, each country collects data on HT based on different indicators and methodologies, making it impossible to create comparable statistics accurate enough to serve as a basis for future

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<sup>1</sup> ANITP, *Rapoarte*, [Online] available at: <https://anitp.mai.gov.ro/subiectele/cercetare/rapoarte-aniuale/> - The 2021 ANITP Report was the latest report released by ANITP at the time of compiling this data (A/N), [Online] available at: <https://anitp.mai.gov.ro/subiectele/cercetare/rapoarte-aniuale/> (accessed 2 May 2023) [hereinafter, *ANITP Reports*].

<sup>2</sup> EUROSTAT, *Trafficking in Human Beings*, last update: 09.02.2023, [Online] available at: [https://ec.europa.eu/eurostat/databrowser/explore/all/popul?lang=en&subtheme=crim.crim\\_thb&display=list&sort=category&extractionId=CRIM\\_THB\\_VEXP](https://ec.europa.eu/eurostat/databrowser/explore/all/popul?lang=en&subtheme=crim.crim_thb&display=list&sort=category&extractionId=CRIM_THB_VEXP) (accessed 9 March 2023).

<sup>3</sup> US Department of State, *Trafficking in Persons Report*, [Online] available at: <https://www.state.gov/trafficking-in-persons-report/> (accessed 2 May 2023) [hereinafter, *TIP Report*].

<sup>4</sup> GRETA, *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*, GRETA(2018)26\_ROM\_rep, Reply submitted on 22 October 2019, [Online] available at: <https://rm.coe.int/reply-from-romania-to-the-questionnaire-for-the-evaluation-of-the-impl/1680997282> (accessed 2 May 2023).

<sup>5</sup> GRETA, *Third Round Evaluation report Romania. Access to justice and effective remedies for victims of trafficking in human beings*, GRETA(2021)09, 3 June 2021, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8> (accessed 2 May 2023) [hereinafter, *GRETA Third Round Evaluation Report*].

<sup>6</sup> *Data collection on trafficking in human beings in the EU*, 2020, pp. 12-17.

<sup>7</sup> See *EU Directive*, Recital 28.

policies<sup>8</sup>. Moreover, EU member states have distinct legal definitions, classifications, and penalties for HT. This leads to variations in how trafficking cases are identified, reported, and prosecuted, making direct comparisons difficult<sup>9</sup>.

2. **Diverse institutional frameworks:** The anti-trafficking institutional frameworks in the EU Member States differ significantly, as shown in Chapter 3.4. This aspect also impacts data collection throughout the EU, as differing institutions have varying reporting practices and different methodologies to gather and record trafficking-related information. These differences may lead to incomplete or inconsistent data<sup>10</sup>.
3. **Legislative and institutional changes within the same country.** The legislative and institutional framework within the same country might change throughout the years, and data collection indicators and methods as well. For instance, since 2019, Romania has exclusively reported prosecutions solely related to trafficking, unlike before, when the total number of trafficking cases was combined with cases related to other offences like pandering. This shift has created difficulties in comparing prosecution statistics with previous years<sup>11</sup>.
4. **Transnational Nature.** The transnational nature of HT cases also brings challenges to harmonising statistics across multiple countries, as it requires collaboration and standardised reporting procedures<sup>12</sup>.
5. **Underreporting.** It's also worth noting that these figures may represent only a fraction of the total number of VOTs identified in any country, as trafficking is often a hidden crime, and many victims may not come forward or may not be identified by authorities<sup>13</sup>. Moreover, victims who meet the criteria of the *EU Directive* but are not officially recognised by the relevant authority as trafficking victims, or those who choose not to be formally identified, are

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<sup>8</sup> *Ibidem*.

<sup>9</sup> See TIP Reports and GRETA Reports on the EU Member States.

<sup>10</sup> *Ibidem*.

<sup>11</sup> 2020 TIP Report (for 2019), p. 417.

<sup>12</sup> IOM, *Data collection, analysis and research on trafficking in persons*, [Online] available at: <https://emm.iom.int/handbooks/trafficking-persons-and-associated-forms-exploitation-and-abuse/data-collection-analysis> (accessed 14 August 2023).

<sup>13</sup> John Cotton Richmond, "Less than half of 1 percent of human trafficking victims are identified. That needs to change", in: *New Atlanticist*, June 16, 2023, [Online] available at: [https://www.atlanticcouncil.org/blogs/new-atlanticist/less-than-half-of-1-percent-of-human-trafficking-victims-are-identified-that-needs-to-change/#:~:text=and%20data%20modeling-,The%20UN%20estimates%20that%20traffickers%20are%20compelling%2027.6%20million%20people,estimated%20victims%20\(0.4%20percent\)](https://www.atlanticcouncil.org/blogs/new-atlanticist/less-than-half-of-1-percent-of-human-trafficking-victims-are-identified-that-needs-to-change/#:~:text=and%20data%20modeling-,The%20UN%20estimates%20that%20traffickers%20are%20compelling%2027.6%20million%20people,estimated%20victims%20(0.4%20percent)) (accessed 14 August 2023).



categorised as “presumed” victims<sup>14</sup>. On the other hand, “identified” victims are individuals formally acknowledged as VOTs by the relevant authority in the Member States, often through a process that may involve law enforcement, though not always<sup>15</sup>. However, there is a high probability that “presumed victims” and “identified victims” are not registered uniformly across the EU due to the reasons mentioned above, as well as to the lack of a National Identification and Referral Mechanism within all EU Member States.

Due to all these aspects, the actual number of victims will likely exceed the figures recorded and reported in data collection. However, we will attempt to make some assumptions based on the available official data so as to draw minimal conclusions regarding the phenomenon of HT and its scale in Romania compared to the EU and specifically to a few other EU countries.

#### ***4.1.1. Romanian victims of human trafficking identified within the EU, 2011-2021***

According to EUROSTAT<sup>16</sup>, Romania has been one of the countries with the highest number of victims of trafficking in the EU since 2011, along with Italy, France, Germany and the Netherlands (see *Figure 4.2*). *Figure 4.1* and *Table 4.1* show the total number of Romanian VOTs identified both in Romania and in the EU at large (as registered in SIMEV<sup>17</sup>) between 2011 and 2021, as compared to the total number of VOTs identified in the EU in the

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<sup>14</sup> *Presumed victim of trafficking in human beings*, European Commission, [Online] available at: [https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/presumed-victim-trafficking-human-beings\\_en](https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/presumed-victim-trafficking-human-beings_en) (accessed 14 August 2023).

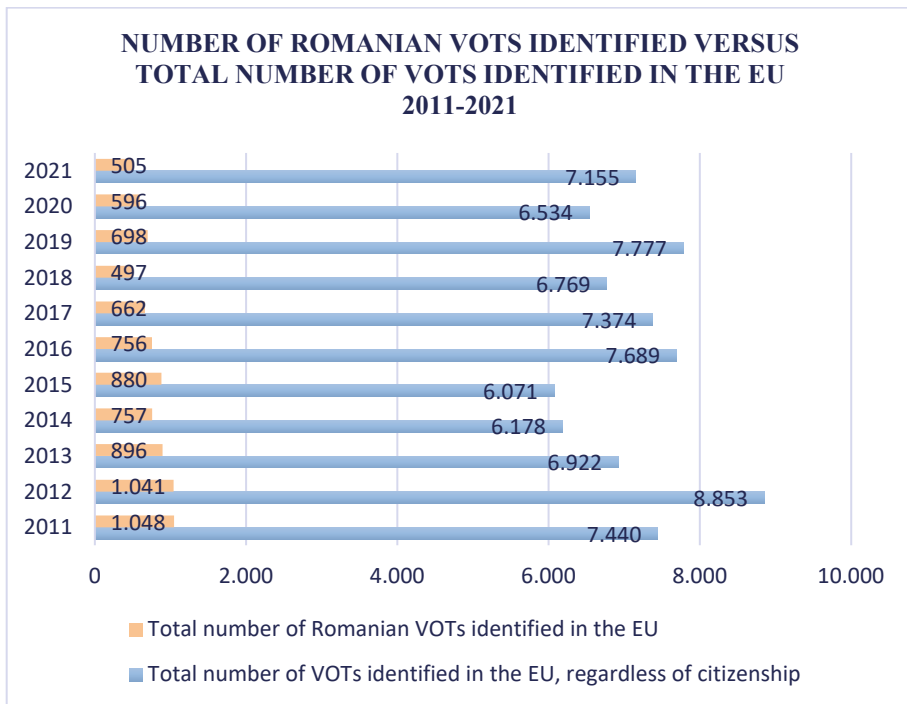
<sup>15</sup> *Identified victim of trafficking in human beings*, European Commission, [Online] available at: [https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/identified-victim-trafficking-human-beings\\_en](https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/identified-victim-trafficking-human-beings_en) (accessed 14 August 2023).

<sup>16</sup> EUROSTAT, *Trafficking in Human Beings...*

<sup>17</sup> Sistemul Integrat de Monitorizare și Evidență a victimelor traficului de persoane (SIMEV) – is a database managed by IGPR (the police) and ANITP, which “stores and processes data obtained through the implementation of the National Mechanism for the Identification and Referral of Victims of Trafficking in Human Beings, which was created to enable the identification and referral for assistance of victims and potential victims. The National Mechanism for the Identification and Referral of Victims of Trafficking in Human Beings is the tool provided to public institutions and NGOs for the referral of all victims or potential victims they come into contact with”, *Informații generale relevante | Hotărâre 1142/2012*, [Online] available at: <https://lege5.ro/Gratuit/gmztkojyqg/informatii-generale-relevante-hotarare-1142-2012-anexa-nr-1-strategia-nationala-impotriva-traficului-de-persoane-pentru-perioada-2012-2016?dp=gzytgmbwgaytm> (accessed 9 March 2023).

same period (as recorded by EUROSTAT). Since access to SIMEV is restricted to the police (IGPR) and ANITP, and the data thereof is confidential, the numbers of Romanian VOTs were taken from the *ANITP Reports 2011-2021*<sup>18</sup> and compared to the EUROSTAT statistics on the total number of VOTs identified in the EU<sup>19</sup>. It can be noticed that in 2011, 20% of the total number of VOTs identified in the EU were of Romanian citizenship; from 2012 to 2019, the percentage dropped to around 10-14%, and in recent years, 2020-2021, it dropped even more – to 9%, respectively 7%.

Figure 4. 1. Number of Romanian VOTs identified versus total number of VOTs identified in the EU 2011-2021



Source: *ANITP Reports 2011-2021*<sup>20</sup> and EUROSTAT

<sup>18</sup> *ANITP Reports*.

<sup>19</sup> EUROSTAT, *Victims of trafficking in human beings by all forms of exploitation*, last update: 09.02.2023, [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_VEXP/default/table?lang=en&category=crim.crim\\_thb](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_VEXP/default/table?lang=en&category=crim.crim_thb) (accessed 9 March 2023) [hereinafter, *VOTs by all forms of exploitation*].

<sup>20</sup> *ANITP Reports*.

Table 4. 1. Number of Romanian VOTs identified versus total number of VOTs identified in the EU 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total number of VOTs identified in the EU, regardless of citizenship	7,440	8,853	6,922	6,178	6,071	7,689	7,374	6,769	7,777	6,534	7,155
Total number of Romanian VOTs identified in the EU	1,048	1,041	896	757	880	756	662	497	698	596	505
% Romanian VOTs out of total VOTs identified in the EU	20	10	12	14	12	13	12	14	10	9	7

Source: ANITP Reports 2011-2021 and EUROSTAT

However, some NGO representatives believe that these figures do not accurately reflect reality since not all identified Romanian VOTs are registered in SIMEV. After an interview held by the author with Laurențiu Dincă, coordinator of the ANITP Regional Centre in Timișoara, so as to validate this information, the contrary was stated<sup>21</sup>:

“Without exception, every victim, regardless of their consent, is included in SIMEV. If victims choose not to provide consent, their identification information is not recorded. Instead, only statistical data such as age, mode of recruitment and exploitation, as well as location (urban or rural), are entered for statistical purposes. Thus, all identified victims are registered in the SIMEV database. This implies that the database holds significant relevance in terms of the national count of victims, with the understanding that we are referring specifically to victims who have been identified.”<sup>22</sup>

Nevertheless, EUROSTAT reports different numbers of Romanian VOTs in the EU, as compared to numbers reported by ANITP. For example, for the years 2011 and 2012, EUROSTAT reported 1,747, respectively 1,951 Romanian VOTs identified in the EU, while ANITP reported only 1,048, respectively 1,041

<sup>21</sup> Interview with Laurențiu Dincă, Coordinator of the ANITP Regional Centre in Timișoara. See also Chapter 5.

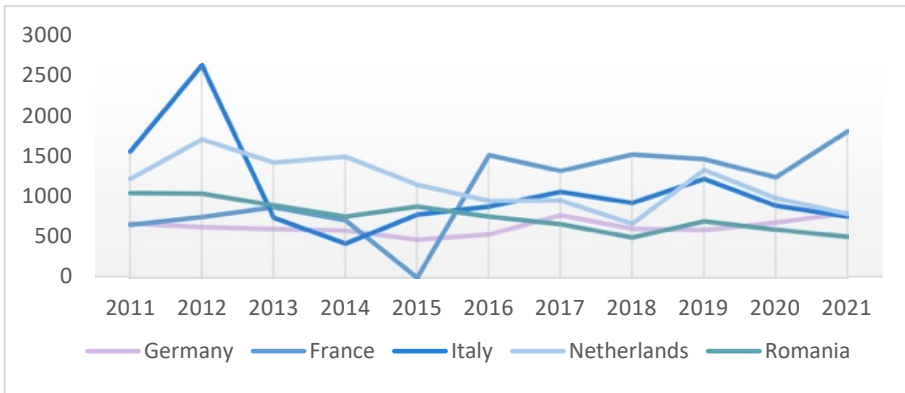
<sup>22</sup> *Ibidem*.

(see Table 4.1). Considering these, it is apparent that the number of Romanian VOTs identified is significantly higher than the records of ANITP.

#### 4.1.2. Victims of human trafficking identified in EU Member States, regardless of citizenship, between 2011-2021

Figure 4.2 below shows the number of VOTs identified in the EU and reported by National Rapporteurs between 2011 and 2021. Only the first five EU countries were selected for this comparative analysis, according to the highest number of VOTs identified between 2011 and 2021 from the total of EU countries. More precisely, Figure 4.2 shows the total number of victims of trafficking who have been detected within a certain Member State and notified to the National Rapporteur within the respective Member State, regardless of gender, types of exploitation or nationality/citizenship. For instance, between 2016 and 2021, the highest number of victims has been detected in and reported by France, a number which comprises victims of all nationalities detected and reported within the territory of France within the respective years. Next in line come Germany, Italy, and the Netherlands. Table 4.2 shows that the most oscillating rates of VOTs identified have been in France (with 654 VOTs in 2011 and plummeting as high as 278% in 2021). On the other side of the spectrum are the Netherlands, Romania and Italy, with 1,222 1,048, respectively 1,560 VOTs in 2011, and dropping down to 65%, 53%, and 49% in 2021.

Figure 4. 2. Number of VOTs identified in EU Member States, regardless of citizenship, 2011-2021



Source: EUROSTAT<sup>23</sup>

<sup>23</sup> EUROSTAT, *Persons involved in trafficking in human beings by legal status and sex*, last update 09.02.2023 [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_SEX/default/table](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_SEX/default/table), (accessed 18 February 2023) [hereinafter, *Persons involved in HT by legal status and sex*].

The highest number of VOTs has been identified in the Netherlands, reaching 12,691 VOTs for the whole period of 11 years, continuing close-up with France and Italy, and then Romania, with a total of 8,336 VOTs, and Germany, with a total of 6,940. However, it is worth noting that France and the rest of the countries mentioned are source, transit and destination countries for victims of various citizenships, coming from a range of countries, including Eastern Europe, Africa, Asia, and the Middle East<sup>24</sup>, compared to Romania, where 95% to 100% of the identified VOTs are Romanian<sup>25</sup>. This does not mean that there are fewer foreign VOTs exploited in Romania, but rather that there is less awareness and fewer efforts towards identifying victims of trafficking among migrants and third-country nationals in Romania, as an aspect which is also mentioned in the GRETA Reports on Romania<sup>26</sup>.

Statistics in *Table 4.2* concerning Romania can be interpreted ambivalently. Firstly, a high number of identified victims by Romania may be seen as a negative trend, implying that Romania is the primary source of VOTs in the EU and insufficiently addresses underlying vulnerabilities like poverty, economic inequality, unemployment, gender disparities, social discrimination, and corruption<sup>27</sup>. Secondly, a positive interpretation could arise, where Romania emerges as a country effectively identifying a significant portion of the EU's VOTs, possibly reflecting the nation's robust law enforcement focused on investigating such cases. This is also reflected in the high number of joint investigation teams (JITs) that Romania has been part of, considering that a JIT requires extensive resources of time and finances, as well as specialised law enforcement officers<sup>28</sup>. On the other hand, a low number of identified victims may also carry similar ambivalent interpretations.

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<sup>24</sup> According to TIP Reports 2012-2022 (A/N).

<sup>25</sup> According to statistics provided by ANITP Reports 2011-2021 (A/N).

<sup>26</sup> *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania. First evaluation round, Strasbourg: Council of Europe, 31 May 2012, para. 82, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680683a1d>; GRETA, *Third Evaluation Round Romania*.*

<sup>27</sup> Roxana Claudia Tompea, "Europe's Migrant Human Trafficking – A Case Study of Romania's Sexually Exploited Women", in: *Journal of Modern Slavery. A Multidisciplinary Exploration of Human Trafficking Solutions*, Volume 8, Issue 1, 2023, [Online] available at: [https://slavefreetoday.org/journal\\_of\\_modern\\_slavery/v8i1a3-europes-migrant-human-trafficking-a-case-study-of-romanas-sexually-exploited-women.pdf](https://slavefreetoday.org/journal_of_modern_slavery/v8i1a3-europes-migrant-human-trafficking-a-case-study-of-romanas-sexually-exploited-women.pdf) (accessed 14 August 2023).

<sup>28</sup> The majority of JITs on investigating transnational human trafficking cases have been concluded with Romania (A/N). See EUROJUST, *Joint investigation teams*, [Online] available at: <https://www.eurojust.europa.eu/term/joint-investigation-teams?search=human%20trafficking&criteria=publication&order=DESC&page=1> (accessed 14 August 2023).

Table 4. 2. Number of VOTs identified in EU Member States, regardless of citizenship, 2011-2021

TIME	Netherlands	France	Italy	Romania	Germany
2011	1,222	654	1,560	1,048	672
2012	1,711	751	2,631	1,041	626
2013	1,425	871	743	896	603
2014	1,498	710	422	757	583
2015	1,150	92 <sup>29</sup>	781	880	470
2016	952	1,516	879	756	536
2017	956	1,321	1,062	662	772
2018	668	1,525	926	497	607
2019	1,334	1,466	1,222	698	589
2020	984	1,243	892	596	682
2021	791	1,811	757	505	800
<b>Total</b>	<b>12,691</b>	<b>11,961</b>	<b>11,875</b>	<b>8,336</b>	<b>6,940</b>

Source: EUROSTAT<sup>30</sup>

Another conclusion that can be drawn from this table is that the highest demand for sexual services, cheap labour and other forms of exploitation in the EU are to be found in these four western EU countries: the Netherlands, France, Italy and Germany. It is also known that the Netherlands and Germany legalised prostitution in the year 2000<sup>31</sup>, respectively in 2002<sup>32</sup>, while Italy has

<sup>29</sup> The EUROSTAT report does not provide any number for year 2015 for France; therefore, the number of 92 identified VOTs was taken from the TIP Report 2016 (for year 2015) (A/N): *Trafficking in Persons Report. June 2016*, p. 173, [Online] available at: <https://2009-2017.state.gov/documents/organization/258876.pdf> (accessed 9 March 2023).

<sup>30</sup> EUROSTAT, *Persons involved in HT by legal status and sex*.

<sup>31</sup> The Netherlands legalised prostitution in 2000, with the passage of the "Wet Regulerend Prostitutie en Bestrijding Misstanden Sexbranche" (Prostitution Regulation and Suppression of Abuses Act), which decriminalized the buying and selling of sex and established a legal framework for the operation of brothels and sex work businesses: Eerste Kamer der Staten Generaal, *Wet Regulerend Prostitutie en Bestrijding Misstanden Sexbranche*, [Online] available at: [https://www.eerstekamer.nl/wetsvoorstel/32211\\_wet\\_regulerend\\_prostitutie](https://www.eerstekamer.nl/wetsvoorstel/32211_wet_regulerend_prostitutie), (accessed 9 March 2023).

<sup>32</sup> Germany legalised prostitution in 2002 with the passage of the "Prostitutionsgesetz" (Prostitution Act), which decriminalized the buying and selling of sex and established a legal framework for the operation of brothels and sex work businesses (often referred to as the "liberal" model): Bundesministerium der Justiz, *Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten (Prostitutionsgesetz - ProstG)*, 20.12.2001, [Online] available at: <http://www.gesetze-im-internet.de/prostg/ProstG.pdf> (accessed 9 March 2023).

had a regulationist legal model since 1958<sup>33</sup>, and France had the same model until 2016 and has adopted the Equality model since 2016<sup>34</sup>. This might suggest that the highest rate of HT, and specifically sexual exploitation, is fuelled by countries that legalise prostitution or decriminalise it, thus drawing pimps and traffickers there by reason of both the high demand and the permissive law. The first part of this assumption is also expressed in the *ANITP Report* for the year 2020<sup>35</sup>:

“Destination states where commercial sexual services are regulated emerge as the preferred destination states for sexual exploitation. This is most likely the consequence of criminal activity under the guise of such legitimate business.”<sup>36</sup>

Simultaneously, it might also suggest that exploitation is fuelled by the Equality Model, as well, because France, since 2016, when it adopted the Equality Model, has witnessed a twofold increase in identified victims (see *Table 4.2*). However, a more in-depth analysis of the model reveals that the Equality model places significant emphasis on *ex-officio* investigations and proactive victim identification, even among marginalised groups like individuals in prostitution, migrants, victims of domestic violence, and other vulnerable categories – aspects not typically addressed by the legalisation model as potential sources of trafficking victims<sup>37</sup>. Therefore,

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<sup>33</sup> The law concerning prostitution in Italy is the Legge Merlin, which was enacted in 1958 and modified in 1998. The law established a "regulationist" model of prostitution, which allows sex work to exist but imposes various restrictions and regulations on it. Under this model, prostitution is not explicitly illegal, but various activities associated with it, such as soliciting or running a brothel, are criminalized: Legge Merlin, Legge, 20/02/1958 n° 75, [Online] available at: <https://www.altalex.com/documents/leggi/2013/10/24/legge-merlin> (accessed 10 March 2023).

<sup>34</sup> France adopted the Equality legal model on prostitution with the passage of the "loi visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées" (law aimed at strengthening the fight against the prostitution system and supporting prostituted persons) in April 2016. This law criminalized the purchase of sexual services and established penalties for clients, while decriminalizing the selling of sex and providing support and exit programs for those who wished to leave prostitution: *LOI n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées (1)*, [Online] available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032396046/> (accessed 10 March 2023).

<sup>35</sup> 2020 *ANITP Report*, p. 86.

<sup>36</sup> *Ibidem*.

<sup>37</sup> The EMMA Coalition, *Global Policies*, [Online] available at: <https://equalitymodelma.org/global-policies#:~:text=The%20French%20law%20or%20what,through%20exit%20programming%20and%20supports> (accessed 14 August 2023).

the fact that France has started to identify significantly more victims of trafficking since 2016 might be seen as a positive factor.

#### ***4.1.3. Victims of human trafficking identified in the EU Member States, by citizenship, between 2011-2021***

The table below shows the number of VOTs identified in each EU Member State by citizenship – meaning the VOTs of the same citizenship as the reporting country, excluding VOTs of other citizenship. For example, Romania, in 2021, had a number of 504 identified Romanian VOTs out of the total 505 identified VOTs. Compared to other reporting countries, Romania comes second in 2021, after France, with the highest number of French citizens (912) identified as VOTs. However, when compared to the total population per country, in 2021, France had a rate of 1.348 per hundred thousand inhabitants<sup>38</sup> (the population of France was 67.75 million as of 2021<sup>39</sup>), while Romania had a rate of 2.625 per hundred thousand inhabitants<sup>40</sup> (the population of Romania was 19.12 million as of 2021<sup>41</sup>) – meaning twice as much as France. The numbers of VOTs identified per year exceeding 100 were highlighted.<sup>42</sup> It can be noticed, therefore, that Romania has the highest number of VOTs identified in all years consecutively, except for 2020-2021, when France was first, if we consider the absolute number of victims. Moreover, if we consider the number of victims proportionate to the population size, Romania is still first<sup>43</sup>. In second place comes France, and then the Netherlands for the whole period of 2011-2021. Hungary also had high rates of identified VOTs (of around 500 VOTs per year) between 2015-2018, while the same is true for Italy for 2019-2021. In Germany, the number of VOTs increased steadily, especially from 2016 to 2021, reaching in 2021 almost 200% as compared to 2011.

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<sup>38</sup> *Ibidem*.

<sup>39</sup> “France”, *Data Commons*, Population: 67,399,000 (2021-02), [Online] available at: [https://datacommons.org/place/country/FRA?utm\\_medium=explore&mprop=count&popt=Person&hl=en](https://datacommons.org/place/country/FRA?utm_medium=explore&mprop=count&popt=Person&hl=en) (accessed 28 February 2023).

<sup>40</sup> EUROSTAT, *Persons involved in HT by legal status and sex*.

<sup>41</sup> “Romania”, *Data Commons*, Population: 19,119,880 (2021), [Online] available at: [https://datacommons.org/place/country/ROU?utm\\_medium=explore&mprop=count&popt=Person&hl=en](https://datacommons.org/place/country/ROU?utm_medium=explore&mprop=count&popt=Person&hl=en) (accessed 28 February 2023).

<sup>42</sup> Where data is missing in the table, it means EUROSTAT does not record any data for those specific years (A/N).

<sup>43</sup> European Commission, *2022 Commission Staff Working Document*.



Table 4. 3. Number of VOTs identified in EU Member States by citizenship, 2011-2021

TIME	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Belgium	: <sup>44</sup>	0	:	:	:	:	:	:	:	:	:
Bulgaria	541	577	540	491	:	:	18	9	29	56	43
Czechia	14	9	2	1	2	2	:	:	18	12	9
Denmark	0	0	1	:	:	:	1	:	:	5	1
Germany	138	129	90	88	98	127	170	169	167	290	264
Estonia	39	16	15	2	11	7	8	10	12	5	:
Ireland	6	19	12	8	:	:	0	0	:	:	1
Greece	1	3	2	8	4	12	6	10	25	27	9
Spain	8	0	15	10	22	3	15	4	12	6	5
France	149	138	198	124	:	565	476	563	580	619	912
Croatia	13	8	22	33	35	22	19	14	24	14	15
Italy	0	0	9	3	7	2	:	:	438	439	370
Cyprus	0	1	2	4	:	1	1	4	4	1	9
Latvia	111	145	22	34	10	19	23	23	15	17	59
Lithuania	21	14	46	47	61	44	40	44	33	21	24
Luxembourg	0	0	:	:	:	1	:	:	:	:	:
Hungary	92	24	175	244	506	487	401	514	66	96	193
Malta	0	0	1	:	:	:	:	1	:	3	:
Netherlands	336	428	455	468	433	288	339	171	244	155	237
Austria	:	:	:	:	5	11	8	10	7	6	7
Poland	81	89	51	47	74	44	212	118	104	107	318
Portugal	:	:	27	32	73	56	13	34	30	13	22
Romania	1,041	1,037	894	757	:	:	661	496	686	595	504
Slovenia	8	2	0	6	2	3	3	1	1	:	3
Slovakia	30	20	28	34	56	41	86	54	65	60	41
Finland	0	0	1	3	6	:	12	3	16	21	31
Sweden	:	:	:	:	:	:	:	:	:	:	:

Source: EUROSTAT<sup>45</sup>

As mentioned above, it is difficult to draw a conclusion from these trends. The increase or decrease of identified VOTs in a certain Member State can depend on a multitude of factors and can be interpreted in multiple ways.

A third possibility is to consider both theories true and find solutions that target both the aspect of supply and the aspect of demand, as well as other

<sup>44</sup> The symbol “:” means that EUROSTAT does not provide any data for that specific year (A/N).

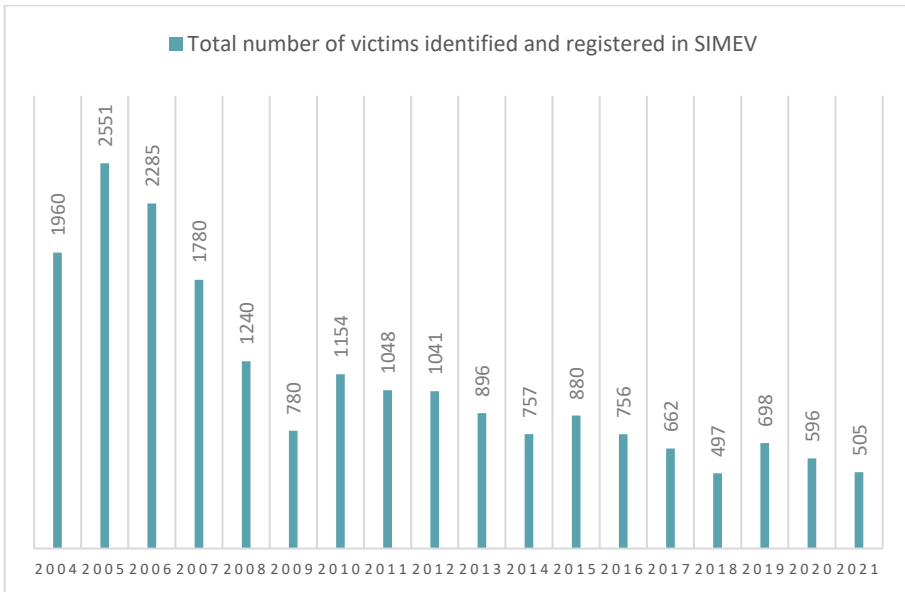
<sup>45</sup> EUROSTAT, *Victims of trafficking in human beings by citizenship*, last update: 09/02/2023, [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_VCTZ/default/bar?lang=en&category=crim.crim\\_thb](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_VCTZ/default/bar?lang=en&category=crim.crim_thb) (accessed 28 February 2023).

underlying factors. Human trafficking is a complex interplay of various factors that make certain populations more vulnerable to exploitation by traffickers. Addressing these factors requires a comprehensive approach that involves strengthening legal frameworks, improving law enforcement efforts, enhancing victim support services, raising awareness, and addressing underlying social and economic issues.

#### 4.1.4. Victims of human trafficking identified, as reported by the government of Romania, between 2004-2021

Figure 4.3 below shows the number of VOTs identified and registered in SIMEV per year, starting from 2004 until 2021<sup>46</sup>. It is to be mentioned that the numbers registered in SIMEV represent the victims that have been reported to ANITP after being identified as such, both Romanian victims trafficked internally and internationally and foreign victims trafficked within Romania.

Figure 4. 3. Number of VOTs identified, as reported by the government of Romania, 2004-2021



Source: ANITP Reports 2010-2021

<sup>46</sup> 2011 ANITP Report, p. 4, [Online] available at: <https://anitp.mai.gov.ro/raport-anual-privind-traficul-de-persoane-in-2011/>; 2016 ANITP Report, p. 11, [Online] available at: <https://Anitp.Mai.Gov.Ro/Raport-Privind-Evolutia-Traficul-De-Persoane-In-Anul-2016/>; 2021 ANITP Report, p. 9, [Online] available at: <https://anitp.mai.gov.ro/raport-anual-privind-fenomenul-traficului-de-persoane-in-2021/> (accessed 16 February 2023).

As per *Figure 4.3*, it appears that HT has decreased throughout the years concerning Romania. We can notice four timeframes following a decreasing trend: 2005-2009, with a 60% decrease in 2009 compared to 2005, after which the rate increased again in 2010 by almost 50%, compared to the previous year. The second period, 2010-2014, follows the same decreasing trend, with a 34% decrease in 2014 compared to 2010. The third period is marked by a 44% decrease in 2018 compared to 2015, and the last one, with a 28% decrease compared to 2019. Apart from 2010, when the number of identified victims grew by 50% from the previous year, we can notice a recurring growth in 2015 by 14% and in 2019 by 29%.

Similar to other statistics, the numbers in *Figure 4.3* can be interpreted ambivalently. For instance, in 2021, Romania reported less than 50% identified VOTs than in 2011, which can be interpreted both as a negative trend, on account that law enforcement and other institutions responsible for detecting crime and HT have made insufficient efforts in this respect, which is something constantly imputed to Romania in the *TIP Reports*<sup>47</sup>, and in the same time as a positive trend, inasmuch as anti-trafficking efforts (including prevention) made by Romania have lowered the rate of persons falling victims to exploitation, which is what the government of Romania claims in international reports on trafficking and press releases<sup>48</sup>. There is inconsistency in interpreting the data in the literature in the field, which means that there is a need for enhancing data collection frameworks and methodology so as to enable comparable statistics more accurately.

#### ***4.1.5. Romanian victims trafficked at national versus international level, 2011-2021***

*Figure 4.4* and *Table 4.4* show the total number of Romanian VOTs registered in SIMEV, trafficked at national and international levels. From 2011 to 2015, and also in 2018, the number of Romanian VOTs trafficked abroad was higher than the number of Romanian VOTs trafficked within the borders of Romania. In more recent years, the trend was reversed, with VOTs trafficked abroad reaching a bit above 50% out of the total Romanian VOTs identified.

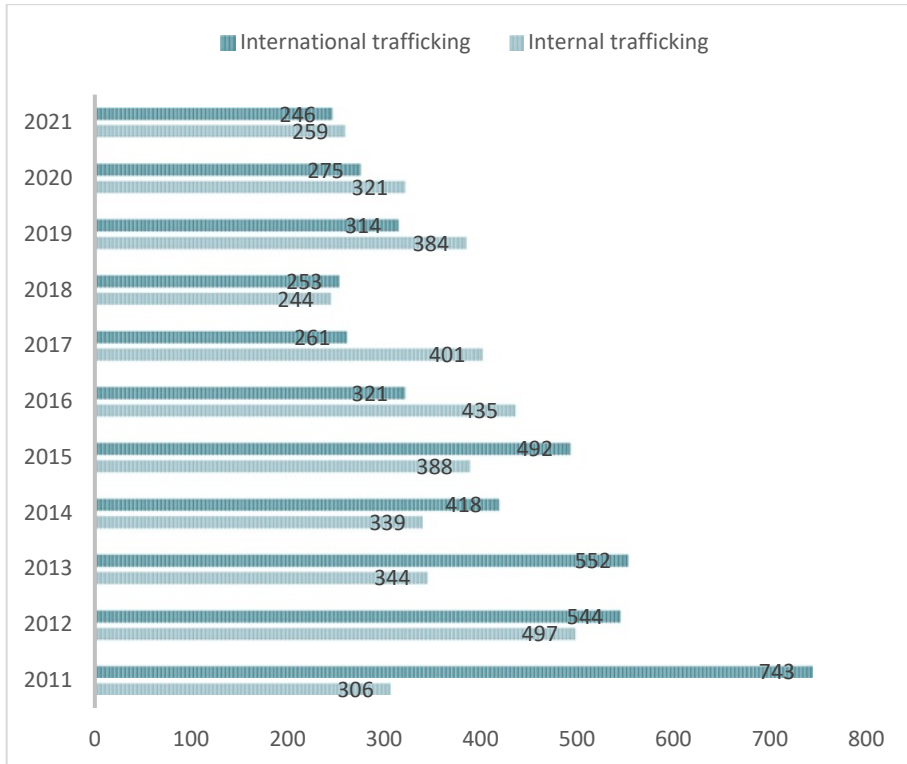
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<sup>47</sup> US department of State, *2022 Trafficking in Persons Report: Romania*, [Online] available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/romania/> (accessed 10 March 2023) [hereinafter, *2022 TIP Report*].

<sup>48</sup> *Prime Minister Nicolae-Ionel Ciucă's working meeting for the analysis of the results achieved by Romania in preventing and combating trafficking in human beings*, Government of Romania, Press release in 20 January 2022, [Online] available at: <https://gov.ro/en/news/prime-minister-nicolae-ionel-ciuca-s-working-meeting-for-the-analysis-of-the-results-achieved-by-romania-in-preventing-and-combating-trafficking-in-human-beings> (accessed 28 February 2023).

This trend may indicate that traffickers do not need to transport a victim abroad in order to exploit it, as long as demand for sex services or cheap labour is as high domestically as internationally, and since they can also exploit a person online for less expenses.

Figure 4. 4. Number of Romanian VOTs trafficked at national versus international level 2011-2021



Source: ANITP Reports 2011-2021

As per ANITP reports, online sexual exploitation, and especially child sexual exploitation, has increased steadily in recent years in Romania, especially since 2020, during the COVID-19 pandemic, when traffickers moved their field of operations online. Internet recruitment of victims in Romania almost doubled in 2020 compared to 2019. The share of victims recruited via the Internet, according to SIMEV, was 17% in 2020, compared to 10% recorded in 2019<sup>49</sup>. Also, of the 426 victims of sexual exploitation in 2020, exploited for pornography were 76 children and 21 adults<sup>50</sup>. This

<sup>49</sup> 2020 ANITP Report, p. 9.

<sup>50</sup> *Ibidem*, p. 97.

aspect is continued in the year 2022, confirmed in a press release<sup>51</sup> by DIICOT published on February 8th, 2023, mentioning that a new trend in cybercrime in Romania is “the increase in the number of cases involving the crime of child pornography and exploitation of minors online due to easy access to technology for both offenders and victims, as well as the emergence of new modus operandi – live streaming, creation of closed and dedicated groups through various social media applications.”<sup>52</sup>

*Table 4. 4. Romanian VOTs trafficked at national versus international level in percentage, 2011-2021*

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Internal trafficking	29	48	38	45	44	58	61	49	55	54	51
International trafficking	71	52	62	55	56	42	39	51	45	46	49

*Source: Percentages calculated based on data recorded in ANITP Reports 2011-2021 (see Figure 4.4)*

Statistics in *Table 4.4* might imply that since 2012, there has been a relatively constant trend of Romanian victims trafficked both abroad and within Romania. This aspect highlights the need for increased cooperation between Romania and the main countries of destination for victims of trafficking, not only concerning the investigation and proactive identification of cases but also when it comes to addressing the demand side of both sexual exploitation and labour exploitation in these countries. Anti-trafficking strategies and operational plans need to be created and implemented in view of this aspect as a priority.

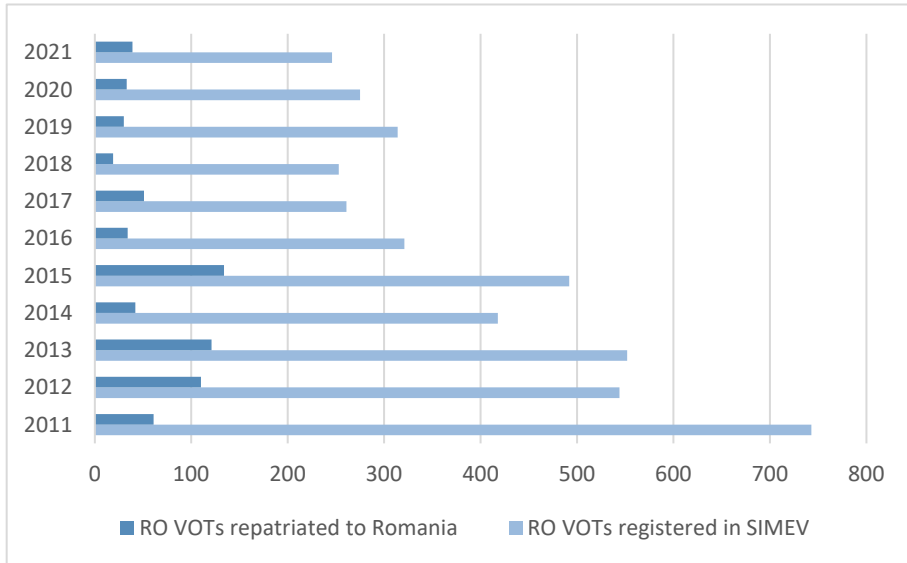
#### **4.1.6. Romanian victims repatriated to Romania, 2011-2021**

A possible source of risk and secondary victimisation might be found in the process of dealing with Romanian victims of trafficking identified abroad. It can be easily noticed from *Figure 4.5* that the number of Romanian VOTs reported to have been trafficked abroad within the EU is substantially higher than the number of Romanian VOTs reported to have been repatriated to Romania.

<sup>51</sup> DIICOT, *Comunicat de presa 08.02.2023*, <https://www.diicot.ro/mass-media/3862-comunicat-de-presa-08-02-2023> (accessed 27 March 2023).

<sup>52</sup> *Ibidem*.

Figure 4. 5. Romanian VOTs trafficked abroad versus Romanian VOTs repatriated to Romania



Source: GRETA Reports<sup>53</sup>, ANITP Reports 2011-2021

For example, in 2021, 49% of the total of 504 Romanian VOTs registered by ANITP were trafficked abroad, but only 16% of the number of VOTs trafficked at the international level were repatriated to Romania (Table 4.5). The most intriguing discrepancies between these numbers are to be seen in 2011, when 71% of Romanian victims were trafficked abroad, but only 8% of them were repatriated back to Romania. The next highest discrepancy is recorded for 2018, with a rate of 51% to 8%. Also, from 2018 to 2021, the percentage of Romanian VOTs who appear not to have been repatriated to Romania was between 84% and 90%.

<sup>53</sup> GRETA(2015)5, pp. 66-67; GRETA(2018)26\_ROM\_rep, pp. 61-62.

*Table 4. 5. Romanian VOTs trafficked at national and international levels, and Romanian VOTs repatriated to Romania, in numbers and percentages, 2011-2021*

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total no. of RO VOTs registered in SIMEV	1042	1037	894	757	878	755	661	496	686	595	504
Total no. of RO VOTs trafficked at the international level	743	544	552	418	492	321	261	253	314	275	246
% RO VOTs trafficked at the international level out of total no. of RO VOTs registered in SIMEV	71	52	62	55	56	43	39	51	46	46	49
Total no. of RO VOTs repatriated to Romania	61	110	121	42	134	34	51	19	30	33	39
% RO VOTs repatriated to Romania out of the total no. of RO VOTs trafficked at international level	8	20	22	10	27	11	20	8	10	12	16

*Source: GRETA Reports, ANITP Reports 2011-2021*

At this point, the initial question that stemmed from these statistics was whether Romanian state authorities keep any track record of those VOTs who are reported to them by other EU member states or IOs if they have any knowledge of whether safeguards are followed up within those foreign countries so that Romanian VOTs do not fall prey to being re-trafficked, and if they are informed about the outcome of the criminal proceedings and measures of assistance granted to these victims in the countries of

destination. However, upon interviewing several anti-trafficking practitioners from Romania, we concluded that the question was incorrect, as the statistics were incorrectly interpreted, as it is further explained.

A representative<sup>54</sup> of ADPARE, a Romanian anti-trafficking NGO, stated that the majority of victims that had been trafficked in other EU countries were not identified in those destination countries but in Romania after they had returned to the country. However, this aspect is not mentioned in any of the ANITP reports, the TIP Reports for 2011-2021, or the three GRETA Reports on Romania. The ADPARE representative illustrated this aspect with an example from their experience with victims in their programme, giving the specific example of Romanian victims trafficked in Germany:

“A delegation from Germany came to us, and out of the 38 victims that we have in our program who were trafficked to Germany, only *four* of them had criminal proceedings ongoing in Germany, meaning they were identified there. The rest were identified in Romania after they had returned.”<sup>55</sup>

Laurențiu Dincă, Coordinator of the ANITP Regional Centre in Timișoara, also stated that the majority of Romanian victims identified in other EU countries are immediately repatriated to Romania by the authorities of destination countries, and the reason why the ANITP reports do not indicate a very high number of repatriated victims is not because of their choice to stay in the country of destination, but rather because they report to the police once they have already arrived in the country, and consequently, there is no need to classify them as repatriated victims<sup>56</sup>:

“We include all victims in the SIMEV database, including those who have been repatriated. The system indicates the status of a repatriated victim and provides information on the location of their file and the ongoing criminal proceedings. But there is indeed a question that arises: Why are there fewer repatriated victims among those recorded as trafficked abroad? This is because the majority of victims, including those who have been exploited abroad, only report the crime to the police upon their return to the country. Consequently, there is no need to repatriate them. Once they report the crime, we enter their information into the SIMEV system right from the

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<sup>54</sup> The representative wished to remain anonymous, for security reasons (A/N). Interview with ADPARE. See also Chapter 5.

<sup>55</sup> *Ibidem* (Emphasis added).

<sup>56</sup> Interview with Laurențiu Dincă (ANITP). See also Chapter 5.



beginning. Their status is mentioned, indicating whether they are presumed victims or clearly identified victims. This classification is determined during their interaction with the organised crime officer or the prosecutor within the 90-day reflection period. Hence, they can be classified as presumed victims or potential victims in the initial phase.<sup>57</sup>

Laurențiu Dincă specifies that the SIMEV database includes presumed and identified victims but not potential victims<sup>58</sup>:

“A potential victim is the person about whom we have some information that they might be a victim of trafficking. Then, when we talk to the victim and identify very clearly, through an evaluation interview, what the situation of that person is, we confirm whether the victim is a presumed victim. Then, only the prosecutor or the case officer determines whether she is clearly a victim, receiving the status of identified victim, if she meets all the elements of the crime of human trafficking, child trafficking, depending on what it is. Only potential victims are not entered into the SIMEV. In the current form of the MNIR<sup>59</sup>, there is no justification for entering potential victims into the SIMEV because we are talking about unverified information, as we have not even talked to the girl in the first place. From the moment we have a first discussion with the victim, she becomes a presumed victim, and we enter her information in the SIMEV database. After that, a presumed victim can become an identified victim when this is confirmed.”<sup>60</sup>

On the other side, Loredana Urzică-Mirea, executive director of eLiberare Association from Romania<sup>61</sup>, states that there are also victims who stay in the country of destination, or, in case they were repatriated, some choose to go abroad again, as the living conditions they have in Romania do not offer them many opportunities. In this case, the danger is that these Romanian victims of trafficking, in their state of vulnerability, might be overlooked in such countries. By extension, this situation may be applied to

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<sup>57</sup> *Ibidem.*

<sup>58</sup> *Ibidem.*

<sup>59</sup> Guvernul României, *Mecanism național din 31 ianuarie 2023 de identificare și referire a victimelor traficului de persoane*, publicat în Monitorul oficial nr. 95 bis din 3 februarie 2023, [Online] available at: <https://legislatie.just.ro/Public/DetaliuDocument/265243> (accessed 23 June 2023) [hereinafter, *MNIR 2023*].

<sup>60</sup> Interview with Laurențiu Dincă, Coordinator of the ANITP Regional Centre in Timișoara. See also Chapter 5.

<sup>61</sup> Interview with Loredana Urzică-Mirea (eLiberare Association). See also Chapter 5.

any victim of trafficking, regardless of their citizenship, even to third-country nationals. Therefore, a referral pathway and a victim tracking system should be in place across the EU at large, where the journey of a victim, from the moment of identification to the moment they choose to be independent of any external assistance, should be tracked, recorded and followed up with by state authorities and practitioners coming in contact with these victims. This type of database would be all the more needed if an EU Referral Mechanism were established<sup>62</sup>. Currently, each EU MS deals with VOTs according to their internal legislation and NRMs (where such NRM exists). International cooperation is minimal, restricted to police cooperation, judicial cooperation, and cooperation between embassies and IOs/NGOs for the repatriation of VOTs<sup>63</sup>. Ioana Bauer<sup>64</sup>, president of the eLiberare Association, is a strong supporter of creating a European Referral Mechanism, having done extensive advocacy work at the EU level<sup>65</sup> and international level in this regard. This recommendation will be further detailed in Chapter 5.

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<sup>62</sup> *Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels: European Commission, 1 December 2022, p. 14, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732> (accessed 23 June 2023) [hereinafter, *Proposal for a revised EU Directive*].

<sup>63</sup> *Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms*, HOME/2018/ISFP/PR/THB/0000, Publications Office of the European Union, Luxembourg: European Commission, 2020, [Online] available at: <https://op.europa.eu/en/publication-detail/-/publication/d5542e9c-0e92-11eb-bc07-01aa75ed71a1/language-en> (accessed 23 June 2023).

<sup>64</sup> *LinkedIn profile of Ioana Bauer*, [Online] available at: <https://ro.linkedin.com/in/ioana-sandescu-bauer> (accessed 24 June 2023).

<sup>65</sup> Swedish Presidency of the Council of the EU, *Conference on prevention models to address the demand that fosters trafficking for sexual purposes*, Youtube video, Mar 29, 2023, [Conference held in Stockholm on 29–30 March, organised by the Swedish Government Offices within the framework of the Swedish EU Presidency 2023, where Ioana Bauer was one of the panelists], [Online] available at: [https://www.youtube.com/watch?v=nt\\_bG9aIWI](https://www.youtube.com/watch?v=nt_bG9aIWI) (accessed 24 June 2023); International conference *Effective Strategies to Combat Human Trafficking for the Purpose of Sexual Exploitation*, organised by the Swedish Embassy in Bucharest, in collaboration with eLiberare and IOM Romania, held in Bucharest on May 17<sup>th</sup>, 2023 [the main goal of this conference was to advocate for the need to create a European Referral Mechanism and find solutions to eradicate demand in the context of the revision of the EU Anti-Trafficking Directive], [Online] available at: [https://www.linkedin.com/posts/ioana-sandescu-bauer\\_enddemand-inspiringfreedom-humantrafficking-activity-7065075112701476864-sB5s?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/ioana-sandescu-bauer_enddemand-inspiringfreedom-humantrafficking-activity-7065075112701476864-sB5s?utm_source=share&utm_medium=member_desktop) (accessed 24 June 2023).

#### 4.1.7. Foreign VOTs trafficked on the territory of Romania

Table 4.6 shows the number of foreign VOTs trafficked on the territory of Romania. It is obvious that compared to the overall number of VOTs identified in Romania, foreign victims are but a very small percentage. Except for years 2011, 2012, and 2018, there have been one or two foreign victims identified in Romania, the majority of which are from the Republic of Moldova or from other EU countries.

Table 4.6. Number of foreign VOTs trafficked on the territory of Romania, 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total no. of foreign VOTs trafficked on the territory of Romania	7	4	2	0	2	1	1	1	12	1	1
Out of which, VOTs from other EU countries	-	-	1	-	1	1	1	-	11	-	-
Out of which, VOTs from third countries	7	4	1	-	1	-	-	1	-	1	1
----Republic of Moldova	1	4	1	-	1	-	-	1	1	1	-
----Bangladesh	5	-	-	-	-	-	-	-	-	-	-
----Serbia	1	-	-	-	-	-	-	-	-	-	-

Source: ANITP Reports 2011-2021

However, in more recent years, there has been a surge of immigrants from East Asia brought to Romania by business owners as a solution to Romania's labour shortage. As illustrated in the media, these immigrants, the majority of whom are from India, Vietnam, Bangladesh, Nepal and Pakistan, work in conditions of which, allegedly, they are satisfied; the majority of them work in HoReCa, in construction or in manufacturing<sup>66</sup>. For 2022, the government of Romania decided that 100,000 foreign workers from outside

<sup>66</sup> Alexandru Mihăescu, "Cine sunt migranții din Asia care muncesc în România", in: *G4 Media*, 23 November 2022, [Online] available at: <https://www.g4media.ro/cine-sunt-migrantii-din-asia-care-muncesc-in-romania-varsta-medie-de-27-de-ani-majoritari-din-india-vietnam-bangladesh-si-pakistan-jumatate-invata-romana.html> (accessed 13 March 2023).

the European Union could be employed in the local market, twice as much as in 2021<sup>67</sup>. The risk of trafficking for labour exploitation in this situation was brought about by *Emergency Ordinance No. 143 of 28 October 2022*<sup>68</sup>, according to which third-country workers are bound by contract to work for the same employer who brought them to work in Romania for one full year until the expenses spent for their employment are amortised; in case labour conditions are abusive, these employees do not have the option to change their job unless the employer signs an official document expressly allowing them to do so. At the end of October, 49,119 were working in Romania, of whom 33,287 were from Asia, according to data provided by the General Inspectorate for Immigration (IGI) at the request of the newspaper *Libertatea*<sup>69</sup>. However, NGOs, representatives of syndicates and immigrants interviewed by *Libertatea* have declared that the creators of this law have considered only the employers' perspective and have not consulted with representatives of immigrants, who are directly affected by this law, thus giving rise to vulnerability to labour trafficking<sup>70</sup>.

The conclusion we draw from here is that official statistics on foreign VOTs identified in Romania are far from accurate and are not representative of the more recent situation on migration in Romania. Therefore, more extensive screening should be conducted among migrants in Romania for the early identification of vulnerabilities and for the prevention of any form of HT.

#### **4.1.8. Types of exploitation for victims registered in SIMEV, 2011-2021**

From *Figure 4.6* and *Table 4.7*, it is obvious that sexual exploitation has the highest rate among other types of exploitation on a constant basis. Starting

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<sup>67</sup> "Tot mai mulți asiatici iau locul românilor pe piața muncii", in: *Digi24*, 26 November 2022, [Online] available at: <https://www.digi24.ro/stiri/actualitate/social/tot-mai-multi-asiatici-iau-lucrul-romanilor-pe-piata-muncii-salariul-este-unul-foarte-bun-este-mult-mai-mare-decat-in-bangladesh-2160225> (accessed 13 March 2023).

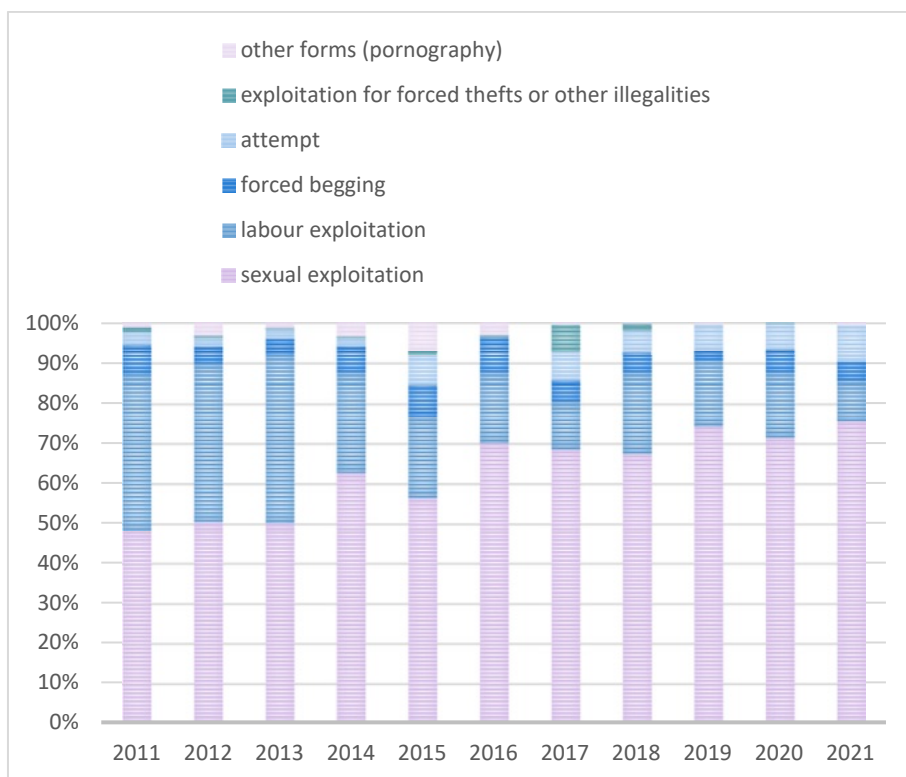
<sup>68</sup> Guvernul României, *Ordonanță de urgență nr. 143 din 28 octombrie 2022 pentru modificarea art. 17 din Ordonanța Guvernului nr. 25/2014 privind încadrarea în muncă și detașarea străinilor pe teritoriul României și pentru modificarea și completarea unor acte normative privind regimul străinilor în România*, publicat în Monitorul oficial nr. 1049 din 28 octombrie 2022, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/260845> (accessed 1 May 2023).

<sup>69</sup> Diana Meseșan, „ORDONANȚĂ SECRETĂ. Cum au reușit politicienii și patronatele să îi lege pe muncitorii străini de angajatorii lor din România. *Sclavagism modern*”, *Libertatea*, 12 decembrie 2022, [Online] available at: <https://www.libertatea.ro/stiri/sclavagism-modern-legea-prin-care-muncitorii-straini-sunt-legati-de-angajatorii-lor-din-romania-4369690> (accessed 1 May 2023).

<sup>70</sup> *Ibidem*; see also *2023 TIP Report on Romania*, [Online] available at: <https://www.state.gov/reports/2023-trafficking-in-persons-report/romania/> (accessed 27 August 2023).

from 2011, the proportion of VOTs in sexual exploitation oscillated but remained relatively constant (ranging from 335 VOTs, the lowest number, in 2018, to 530 VOTs, the highest number, in 2016), while the number of VOTs exploited through labour constantly dropped – from 410 VOTs, the highest number, in 2012, to 51 VOTs in 2021. The rate of victims exploited through forced begging also dwindled from 2011 to 2021. These decreasing trends for labour exploitation and forced begging might be an indicator that legislation regulating these two crimes has become stricter throughout the years, as well as easier to implement than legislation concerning sexual exploitation, an aspect which, as illustrated in *Chapter 3*, is much more controversial among the EU Member States, thus lacking uniformity throughout the EU. Therefore, legislative loopholes allow criminal activity more flexibility in the area of sexual exploitation of victims.

Figure 4. 6. Types of exploitation for victims registered in SIMEV, 2011-2021



Source: ANITP Reports 2011-2021

Table 4. 7. Types of exploitation for victims registered in SIMEV, 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
■ sexual exploitation	506	526	450	475	498	530	454	335	518	426	382
■ labour exploitation	408	410	375	188	180	132	79	100	115	96	51
■ forced begging	81	48	38	53	69	68	35	26	20	37	24
■ attempt	32	20	19	14	66	16	48	27	41	36	45
■ exploitation for forced thefts or other illegalities	11	6	3	3	11	4	43	8	1	1	NA
■ other forms (pornography)	11	31	11	24	58	6	3	1	3	NA	3
Total	1049	1041	896	757	880	756	662	497	698	596	505

Source: ANITP Reports 2011-2021

One theory that may explain the prevalence of sexual exploitation above all the other types of exploitation is the increased focus placed on this issue by the international community, starting with the *Palermo Protocol*, thus placing higher pressure on states to develop legislation and policies addressing the issues of sexual exploitation as a matter of priority and leaving responses for the other types of exploitation underdeveloped<sup>71</sup>. Therefore, labour trafficking could potentially be more widespread than sex trafficking, although it might have been relatively less identified until now and, as a result, not accurately reflected in official statistics<sup>72</sup>.

Similarly, other types of exploitation, such as forced marriage or illegal adoption, are not even reflected in statistics on Romania, as Romanian legislation does not cover these specific types of trafficking yet. Therefore, further regulation would be required, both at the EU level and at the national level, to enhance the accuracy of statistics on types of exploitation, as well<sup>73</sup>.

<sup>71</sup> Ella Cockbain and Kate Bowers, “Human trafficking for sex, labour and domestic servitude: how do key trafficking types compare and what are their predictors?”, in: *Crime, Law and Social Change*, Vol. 72, 25 April 2019, pp. 9–34, [Online] available at: <https://doi.org/10.1007/s10611-019-09836-7> (accessed 14 August 2023).

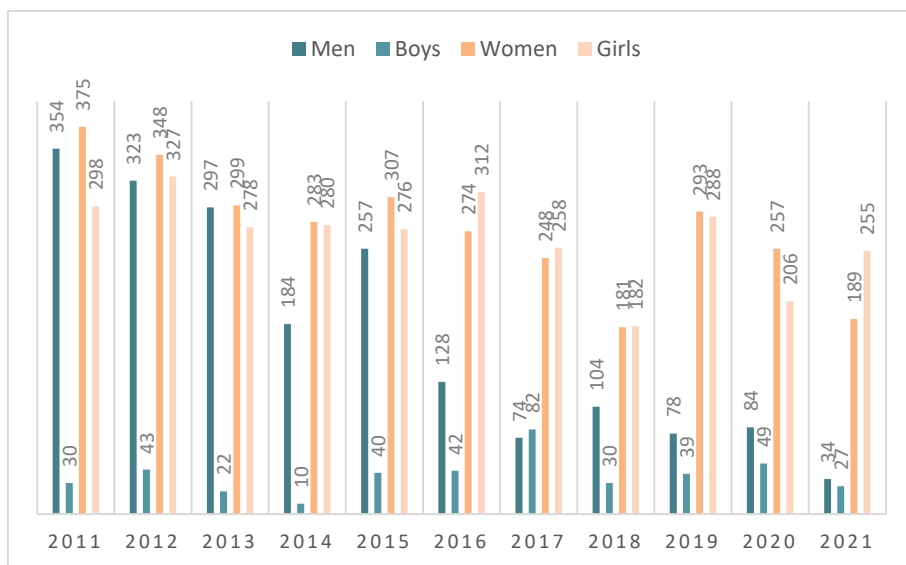
<sup>72</sup> *Ibidem*.

<sup>73</sup> Update: *The revised EU Anti-trafficking Directive* (July 2024) includes forced marriage and illegal adoption as types of exploitation, [Online] available at: <https://eur-lex.europa.eu/eli/dir/2024/1712> (accessed October 30, 2024).

#### 4.1.9. Romanian victims of human trafficking by age and gender, 2011-2021

Figure 4.7 below shows the total number of Romanian VOTs (including all types of exploitation), disaggregated by gender and age, where *men* indicate adult male victims, *boys* indicate minor male victims, *women* – adult female victims, and *girls* – minor female victims.

Figure 4. 7. Number of VOTs identified and registered in SIMEV by age and gender, 2011-2021



Source: ANITP Reports 2011-2021

Table 4. 8. Number of VOTs identified and registered in SIMEV by age and gender, 2011-2021

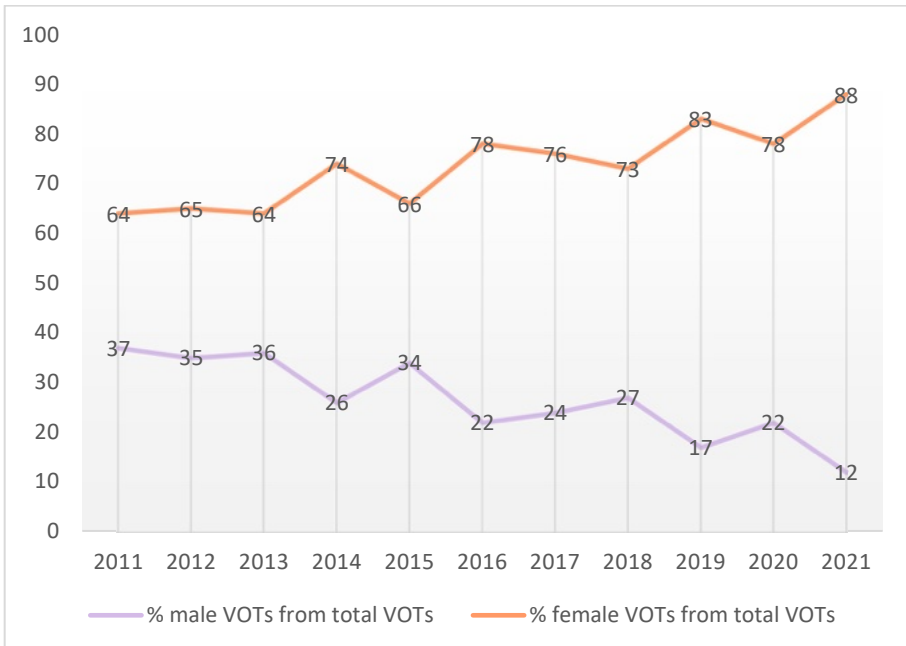
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
■ Men	354	323	297	184	257	128	74	104	78	84	34
■ Boys	30	43	22	10	40	42	82	30	39	49	27
■ Women	375	348	299	283	307	274	248	181	293	257	189
■ Girls	298	327	278	280	276	312	258	182	288	206	255

Source: ANITP Reports 2011-2021

It can be noticed from Figure 4.7 and Table 4.8 that from 2011, the rate of trafficked women was slightly higher than the rate of trafficked men until 2015. From 2016 to 2020, the ratio of women to men increased steadily, from around 2:1 up to almost 4:1, with the mention that the majority of women are

sexually exploited, while men are exploited for cheap labour. In 2021, as an exception, this ratio was 8:1, even though the overall number of identified victims was not substantially higher than in previous years. Also, as seen in *Figure 4.8*, the percentage of female victims of trafficking (both adult and minor) compared to the total VOTs identified and registered in SIMEV steadily increased throughout 2011-2021, going from 64% in 2011 to 88% in 2021, while the rate of male victims of trafficking (both adult and minor) constantly decreased, from 37% in 2011 to 12% in 2021.

*Figure 4. 8. VOTs identified and registered in SIMEV by gender and percentage, 2011-2021*



*Source: Percentages calculated by using data from ANITP Reports 2011-2021 (see Table 4.7)*

These diverging rates again reinforce the idea mentioned above that, since women are the majority of trafficked victims, and since they are mainly exploited sexually, the demand for sexual services has not dwindled in the EU, despite efforts to tackle the demand side of sexual exploitation. Moreover, these rates might be a strong indicator of gender inequality, especially in Romania, as one of the potential root causes of women falling prey to HT. Gender inequality, coupled with poverty, discrimination, and societal norms, can make women and girls more vulnerable to exploitation, as traffickers exploit these vulnerabilities. From these two aspects, it seems that since there is a high



demand for sexual services and cheap labour, traffickers will seek to supply this demand, and vulnerable people are the easiest to recruit because their circumstances make them more desperate and less likely to scrutinise enticing job offers.

Statistics from *Table 4.8* and *Figure 4.7* might also be somewhat misleading since men and boys who become victims either of sexual exploitation or labour exploitation are less likely than women to self-identify as victims and report the crime due to the fear of being shamed or blamed. Therefore, the rate of exploited men and boys might be significantly higher than what current statistics show.

Based on these aspects, we may conclude that more strict legislation should be imposed throughout the EU to criminalise and address the demand side of HT, irrespective of the legal model of prostitution in a specific EU country. Moreover, policies in Romania should be drafted according to a gender-sensitive approach and should target the root causes that make certain categories of people vulnerable, especially poverty, the lack of education, and the lack of employment opportunities.

#### ***4.1.10. Child victims of human trafficking***

Concerning child victims of trafficking, the majority are girls – around 75-95% of the total number of minor victims – an overwhelming majority of them trafficked for sexual exploitation. However, a trend can be noticed in more recent years, where more minor male victims are trafficked compared to 2011-2014, especially for sexual exploitation for the production of child pornography and for forced begging<sup>74</sup>. For example, in 2013, the ratio of girls to boys was 12:1, and in 2014, it was 28:1, whereas in 2020, it decreased to 4:1, and in 2021, it increased again to 9:1 (see *Table 4.8*).

In 2021, a total of 282 persons under the age of 18 were identified or notified by the Romanian anti-trafficking system as victims of child trafficking. Most underage victims were exploited within the territory of Romania through various forms of sexual exploitation (230 minors in total), of which at least 105 were forced to produce sexually explicit content<sup>75</sup>. Four were exploited through labour, 18 through forced begging and 29 by an attempt at trafficking<sup>76</sup>.

*Figures 4.9.a and 4.9.b, as well as Table 4.9, show a growing trend of child trafficking. As the total number of VOTs identified each year keeps decreasing from 2011 to 2021, the share of identified minor VOTs keeps increasing,*

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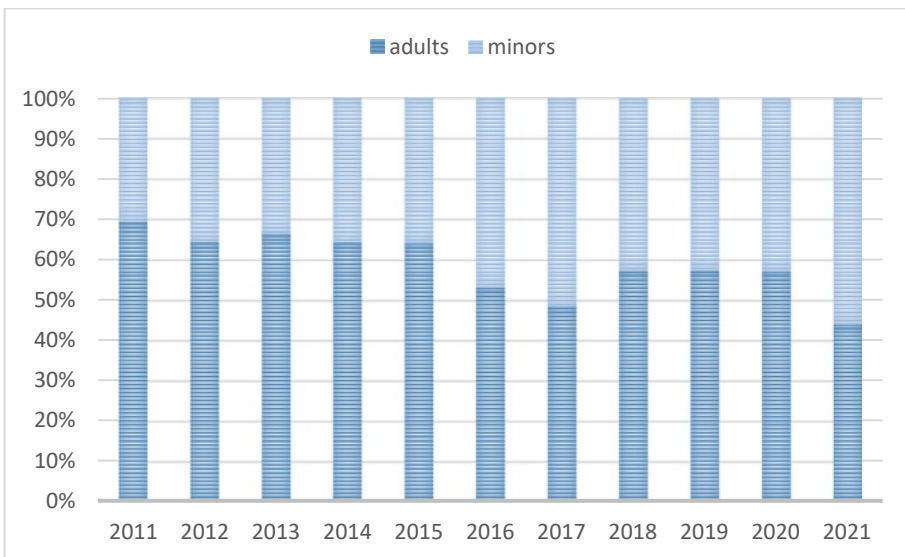
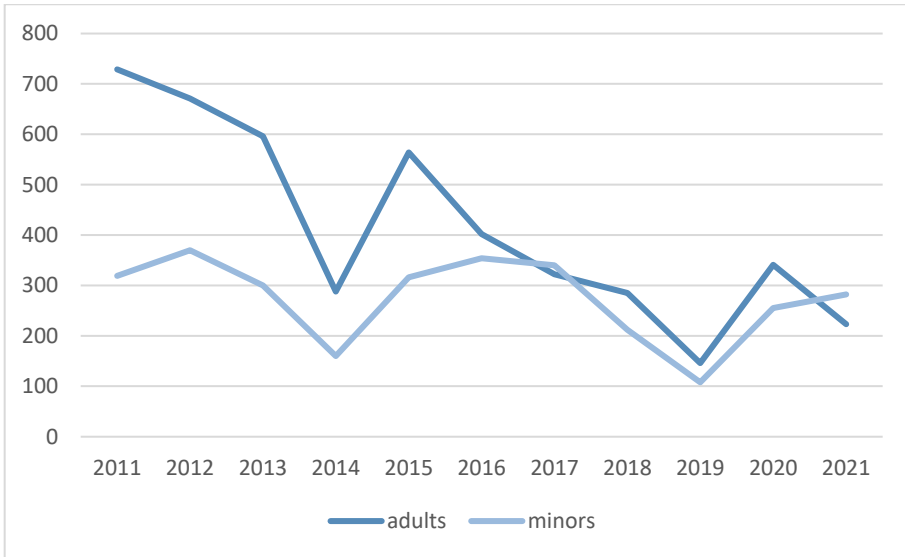
<sup>74</sup> 2020 ANITP Report, p. 20; 2021 ANITP Report. p. 17.

<sup>75</sup> 2021 ANITP Report, pp. 12-13.

<sup>76</sup> *Ibidem*.

especially starting from 2016, and reaching its highest peak in 2021, with a percentage of 56% from the total VOTs. The years 2014 and 2019 are the only two exceptions to this growing trend. ANITP reports highlight this aspect from year to year, mentioning that there is a growing demand for minors, especially when it comes to sexual exploitation.

Figure 4. 9. Adult versus minor VOTs registered in SIMEV, 2011-2021 (a and b)



Source: ANITP Reports 2011-2021

In 2020, in the context of the COVID-19 restrictions, child trafficking cases escalated in Romania, from 15% in the previous year to 43%, specifically the exploitation of minors through pornography, mainly on the territory of Romania<sup>77</sup>. This trend was also seen at the international level, with an increase of 200% in reports of online child exploitation during the pandemic, while prosecution of traffickers declined by 90%, as highlighted in a UNICRI report<sup>78</sup>. In 2021, most minors identified in Romania were aged between 12 and 17 (89%), and most child victims were female, reaching a share of 90% out of the total number of minor VOTs<sup>79</sup>.

Table 4. 9. Adult versus minor VOTs registered in SIMEV, 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
total VOTs in SIMEV	1049	1041	896	757	880	756	662	497	698	596	505
adults	729	671	596	288	564	402	322	285	146	341	223
minors	319	370	300	160	316	354	340	212	108	255	282
% minors out of total VOTs	30	36	33	21	36	47	51	43	15	43	56

Source: ANITP Reports 2011-2021

A few of the ANITP Reports show the numbers of minors disaggregated by type of exploitation, from whence it appears that sexual exploitation of minors, especially girls aged 14-17, is a constant trend among victims identified until 2020. In 2021, the majority of child victims were 17-year-old girls (58 from the total of 282 child victims)<sup>80</sup>. Table 4.10 below shows the share of sexual exploitation in minors identified in the years 2011 to 2013 and 2018, 2020 and 2021, as these are the years for which ANITP Reports provide disaggregated data on the types of exploitation in minor VOTs.

<sup>77</sup> 2020 ANITP Report, p. 10.

<sup>78</sup> Rena, Alice and Amelio, Sonia, *Virtual meetings “COVID-19, Crime Prevention and Criminal Justice Priorities: a Spotlight on Vulnerable Groups”*. Summary Report, UN Institute for Crime and Justice Research (UNICRI), 30 November – 3 December 2020, p. 22, [Online] available at: [http://www.unicri.it/sites/default/files/2021-01/UNICRI%20Virtual%20Meetings\\_Summary%20Report\\_0.pdf](http://www.unicri.it/sites/default/files/2021-01/UNICRI%20Virtual%20Meetings_Summary%20Report_0.pdf) (accessed 14 March 2023).

<sup>79</sup> *Ibidem*, p. 13.

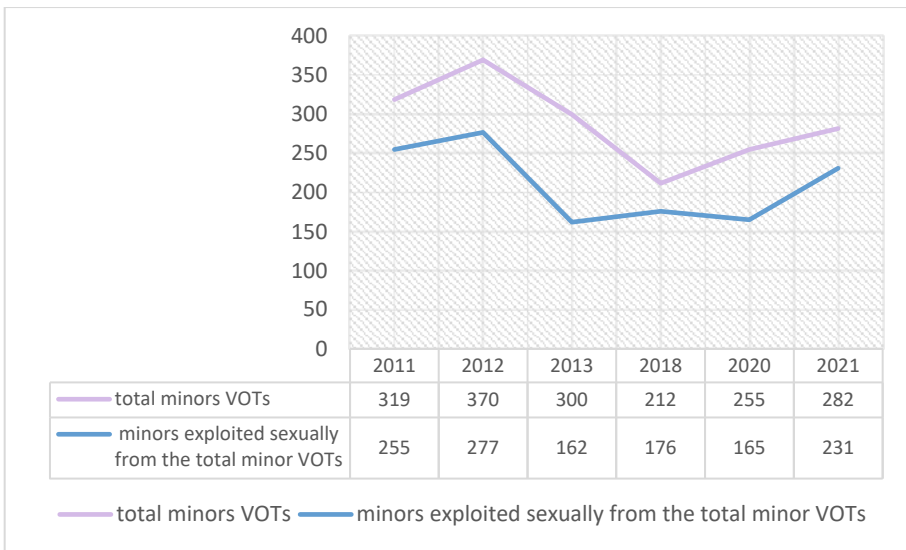
<sup>80</sup> 2020 ANITP Report, p. 14.

Table 4. 10. Minors exploited sexually, compared to the total minor VOTs, in percentage, 2011-2013, 2018, 2020, 2021

	2011	2012	2013	2018	2020	2021
total minors VOTs	319	370	300	212	255	282
% minors exploited sexually from the total minor VOTs	80%	75%	54%	83%	65%	82%

Source: ANITP Reports 2011-2013, 2018, 2020, 2021

Figure 4. 10. Minors exploited sexually as compared to the total minor VOTs, 2011-2013, 2018, 2020, 2021



Source: ANITP Reports 2011-2013, 2018, 2020, 2021

It can be noticed, from Table 4.10 and Figure 4.10, that the share of minors exploited sexually is high to very high, reaching the highest peak in 2011, 2018 and 2021, with 80%, 83%, respectively 82% of the total minor VOTs. ANITP reports further describe the details of trends in the sexual exploitation of minors:

- The vast majority (between 80-90%) of minors exploited sexually are girls aged 14-17 years old<sup>81</sup>;
- The share of male minors exploited sexually, especially for the purpose of pornographic representations, has been rising in recent

<sup>81</sup> 2011 ANITP Report, pp. 17-18; 2012 ANITP Report, pp. 10-11; 2018 ANITP Report, pp. 26-27; 2020 ANITP Report, p. 20; 2021 ANITP Report, pp. 12-13.

years. For example, 35 male victims, the majority of whom were minors, were victims of sexual exploitation in 2020<sup>82</sup>;

- Sexual exploitation on the internet, especially of minor victims, through sextortion, has been rising constantly since the COVID-19 pandemic, as traffickers moved their field of operation online due to restrictions; for instance, online recruitment of victims in Romania doubled in 2020, as compared to 2019<sup>83</sup>;
- Girls aged 10-17 are more vulnerable to becoming victims of sexual exploitation within the national borders (internal trafficking)<sup>84</sup>.

ANITP Report for 2018<sup>85</sup> makes a relevant comment when it comes to why the proportion of minors in the total number of victims recorded each year remains so high, namely that it illustrates the effects of the law which regulates trafficking in minors<sup>86</sup>, as opposed to trafficking in persons (adults)<sup>87</sup>: while the first only needs the first two elements of the crime of HT to be proven – the action (recruitment, transportation, accommodation, etc.) and the purpose (exploitation), the latter also needs the third element, as well – the means (coercion, use of force, abuse of authority, etc.). This third element is much more difficult to prove in court, and therefore, many cases prosecuted in Romania as HT end up being solved as procuring, or they are suspended<sup>88</sup>. However, if a minor is found to be engaged in prostitution and the elements of recruitment, transportation, accommodation, and subsequent exploitation are proven, then the minor will be considered a victim of child trafficking<sup>89</sup>.

Considering all these statistics starting from 2011 to 2021, it can be concluded that Romania has been the destination country with the highest number of VOTs identified throughout the European Union every year, the majority of whom have been victims of sexual exploitation, with the rate of

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<sup>82</sup> 2020 ANITP Report, p. 24; 2021 ANITP Report, pp. 12-13.

<sup>83</sup> 2020 ANITP Report, p. 7, 10; 2021 ANITP Report, p. 18, 56.

<sup>84</sup> 2012 ANITP Report, pp. 10-11; 2021 ANITP Report, pp. 12-13.

<sup>85</sup> 2018 ANITP Report, pp. 26-27.

<sup>86</sup> Romanian New Criminal Code, Art. 211.

<sup>87</sup> *Ibidem*, Art. 210.

<sup>88</sup> “Expert al Comisiei Europene pe trafic de persoane: s-a creat o suprapunere între faptele de trafic de persoane și cele de proxenetism”, in: *Cluj Just*, 26 January 2023, [Online] available at: <https://www.clujjust.ro/expert-al-comisiei-europene-pe-traffic-de-persoane-s-a-creat-o-suprapunere-intre-faptele-de-traffic-de-persoane-si-cele-de-proxenetism/>; Ionuț Bedea, “Cum au scăpat de pușcărie zece traficanți de copii cu complicitatea politicianilor și procurorilor români”, in: *Europa Liberă România*, 28 January 2023, [Online] available at: <https://romania.europalibera.org/a/prescriere-traffic-de-persoane/32242927.html> (accessed 1 May 2023).

<sup>89</sup> 2018 ANITP Report, pp. 26-27.

trafficking in minors being almost equal or higher than the rate of trafficking in adults.

#### **4.1.11. Romanian persons suspected and convicted of human trafficking in the EUROSTAT reports**

Table 4.11 below shows the number of Romanian persons prosecuted for HT versus the number of Romanian persons convicted for HT, as compared to the total number of persons, regardless of citizenship, prosecuted and convicted for HT in the EU. The EUROSTAT statistics do not mention specifically if the numbers include Romanian suspects/convicts registered throughout the member states of the EU, but this might be the case since these figures differ from the numbers reported by the Romanian Government for the TIP Report (see Table 4.11). It can be noticed in Table 4.11 that the total number of suspects of HT gradually increased in the EU every year since 2011, reaching the highest peak in 2021, with a total of 9,647.

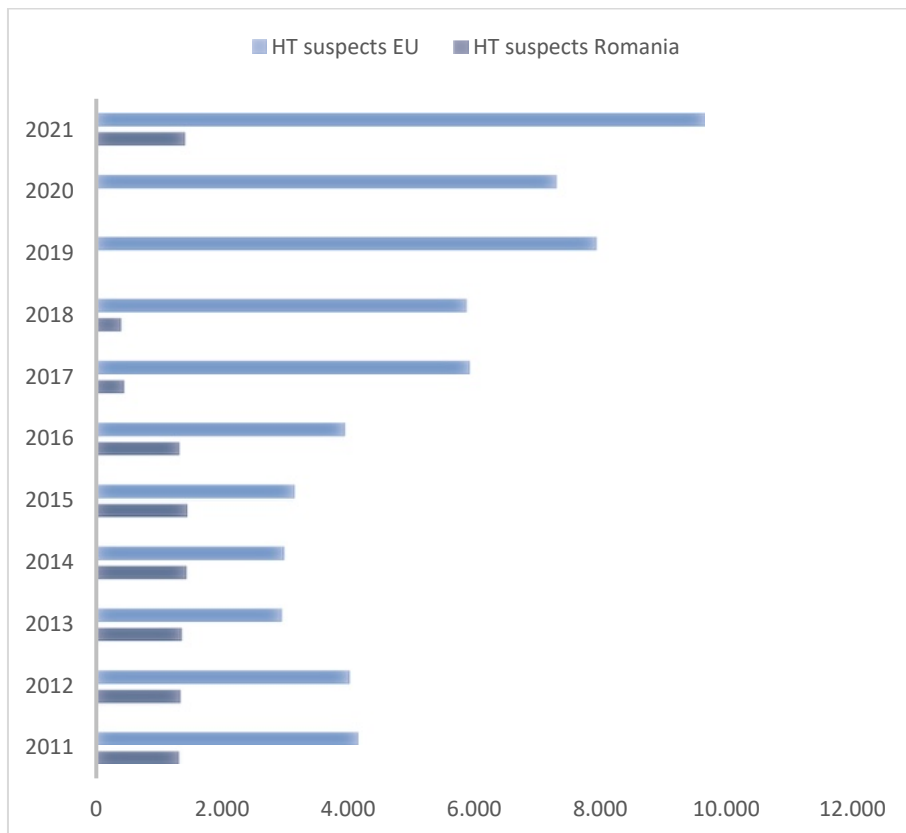
Table 4. 11. Romanian persons suspected and convicted of human trafficking versus the total number of persons suspected and convicted of human trafficking in the EU 2011-2021

TIME	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<b>HT suspects EU</b>	4,152	4,017	2,942	2,983	3,145	3,943	5,919	5,868	7,924	7,290	9,647
<b>HT suspects Romania</b>	1,296	1,342	1,363	1,438	1,449	1,324	450	400	-	-	1,415
<b>% Romanian HT suspects out of total HT suspects in EU</b>	31.21	33.41	<b>46.33</b>	<b>48.21</b>	<b>46.07</b>	33.58	7.60	6.82	-	-	14.67
<b>HT convicts EU</b>	1,351	1,064	1,455	1,497	1,580	1,341	1,734	693	1,724	1,295	2,517
<b>HT convicts Romania</b>	276	427	253	331	252	333	229	130	130	116	178
<b>% Romanian HT convicts out of total HT convicts in EU</b>	20.43	<b>40.13</b>	17.39	22.11	15.95	24.83	13.21	18.76	7.54	8.96	7.07

Source: EUROSTAT Report<sup>90</sup>

<sup>90</sup> EUROSTAT, *Persons involved in trafficking in human beings by legal status and sex*, last update 09.02.2023 [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_SEX/default/table](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_SEX/default/table), (accessed 18 February 2023).

Figure 4. 11. Romanian persons convicted for human trafficking as compared to the total per EU 2011-2021

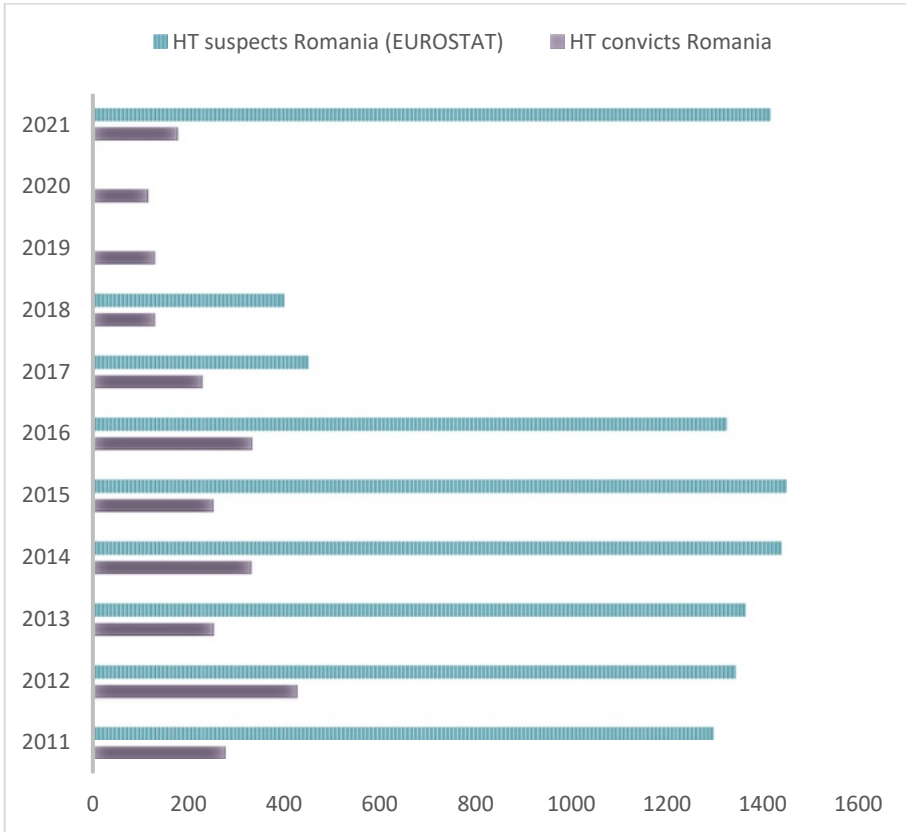


Source: EUROSTAT Report<sup>91</sup>

Another highlight is that Romanian HT suspects were one-third of the total number of suspects in the EU from 2011 until 2016, reaching almost 50% for three consecutive years, from 2013 to 2015, as seen in *Figure 4.12*. It is observed that there are no reported Romanian persons suspected of HT for the years 2019 and 2020 in the EUROSTAT Report. In 2021, the total number of suspects reported by EUROSTAT for Romania decreased to 15%, meaning a total of 1,415 (see *Table 4.11*; *Figure 4.12*).

<sup>91</sup> *Ibidem*.

Figure 4. 12. Romanian persons suspected versus convicted for human trafficking in the EU, 2011-2021



Source: EUROSTAT Report<sup>92</sup>

Another important aspect to analyse is the percentage of persons suspected as compared to persons convicted for HT (see Figure 4.12 and Table 4.12). At this point, we can compare the EUROSTAT data with the numbers reported by the Romanian Government, which can be found in the TIP Reports.

<sup>92</sup> *Ibidem.*



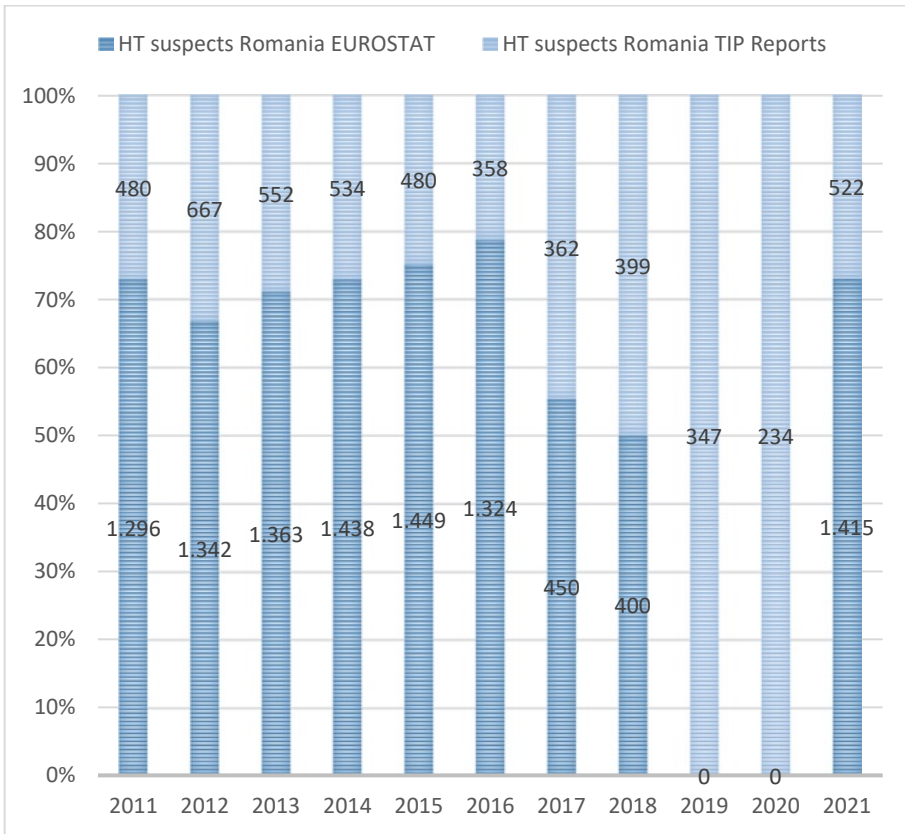
*Table 4. 12. Romanian persons suspected versus persons convicted for human trafficking in EUROSTAT and TIP reports, in numbers and percentages*

TIME	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<b>HT suspects Romania EUROSTAT</b>	1,296	1,342	1,363	1,438	1,449	1,324	450	400	-	-	1,415
<b>HT suspects Romania TIP report</b>	480	667	552	534	480	358	362	399	347	234	522
<b>% Romanian HT suspects in TIP Report vs EUROSTAT</b>	37.04	49.70	40.50	37.13	33.13	27.04	80.44	99.75	-	-	36.89
<b>HT convicts Romania EUROSTAT</b>	276	427	253	331	252	333	229	130	130	116	178
<b>HT convicts TIP Reports</b>	276	427	252	269	331	472	222	130	120	142	162

*Source: TIP Reports, EUROSTAT Reports*

Table 4.12 above shows the percentage of Romanian persons indicted for HT by prosecutors throughout the EU (as reported by NREMs of member states to EUROSTAT) as compared to the number of Romanian persons indicted for HT by prosecutors in Romania (as reported by DCCO and DIICOT to the US Department of State in the TIP Reports). For 2019 and 2020, EUROSTAT has nothing reported for the situation in Romania. Therefore, the numbers in the TIP Reports appear as 100% (see Figure 4.13). As for the rest of the years, from 2011 to 2016 (except for 2012), and including the year 2021, Romanian HT suspects as registered by Romania appear to be around one-third (35%) of the total number of Romanian HT suspects registered by member states throughout the EU, while in the year 2012, 2017 and 2018, the ratio is closer to 50%, respectively 80% and 100% (see Table 4.11 and Figure 4.13). This could imply that Romanian traffickers carry out their criminal activities in other EU states to a larger extent than within Romania. However, when compared to the almost 50/50 ratio between internal and international trafficking as reported by Romania (ANITP Reports, see Figure 4.4 and Table 4.4), it could be assumed that Romanian authorities do not get the chance to record all the victims of HT which are repatriated to Romania.

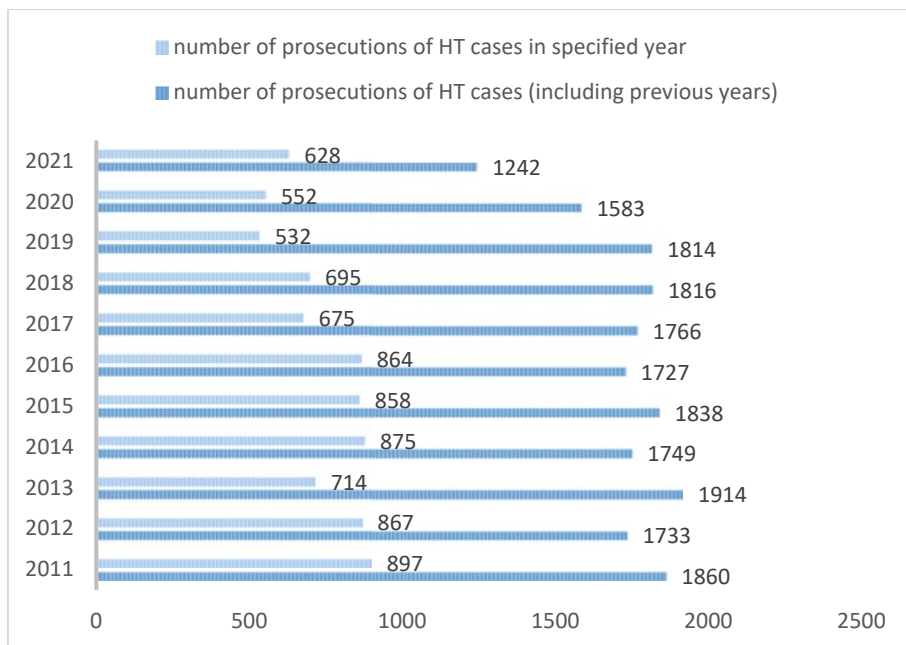
Figure 4. 13. Romanian human trafficking suspects in TIP Reports vs EUROSTAT reports in numbers and percentages



Source: TIP Reports, EUROSTAT Reports.

From statistics recorded at the national level within Romania, it appears that the number of persons prosecuted for HT (see Figure 4.14) is, on average, one-third of the numbers recorded at the EU level. It could be implied from here that the number of Romanian victims of HT trafficked within the EU could also be at least three times higher than the numbers recorded by ANITP for victims trafficked abroad.

Figure 4. 14. Number of prosecutions of human trafficking cases 2011-2021 in TIP Reports



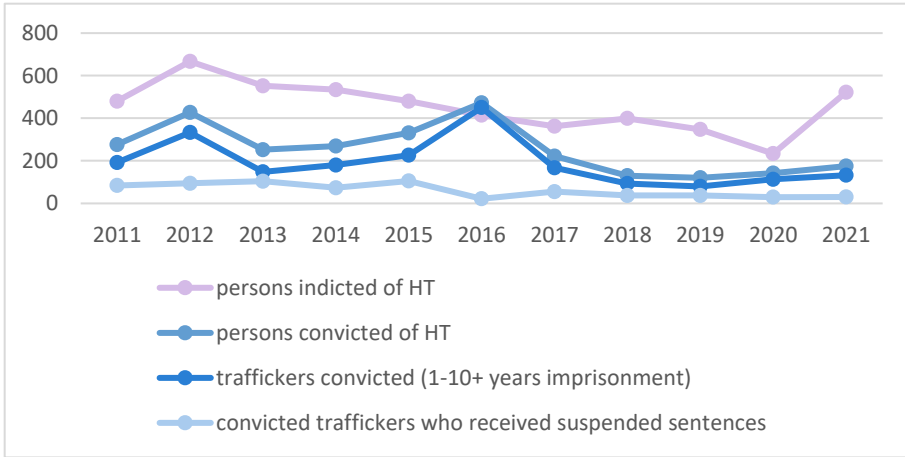
Source: TIP Reports, ANITP Reports

Figure 4.15 and Table 4.12 show the number of Romanian persons actually convicted out of the number of persons indicted (suspects) of HT, as reported in the national reports of ANITP, as well as the TIP Reports. It can be noticed that for the year 2016, the number of convictions is higher than the number of indictments, and this is because the reports for that year specify the total number of convictions for HT files from 2016 and previous years without providing disaggregation. For the rest of the years, it appears that the highest rate of convictions was 69% for 2015 (see Table 4.13 and Table 4.14), and the lowest in 2018 with 33%, and in 2021, with 34%. Of these convictions, the rate of persons who received suspended sentences ranged from 17% in 2021 (the lowest) to 41% in 2013 (the highest). The rest of them received sentences from 1 to 10 years of imprisonment (see Table 4.13). It can be derived from here that from 2011 to 2021, there has been a trend of giving traffickers suspended sentences, which means that the offence of HT has not been considered a very aggravating one until 2021, when Romania was pressured by the US Department of State to renounce the practice of suspending sentences, so as not to be downgraded to Tier 3<sup>93</sup>:

<sup>93</sup> US Department of State, *Trafficking in Persons Report*, June 2021, p. 468, [Online] available at: <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf> (accessed 2 May 2023).

“The use of plea bargains by prosecutors allowed for traffickers to receive reduced sentences, as well as guilty pleas, which reduced traffickers’ sentences by one-third and led to many lenient or suspended sentences.”<sup>94</sup>

Figure 4. 15. Indictments, convictions and suspended sentences for human trafficking 2011-2021



Source: TIP Reports, ANITP Reports

Table 4. 13. Indictments, convictions and suspended sentences for human trafficking in numbers 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
<b>persons indicted of HT</b>	480	667	552	534	480	358	362	399	347	234	522
<b>persons convicted of HT</b>	276	427	252	269	331	472	222	130	120	142	175
<b>traffickers convicted (1 to 10+ years imprisonment)</b>	192	333	148	180	226	450	167	93	80	113	132
<b>convicted traffickers who received suspended sentences</b>	84	94	104	73	105	22	55	37	37	29	30

Source: TIP Reports, ANITP Reports

<sup>94</sup> *Ibidem.*

Nevertheless, upon interviewing Laurențiu Dincă from ANITP Timișoara<sup>95</sup> and Ștefan Coman from IJM Romania<sup>96</sup>, it might be that the negative reputation that Romania has been having concerning the culture of impunity might be a result of incorrect interpretation of statistics, as well as national circumstances at a given time. Laurențiu Dincă states that<sup>97</sup>:

“I believe that this culture of impunity can no longer be talked about. I think we have gone beyond that; I mean, for at least ten years now, things have been changing, they are constantly changing, including since the new Criminal Code was adopted.”<sup>98</sup>

Also, Ștefan Coman from IJM attributes this reputation to a concurrence of circumstances in Romania<sup>99</sup>: first, the massive early retirement of law enforcement officials, which occurred in 2017 and subsequent years<sup>100</sup>, causing an acute lack of human resources in Romanian law enforcement; secondly, the amendment of the Criminal Law in 2020 by Law no. 217/2020101 through which the statute of limitations was lifted from the offence of HT and other related offences. Numerous cases had reached their statute of limitations during the waiting period, as the Court’s decision regarding retroactive application was issued. Consequently, when the decision was finally made, there were numerous acquittals due to the passage of time<sup>102</sup>.

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<sup>95</sup> Interview with Laurențiu Dincă (ANITP). See also Chapter 5.

<sup>96</sup> Interview with Ștefan Coman (IJM). See also Chapter 5.

<sup>97</sup> Interview with Laurențiu Dincă (ANITP). See also Chapter 5.

<sup>98</sup> *Ibidem*.

<sup>99</sup> Interview with Ștefan Coman (IJM). See also Chapter 5.

<sup>100</sup> “About 7,200 Romanian police officers retire this year”, in: *Romania Insider*, 25 September 2017, [Online] available at: <https://www.romania-insider.com/romanian-police-officers-retire-2017> (accessed 23 June 2023) [hereinafter, “About 7,200 Romanian police officers retire this year”, *Romania Insider*].

<sup>101</sup> *Parlamentul României, Lege nr. 217 din 29 octombrie 2020 pentru modificarea și completarea Legii nr. 286/2009 privind Codul penal, precum și pentru modificarea art. 223 alin. (2) din Legea nr. 135/2010 privind Codul de procedură penală*, publicat în Monitorul oficial nr. 1012 din 30 octombrie 2020, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/231967> (accessed 23 June 2023).

<sup>102</sup> “About 7,200 Romanian police officers retire this year”, *Romania Insider*.

Table 4. 14. *Indictments, convictions and suspended sentences for human trafficking in percentages 2011-2021*

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
persons indicted of HT	480	667	552	534	480	358	362	399	347	234	522
persons convicted of HT (% from persons indicted of HT)	57.50	64.02	45.65	50.37	68.96	131.84	61.33	32.58	34.58	60.68	33.52
traffickers convicted (1 to 10+ years imprisonment) (% from total persons convicted of HT)	69.57	77.99	58.73	66.91	68.28	95.34	75.23	71.54	66.67	79.58	75.43
convicted traffickers who received suspended sentences (% from total persons convicted of HT)	30.43	22.01	41.27	27.14	31.72	4.66	24.77	28.46	30.83	20.42	17.14

Source: TIP Reports, ANITP Reports

In 2010, Romania was in the international attention due to the infamous Țândărei Case<sup>103</sup>, where 25 traffickers, who had recruited and exploited 160 Roma children for begging and street crime in the UK, were acquitted by the Court of Appeal of Târgu-Mureș. Despite efforts made through a joint investigation by Romanian and British authorities, the defendants were acquitted due to the expiration of the statute of limitations. The case spanned almost nine years, involving legal proceedings, appeals, and investigations by DIICOT and the Judicial Inspectorate<sup>104</sup>.

<sup>103</sup> “Cei 25 de inculpați în dosarul Țândărei, achitați definitiv. Procesul s-a încheiat după aproape 9 ani”, in: *Digi24*, 23 December 2019, [Online] available at: <https://www.digi24.ro/stiri/actualitate/cei-25-de-inculpati-in-dosarul-tandarei-achitati-definitiv-procesul-s-a-incheiat-dupa-aproape-9-ani-1236072> (accessed 24 April 2023).

<sup>104</sup> *Ibidem*.

The US Department of State has been constantly highlighting in their yearly TIP Report that the Romanian government does not employ sufficient efforts to prosecute perpetrators and does not apply appropriate penalties for the crime of HT. In their latest report, the 2023 TIP Report<sup>105</sup>, the US government highlights specifically the issue of acquittals:

“Between June 2018 and October 2022, the Constitutional Court of Romania and the High Court of Cassation and Justice issued several rulings, changing calculations of the statute of limitations [...] resulting in the dismissal of dozens of cases, including trafficking cases. This change led to case dismissals, no penalty for defendants indicted for various crimes, including trafficking, who had already undergone lengthy investigations and trials, and undermined efforts to combat trafficking. For example, in January 2023, courts dismissed a case involving five organised crime members in a child sex trafficking case dating back 12 years involving two institutionalised 14- and 15-year-old girls. Also, in January 2023, the same court dismissed a case of eight known traffickers who, in 2011 and 2012, exploited several underage girls in Romania and Italy. In early March 2023, courts dismissed the case of a former police chief who aided a group of traffickers by ignoring complaints submitted by child trafficking victims.”<sup>106</sup>

We will analyse the issue of acquittals in Case Study 2 further in this chapter and the responses to the interviews in Chapter 5 to better understand whether there is indeed a culture of impunity in Romania and, if so, what the causes of this issue are.

## **4.2. The Romanian Legislative Framework in the Area of Preventing and Combatting Human Trafficking**

### ***4.2.1. Definition of human trafficking in the Romanian legislation***

In the following section, we will analyse the Romanian legislative framework, as compared to the *Palermo Protocol*, the *CoE Convention*, and the *EU Directive* analysed in the previous chapter, as well as the implementation thereof, so as to reveal the loopholes that might fuel these high rates of both internal and external trafficking. In this analysis, the framework of the previous chapter will be closely followed to reflect the “4P paradigm” in Romanian legislation and its particularities.

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<sup>105</sup> US Department of State, *2023 Trafficking in Persons Report: Romania*, [Online] available at: <https://www.state.gov/reports/2023-trafficking-in-persons-report/romania/> (accessed 15 August 2023).

<sup>106</sup> *Ibidem*.

The Romanian Criminal Code of 1969<sup>107</sup> had no specific provision for the offence of HT; however, there was a special law dealing with this offence, namely *Law No. 678/2001 on preventing and combating trafficking in human beings*<sup>108</sup>, which was amended<sup>109</sup> in 2010 and is still in force. The first version of this law appeared as a result of the *Palermo Protocol* (2000), to which Romania became a signatory on December 14, 2000. Then, a new Criminal Code, the current one (hereinafter, NCC)<sup>110</sup>, was adopted in 2009 and entered into force on February 1, 2014; having been adopted after the *CoE Convention* (2005), and having entered into force after the adoption of the *EU Anti-Trafficking Directive* (2011), it reflects the offence of HT as provided for in all three international documents.

Romania has adopted specific laws for the ratification of these documents, as follows:

- *Law No. 565 of 16 October 2002 for the ratification of the United Nations Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women And Children, supplementing the United Nations Convention Against Transnational Organized Crime, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime, adopted in New York on 15 November 2000*<sup>111</sup>;
- *Law No. 300/2006 on the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings, adopted on 3 May 2005 together with the European Convention on Human Rights, Charter of Fundamental Rights of the Union*<sup>112</sup>.

As for *Directive 2011/36/EU*, ANITP stated in *Annex no. 1 of the National Strategy against Trafficking in Persons for the period 2018-2022*<sup>113</sup> that

<sup>107</sup> “Codul Penal din 1968 CODUL PENAL – Republicare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16785596/61/codul-penal-din-1968-codul-penal-republicare?keyword=codul%20penal%201969&cm=STOP> (accessed 24 April 2023).

<sup>108</sup> *LEGE nr. 678 din 21 noiembrie 2001 privind prevenirea și combaterea traficului de persoane*, [Online] available at: [https://www.cdep.ro/pls/legis/legis\\_pck.htp\\_act\\_text?id=30767](https://www.cdep.ro/pls/legis/legis_pck.htp_act_text?id=30767) (accessed 24 April 2023) [hereinafter, *Law no. 678/2001*].

<sup>109</sup> *LEGE nr. 678 din 21 noiembrie 2001 (actualizată)*, [Online] available at: [https://anitp.mai.gov.ro/ro/docs/legislatie/678\\_2001.pdf](https://anitp.mai.gov.ro/ro/docs/legislatie/678_2001.pdf) (accessed 24 April 2023).

<sup>110</sup> *Romanian New Criminal Code*.

<sup>111</sup> *LEGE nr. 565 din 16 octombrie 2002*, Portal legislativ, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/39747> (accessed 24 April 2023).

<sup>112</sup> *LEGE nr. 300 din 11 iulie 2006*, Camera deputaților, [Online] available at: [https://www.cdep.ro/pls/legis/legis\\_pck.htp\\_act?ida=65910](https://www.cdep.ro/pls/legis/legis_pck.htp_act?ida=65910) (accessed 24 April 2023).

<sup>113</sup> *Strategia națională împotriva traficului de persoane pentru perioada 2018 – 2022 (Anexa 1)*, [Online] available at: <https://sgg.gov.ro/1/wp-content/uploads/2018/10/ANEXA-1-22.pdf> (accessed 24 April 2023) [hereinafter, *SNITP*].



Romania already had in place most of the substantive and procedural criminal law provisions contained in the Directive and, therefore, no major interventions were needed when transposing the Directive into Romanian law<sup>114</sup>. Romanian authorities, therefore, declare that Romania has adequate legislation on HT. According to a statement made by Iulia Moțoc, Romanian judge in the ECtHR, the problem in Romania is not with the legislation but with its implementation<sup>115</sup>.

Table 4. 15. Definition of human trafficking in the Romanian legislation, compared to the Palermo Protocol, CoE Convention and the EU Directive

DEFINITION OF HUMAN TRAFFICKING			
Palermo Protocol	COE Convention	2011 EU Directive	Romanian legislation <sup>116</sup>
<b>THE ACTION</b>			
<b>Article 3</b> “a) the recruitment, transportation, transfer, harbouring or receipt of persons (...)”	<b>Article 4</b> “a) the recruitment, transportation, transfer, harbouring or receipt of persons (...)”	<b>Article 2</b> “1. The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons (...)”	<b>Art. 210. NCC</b> “(1) The recruitment, transportation, transfer, harbouring or receipt of a person (...)”
<b>THE MEANS</b>			
- “by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception”, - “of the abuse of power”	- “by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception”, - “of the abuse of power”	- “by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception”, - “of the abuse of power”	“(a) by means of coercion, abduction, deception”  - “or abuse of authority”

<sup>114</sup> *Ibidem*, p. 8.

<sup>115</sup> Daniela Rațiu, “Interviu Iulia Motoc, judecător CEDO: România este primul stat din UE care furnizează victime pentru trafic, fie pentru exploatare sexuală sau muncă forțată”, in: *G4Media*, 5 April 2021, [Online] available at: <https://www.g4media.ro/interviu-iulia-motoc-judecator-cedo-romania-este-primul-stat-din-ue-care-furnizeaza-victime-pentru-traffic-fie-pentru-exploatare-sexuala-sau-munca-fortata.html> (accessed 28 March 2023).

<sup>116</sup> Translated from Romanian by the author (A/N).

- “or of a position of vulnerability or” - “of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”	- “or of a position of vulnerability or” - “of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”	- “or of a position of vulnerability” - “or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person”	“(b) by taking advantage of a person’s inability to defend himself or herself or to express his or her wishes, or of a person’s state of obvious vulnerability”  “(c) by offering, giving, accepting or receiving money or other benefits in exchange for the consent of the person having control over that person”
<b>THE PURPOSE</b>			
“(…) for the purpose of exploitation.”	“(…) for the purpose of exploitation.”	“(…) for the purpose of exploitation.”	“(…) for the purpose of exploitation”
<b>POSITION OF VULNERABILITY DEFINED</b>			
-	-	<b>Article 2</b> “2. A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.”	-
<b>EXPLOITATION DEFINED</b>			
			<b>Law 678/2001</b> <sup>117</sup> “b) <b>exploitation</b> of a person means the activities referred

<sup>117</sup> Law no. 678/2001.

<p><b>Article 3</b> “a) <b>Exploitation</b> shall include, at a minimum,</p> <ul style="list-style-type: none"> <li>- the exploitation of the prostitution of others or other forms of sexual exploitation,</li> <li>- forced labour or services,</li> <li>- slavery or practices similar to slavery, servitude or</li> <li>- the removal of organs;”</li> </ul>	<p><b>Article 4</b> “a) <b>Exploitation</b> shall include, at a minimum,</p> <ul style="list-style-type: none"> <li>- the exploitation of the prostitution of others or other forms of sexual exploitation,</li> <li>- forced labour or services,</li> <li>- slavery or practices similar to slavery, servitude or</li> <li>- the removal of organs;”</li> </ul>	<p><b>Article 2</b> “3. <b>Exploitation</b> shall include, as a minimum,</p> <ul style="list-style-type: none"> <li>- the exploitation of the prostitution of others or other forms of sexual exploitation,</li> <li>- forced labour or services, including begging,</li> <li>- slavery or practices similar to slavery, servitude,</li> <li>- or the <b>exploitation of criminal activities,</b></li> <li>- or the removal of organs.”</li> </ul>	<p>to in Article 182 of the Criminal Code”</p> <p><b>Art. 182 NCC</b><sup>118</sup> “<b>Exploitation</b> of a person means:</p> <ul style="list-style-type: none"> <li>(a) forced labour or services;</li> <li>(b) holding in slavery or other similar practices of deprivation of liberty or servitude;</li> <li>(c) compelling an individual to engage in prostitution, in pornographic performances for the purpose of producing and disseminating pornographic material or in other forms of sexual exploitation;</li> <li>(d) compelling an individual to engage in begging;</li> <li>(e) the illegal removal of organs, tissues or cells of human origin.”</li> </ul>
<b>CONSENT IRRELEVANT</b>			
<p><b>Article 3</b> “(b) The consent of a victim of trafficking in persons to the intended</p>	<p><b>Article 4</b> “b The consent of a victim of “trafficking in human beings” to the intended</p>	<p><b>Article 2</b> “4. The consent of a victim of trafficking in human beings to the exploitation, whether intended</p>	<p><b>Art. 210. NCC</b> “(3) The consent of the trafficked person shall not constitute justifiable cause.”</p>

<sup>118</sup> Romanian New Criminal Code.

exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used”	exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used”	or actual, shall be irrelevant where any of the means set forth in paragraph 1 has been used.”	
<b>PENALTY FOR THE MAIN OFFENCE OF HT</b>			
		<b>Article 4</b> “1. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a maximum penalty of at least five years of imprisonment.”	<b>Article 210 NCC</b> “1 c) shall be punishable by <b>3 to 10 years’ imprisonment</b> and prohibition of the exercise of certain rights.”

Source: Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive, and the Romanian legislation

Table 4.15 analyses the current definition of HT in the Romanian legislation, compared to the Palermo Protocol, CoE Convention, and the *EU Directive*, according to the three main elements of the definition of HT, namely the “action”, the “means” and the “purpose”. The following sections will further build on other aspects of Romanian legislation related to the offence of HT, highlighting the elements that might be problematic in judicial practice.

#### **A. Definition of “a victim of human trafficking”**

As seen in Table 4.16 below, Law 678/2001 also defines a “victim of human trafficking” (VOT) as “the natural person who is a passive subject of the offences referred to in Articles 210, 211, 264 and 374 of the Romanian New Criminal Code (NCC) or of an attempt to commit one of these offences, regardless of whether or not he or she participates in the criminal proceedings as an injured party.” This definition covers three essential aspects of the *EU Directive*:

- a. it defines **the victim of the main offence** of HT as including victims of various related offences: trafficking in persons (i.e., adults) (Art. 210 NCC), trafficking in minors (Art. 211. NCC), facilitation of illegal stay in Romania (Art. 264 NCC), which the *EU Directive*

- makes it dependent on the victim's cooperation with the authorities<sup>119</sup>, and child pornography (Art. 374 NCC)<sup>120</sup>;
- b. it criminalises the attempt as **secondary behaviour** of the crime of HT;
  - c. it makes it irrelevant whether or not the victim participates in the criminal proceedings as an injured party, thus placing the **ex-officio obligation of state authorities to investigate and prosecute** all offences covered by Articles 210, 211, 264, and 374 of NCC where there is "a reasonable-grounds indication"<sup>121</sup> for believing that a person might be a victim of this crime.

Table 4. 16. Definition of a victim of human trafficking in the Romanian legislation, compared to the Palermo Protocol, CoE Convention and the EU Directive

DEFINITION OF A VICTIM OF HUMAN TRAFFICKING			
Palermo Protocol	COE Convention	2011 EU Directive	Romanian legislation <sup>122</sup>
	<p><b>Article 4</b> "e) 'Victim' shall mean any natural person who is subject to trafficking in human beings as defined in this article."</p>	<p>[No specific definition of victim]</p> <p><b>Recital 15</b> "To ensure the success of investigations and prosecutions of human trafficking offences, their initiation should not depend, in principle, on reporting or accusation by the victim."</p>	<p><b>Law 678/2001</b> "c) 'victim of trafficking in persons' means a natural person who is a passive subject of the offences referred to in Articles 210, 211, 264, and 374 of the Criminal Code or of an attempt to commit one of these offences, regardless of whether or not he or she participates in the criminal proceedings as an injured party."</p>

Source: Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive and the Romanian legislation

<sup>119</sup> EU Directive, Recital 7: "Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities (...) should be taken into consideration".

<sup>120</sup> However, child pornography is covered by a separate directive, namely Directive 2011/93/EU.

<sup>121</sup> EU Directive, Art. 11(2).

<sup>122</sup> Translated from Romanian by the author (A/N).

## B. The penalty for human trafficking

The main offence, as well as the secondary behaviour (e.g., attempt), are, according to the Romanian New Criminal Code (NCC), punishable by 3 to 10 years imprisonment and prohibition of the exercise of certain rights (Article 210(c) NCC)<sup>123</sup>, which is within the limits drawn by the *EU Directive*. By comparison, the French Criminal Code sanctions HT with seven years imprisonment and a fine of EUR150,000<sup>124</sup>, while the Spain Criminal Code sanctions it with a prison sentence of five to eight years<sup>125</sup>. The Romanian Criminal Code was amended in 2020<sup>126</sup> to increase the minimum penalty for trafficking in children from 3-10 years' imprisonment (which used to be the same penalty as for HT) to 5-10 years imprisonment<sup>127</sup>.

However, GRETA<sup>128</sup> notes that a significant number of sentences end up being suspended, and the use of plea bargaining or similar agreements allows perpetrators to have their punishment reduced<sup>129</sup>. The TIP Reports also point out every year the number of suspended sentences for HT cases in Romania, which has been one of the reasons why Romania has been on Tier 2 from 2011 to 2018 and downgraded to Tier 2 Watchlist from 2019 to 2021<sup>130</sup> (see *Tables 4.3 and 4.14; Figure 4.15*).

## C. The issue of “consent”

Regarding “consent”, the Romanian legislation is briefly mentioned in Art. 210. NCC, that “the consent of the trafficked person shall not constitute justifiable cause”; however, it lacks the precision of all three international documents analysed, which say that “consent (...) to exploitation, *whether intended or actual, shall be irrelevant where any of the means (...) has been*

<sup>123</sup> *Romanian New Criminal Code*, Art. 210(c).

<sup>124</sup> *French Penal Code*, Article 225-4-1, [Online] available at: [https://www.equalrightstrust.org/ertdocumentbank/french\\_penal\\_code\\_33.pdf](https://www.equalrightstrust.org/ertdocumentbank/french_penal_code_33.pdf) (accessed 25 April 2023).

<sup>125</sup> Ministerio de Justicia, *Criminal Code*, Article 177 bis (1), 2016, [Online] available at: [https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal\\_Code\\_2016.pdf](https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documents/Criminal_Code_2016.pdf) (accessed 25 April 2023).

<sup>126</sup> By Law No 217/2020 on amending and supplementing Law No 286/2009 on the Criminal Code and amending Article 223 para. (2) of Law No. 135/2010 on the Code of Criminal Procedure: 2020 ANITP Report, București, 2021, p. 26.

<sup>127</sup> *Romanian New Criminal Code*.

<sup>128</sup> GRETA, *Third Round Evaluation Report Romania*, paras. 80, 101, 106.

<sup>129</sup> *Ibidem*; Council of Europe, *Romania urged to effectively prosecute human traffickers and to ensure access to compensation for their victims*, MEDIA RELEASE Réf. DC 109(2021), Strasbourg, 3 June 2021, [Online] available at: [https://search.coe.int/directorate\\_of\\_communications/Pages/result\\_details.aspx?ObjectId=0900001680a2b3df](https://search.coe.int/directorate_of_communications/Pages/result_details.aspx?ObjectId=0900001680a2b3df) (accessed 25 April 2023).

<sup>130</sup> US Department of State, *Trafficking in Persons Report*, [Online] available at: <https://www.state.gov/trafficking-in-persons-report/> (accessed 25 April 2023).

used”<sup>131</sup>. This would have made it clear that in case only one means of exploitation is proven in court, for example, *deception*, as in *Case Study 2* (see *Appendix 4*), or *abuse of a position of vulnerability*, as in *Case Study 1* (see *Appendix 3*), it is irrelevant whether or not the (adult) victim gave their consent to the exploitation (even exploitation of prostitution – which poses a problem when considering the Romanian law on procuring). In practice, this aspect is quite controversial, as explicated in the previous chapter. Romania, among other states, has some difficulty in making the difference between the offence of HT and the offence of procuring<sup>132</sup>, as the offence of procuring is defined as “determining (inducing a person to practise prostitution - A/N) or facilitating the practice of prostitution or obtaining financial gain from the practice of prostitution”<sup>133</sup>, which collides with the concept of coercion (either physical or psychological) as a “means”, which is part of the definition of HT. This lack of clarity is worsened by Art. 213(2) on procuring, which says:

“If the inducement<sup>134</sup> to engage in or continue prostitution was achieved by *coercion*, the penalty is imprisonment from 3 to 10 years and disqualification from exercising certain rights.”<sup>135</sup>

Iugan states<sup>136</sup>, based on *Decision no. 134/2018 of 29-May-2018, High Court of Cassation and Justice Bucharest*<sup>137</sup>, that the difference between the two offences consists in rightfully determining whether the consent of the victim was affected, either by aggressive or non-aggressive means of coercion,

<sup>131</sup> *Palermo Protocol*, Art. 3(b); CoE Convention 4(b); EU Directive, Art. 2(4) (*Emphasis added*).

<sup>132</sup> US Department of State, *Trafficking in Persons Report, June 2015*, p. 289; *Trafficking in Persons Report, June 2016*, p. 317; *Trafficking in Persons Report, June 2017*, p. 343; *Trafficking in Persons Report, June 2018*, p. 368; *Trafficking in Persons Report, June 2019*, p. 400; *Trafficking in Persons Report, June 2020*, p. 425, [Online] available at: <https://www.state.gov/trafficking-in-persons-report/> (accessed 18 February 2023).

<sup>133</sup> *Romanian New Criminal Code*, Art. 213(1).

<sup>134</sup> In Romanian, “determinarea”, which, according to the Romanian dictionary, is defined as “making someone take a certain decision” (A/N). See <https://dexonline.ro/definitie/determinare> (accessed 2 May 2023).

<sup>135</sup> *Ibidem*, Art. 213(2).

<sup>136</sup> Andrei Viorel Iugan, “*Codul Penal adnotat. Partea specială. Jurisprudență națională 2014-2020 din 01-iul-2021*”, in: *Universul Juridic*, art. 188., [Online] available at: <https://sintact.ro/#/commentary/587237868/1/iugan-andrei-viorel-codul-penal-adnotat-partea-speciala-jurisprudenta-nationala-2014-2020-din-01-...?pit=2023-04-14&keyword=dec.%20pen.%20nr.%20134~2F29.05.2018&cm=SFIRST> (accessed 17 April 2023).

<sup>137</sup> “Decizie nr. 134/2018 din 29-mai-2018, Inalta Curte de Casatie si Justitie Bucuresti”, *Sintact*, [Online] available at: <https://sintact.ro/#/jurisprudence/520787050?cm=DOCUMENT> (accessed 17 April 2023) [hereinafter, *Decision no. 134/2018 of 29-May-2018, High Court of Cassation and Justice Bucharest*].

concluding that procuring is when the person who is encouraged to engage in prostitution gives their consent in “an unaltered manner”:

“When analysing the difference between the offence of procuring and the offence of trafficking in persons, considering the manner in which the victim expresses their consent, the Court holds that, in the case of procuring, the person who is encouraged or facilitated to engage in prostitution gives their consent in an unaltered manner, their will to engage in prostitution being entirely and freely their own, while in the case of trafficking in persons, consent to exploitation, including in the form of prostitution, is affected by aggressive or non-aggressive means of coercion in pursuit of the same end.”<sup>138</sup>

However, the methods or means by which it can be considered acceptable evidence that consent was “unaltered” by the subtle forms of psychological coercion, for instance, are not mentioned and are left to the rather subjective and differing views of the judicial authorities. Therefore, we believe that such a rigid interpretation of “consent” by the use of vague and general terms such as “unaltered” and “their will being (...) entirely and freely their own” comes in direct contradiction with the concept of “abuse of a position of vulnerability”, which is not defined in the Romanian legislation, and is only vaguely and generally described in the *EU Directive*. Both these concepts are difficult to pinpoint, especially when evidence must be brought in court, specifically evidence that does not give place to interpretation, as the Court of Argeş considered in their decision to acquit the defendant (see *Case Study 2, Appendix 4*).

The questions arising, therefore, when revising the *EU Directive*, as well as the Romanian legislation, are as follows:

1. What are the **means** by which the prosecuting bodies can **gather proof** that an individual was “compelled to engage in prostitution”<sup>139</sup> and it was not a decision “entirely and freely their own”<sup>140</sup> In cases where **only the testimonies of witnesses** are available (which, as seen in *Case Study 2*, are considered to be subject to interpretation)?
2. What are the **criteria** by which judicial authorities are to decide that the person concerned “has **no real or acceptable alternative** but to submit to the abuse involved”<sup>141</sup>?
3. What is the **mechanism** or **methodology** by which these questions, once answered, can be securely implemented uniformly at the

<sup>138</sup> Andrei Viorel Iugan, *op. cit.*, para. 9 [translation provided by the author].

<sup>139</sup> *Romanian New Criminal Code*, Art. 182(c).

<sup>140</sup> Andrei Viorel Iugan, *op. cit.*, para. 9.

<sup>141</sup> Definition of “position of vulnerability” as defined by Article 2(2) of the *EU Directive*.



national level, as well as throughout the EU Member States (especially for transnational cases)?

4. What is the **authority** or **body** which can **evaluate** and **monitor** the competent and satisfactory implementation of this mechanism/methodology, firstly at the national level and secondly at the EU level?

#### D. Definition of trafficking in minors

In the case of minor victims, however, not only is consent irrelevant, but also none of the means of trafficking is needed to prosecute a case as child trafficking. The Romanian law does not specifically mention this latter part of the definition contained in the *EU Directive* and the other two documents, but it is implicitly understood in the simplified definition itself (see *Table 4.17*). Trafficking in minors is covered by a separate article in the Romanian Criminal Code – Article 211 NCC – and is sanctioned by imprisonment for a term of 5 to 10 years<sup>142</sup> and prohibition of the exercise of certain rights, the same as the aggravating form of trafficking in persons covered by Article 210(2) NCC. Moreover, when any of the means mentioned in Art. 210 is present; it is considered to be an aggravating form of child trafficking and is punished with imprisonment starting from **at least 7 years**. While all three international anti-trafficking instruments explain the concept of “a child” as a person under the age of 18, the Romanian law specifies this aspect in Law No. 272/2004 on the protection and promotion of the rights of the child.

*Table 4. 17. Definition of child trafficking in the Romanian legislation, compared to the Palermo Protocol, CoE Convention and the EU Directive*

DEFINITION OF TRAFFICKING IN MINORS			
<i>Palermo Protocol</i>	<i>COE Convention</i>	<i>2011 EU Directive</i>	<i>Romanian legislation</i> <sup>143</sup>
<b>THE ACTION</b>			
<b>Article 3</b> “(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in persons’ (...)”	<b>Article 4</b> “c The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered ‘trafficking in human beings’ (...)”	<b>Article 2</b> “5. When the conduct referred to in paragraph 1 involves a child, it shall be a punishable offence of trafficking in human beings (...)”	<b>Art. 211 NCC. Child trafficking</b> “(1) The recruitment, transportation, transfer, harbouring or receipt of a minor for the purpose of exploitation (...)”

<sup>142</sup> After amendment of the Romanian New Criminal Code in 2020 (A/N).

<sup>143</sup> Translated from Romanian by the author (A/N).

<b>THE PURPOSE</b>			
“(…) for the purpose of exploitation”	“(…) for the purpose of exploitation”	<i>[referral to the purpose of exploitation is implicit in the definition]</i>	“(…) for the purpose of exploitation”
<b>NO MEANS REQUIRED</b>			
“(…) even if this does not involve any of the means set forth in subparagraph (a) of this article (…)”	“(…) even if this does not involve any of the means set forth in subparagraph (a) of this article (…)”	“(…) even if none of the means set forth in paragraph 1 has been used.”	-
<b>PENALTY FOR TRAFFICKING IN MINORS // aggravating circumstance</b>			
-	<b>Article 24</b> “Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention: (…) b. the offence was committed against a child (…)”	<b>Article 4</b> “2. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a maximum penalty of at least 10 years of imprisonment where that offence:  (a) was committed against a victim who was particularly vulnerable, which, in the context of this Directive, shall include at least child victims (…)”	“(…) shall be punishable by <b>imprisonment for a term of 5 to 10 years</b> and prohibition of the exercise of certain rights.”
<b>DEFINITION OF CHILD</b>			
“(d) ‘Child’ shall mean any person under eighteen years of age.”	“d ‘Child’ shall mean any person under eighteen years of age (…)”	“6. For the purpose of this Directive, ‘child’ shall mean any person below 18 years of age.”	<b>Law No 272/2004 on the protection and promotion of the rights of the child</b> “Art. 4 For the purposes of this Law, the

			<p>following terms and expressions shall have the following meanings:</p> <p>a) child - a person who has not attained the age of 18 years and has not acquired full legal capacity according to the law (...)"</p>
<b>AGGRAVATED FORM OF TRAFFICKING IN MINORS</b>			
-	-	-	<p><b>Art. 211 NCC.</b>  <b>Child trafficking</b>  “(2) The penalty shall be imprisonment for a term of 7 to 12 years and prohibition of the exercise of certain rights where:</p> <p>(a) the offence has been committed in accordance with Article 210 (2) of the Criminal Code. (1);</p> <p>b) the offence was committed by a public official in the performance of his duties;</p> <p>c) the act endangered the life of the minor;</p> <p>d) the act was committed by a family member or a person living with the victim;</p> <p>(e) the act has been committed by a person in whose care, custody, upbringing,</p>

			guardianship or treatment the minor is placed, or the offender has abused his recognised position of trust or authority over the minor or the minor's manifestly vulnerable position owing to a mental or physical disability, a situation of dependence, a state of physical or mental incapacity or any other cause.”
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Source: Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive and the Romanian legislation

Due to the fact that there is no need to provide evidence in court for the means used in the offence of trafficking in minors, it is easier to convict such cases, which is reflected in the statistics and reports provided by ANITP (see Figure 4.7 and Table 4.8).

### E. Aggravating circumstances

Concerning trafficking in persons (adults), Art. 210 NCC (see Table 4.18) does not specify aggravating circumstances other than situations when the offence was committed by a public official in the performance of his duties – punishable by imprisonment for a term of 5 to 12 years<sup>144</sup>. However, in the judicial practice, Art. 77 NCC specifically dealing with aggravating circumstances may also be used in connection with Art. 210 NCC.

Article 211 NCC covers in more detail the **aggravating circumstances of trafficking in minors**, which include:

- a. “situations when any of the means in Art. 210 was used;
- b. the offence was committed by a public official in the performance of his duties;
- c. the act endangered the life of the minor;
- d. the act was committed by a family member or a person living with the victim;

<sup>144</sup> Romanian New Criminal Code, Art. 210(2).

- e. the act has been committed by a person in whose care, custody, upbringing, guardianship or treatment the minor is placed, or the offender has abused his recognised position of trust or authority over the minor or the minor's manifestly vulnerable position owing to a mental or physical disability, a situation of dependence, a state of physical or mental incapacity or any other cause.<sup>145</sup>

Table 4. 18. Definition of the aggravated form of trafficking in persons (i.e., adults)

AGGRAVATED FORM OF TRAFFICKING IN PERSONS (i.e., adults)			
Palermo Protocol	CoE Convention	2011 EU Directive	Romanian legislation <sup>146</sup>
-	<p><b>Article 24</b> “Each Party shall ensure that the following circumstances are regarded as aggravating circumstances in the determination of the penalty for offences established in accordance with Article 18 of this Convention:</p> <p>a. the offence deliberately or by gross negligence endangered the life of the victim;</p> <p>b. the offence was committed against a child;</p>	<p><b>Article 4</b> “2. Member States shall take the necessary measures to ensure that an offence referred to in Article 2 is punishable by a <b>maximum penalty of at least 10 years of imprisonment</b> where that offence:</p> <p>(a) was committed against a victim who was particularly vulnerable, which, in the context of this Directive, shall include <b>at least child victims</b>;</p> <p>(b) was committed within the framework of a criminal organisation within the meaning of Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime (1);</p>	<p><b>Art. 210. NCC</b> “(2) Trafficking in human beings committed by a public official in the exercise of official duties shall be punishable by imprisonment for a term of <b>5 to 12 years.</b>”</p>

<sup>145</sup> *Ibidem*, Art. 211(2).

<sup>146</sup> Translated from Romanian by the author (A/N).

	<p>c. the offence was committed by a public official in the performance of her/his duties;</p> <p>d. the offence was committed within the framework of a criminal organisation.”</p>	<p>(c) deliberately or by gross negligence endangered the life of the victim or</p> <p>(d) was committed by use of serious violence or has caused severe harm to the victim.</p> <p>3. Member States shall take the necessary measures to ensure that the fact that an offence referred to in Article 2 was committed by public officials in the performance of their duties is regarded as an aggravating circumstance.”</p>	
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Source: Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive and the Romanian legislation

#### **4.2.2. Analysis of the Romanian legislation on human trafficking according to the 4P paradigm**

The following section analyses Romanian legislation on HT according to the “4P” Paradigm, following the analysis structure used in Chapter 3, as follows:

- A. Prosecution and approximation of penalties
- B. Protection of victims
- C. Assistance of victims: the rights of VOTs in Romania
- D. Prevention
- E. Partnerships/cooperation.

##### **A. Prosecution and Approximation of Penalties**

###### *i) The main offence of human trafficking: criminalised*

HT is defined in the Romanian legislation by Article 210 NCC, while child trafficking is defined in a separate article, namely Article 211 NCC. As analysed in the previous chapter, Romania is bound by all three international documents; however, we shall mostly compare the Romanian legislation with the *EU Anti-Trafficking Directive* and also with the *CoE Convention*, as these are more detailed and specific than the definitions contained by the *Palermo*

*Protocol*. Table 4.15 above shows the definition of HT as provided for in Romanian legislation, compared to the three international instruments analysed in this paper.

ii) *Secondary behaviour criminalised: incitement, aiding and abetting, and attempt*

Following Article 3 of the *EU Directive*, Romania has criminalised the attempt to commit trafficking in persons and trafficking in minors in Art. 217 NCC (see Table 4.19 below). However, as mentioned in the *EU Directive* and the other two documents, it has left aside the other types of secondary behaviour, i.e., incitement, aiding, and abetting. *Case Study 1* (see Appendix 3) within this paper exemplifies the attempt to commit HT and the penalty applied to it.

Table 4. 19. *Secondary behaviour of human trafficking in the Romanian legislation, compared to the Palermo Protocol, CoE Convention and the EU Directive*

INCITEMENT, AIDING AND ABETTING, AND ATTEMPT			
<i>Palermo Protocol</i>	<i>CoE Convention</i>	<i>2011 EU Directive</i>	<i>Romanian legislation</i> <sup>147</sup>
<p><b>Article 5</b>            “2. Each State Party shall also adopt such legislative and other measures as may be necessary to establish as criminal offences:            (a) Subject to the basic concepts of its legal system, attempting to commit an offence established in accordance with paragraph 1 of this article;            (b) Participating as an accomplice in an offence established in accordance with</p>	<p><b>Article 21</b>            “Each Party shall adopt such legislative and other measures as may be necessary to establish as criminal offences when committed intentionally, aiding or abetting the commission of any of the offences established in accordance with Articles 18 and 20 of the present Convention. 2 Each Party shall adopt such legislative and other measures as may be necessary to</p>	<p><b>Article 3</b>            “Member States shall take the necessary measures to ensure that inciting, aiding and abetting or attempting to commit an offence referred to in Article 2 is punishable.”</p>	<p><b>Art. 217 NCC:</b>            “Sanctioning the attempt            Attempted offences referred to in Articles 209-211, Article 213 para. (2), Art. 216 and 216^1 shall be punishable.”</p>

<sup>147</sup> Translated from Romanian by the author (A/N).

paragraph 1 of this article; and (c) Organizing or directing other persons to commit an offence established in accordance with paragraph 1 of this article.”	establish as criminal offences when committed intentionally, an attempt to commit the offences established in accordance with Articles 18 and 20, paragraph a, of this Convention.”		
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Source: *Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive and the Romanian legislation*

### *iii) Criminalisation of clients’ behaviour: criminalised*

In a 2016 report<sup>148</sup> by the European Commission, Romania was listed among the 10 MS (BG, EL HR, CY, LT, MT, PT, RO, and the UK at that time) which had national legislation in place criminalising the use of exploitative services from victims of trafficking and which addressed all forms of exploitation (not only for sexual exploitation)<sup>149</sup>. The criminalisation of clients’ behaviour is provided for in Art. 216 NCC (see *Table 4.22*), which specifies that the use of services as mentioned in Art. 182 NCC (on exploitation) by any person who knows that those services are provided by a VOT shall be criminalised. The same report mentions that in 2015 and 2016, there were only 18 reported convictions for the knowing use of the services of a trafficking victim in the EU, of which 14 were in Romania alone<sup>150</sup>.

<sup>148</sup> *Report from the Commission to the European Parliament and the Council assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/ EU*, Brussels: European Commission, 2 December 2016, p. 4, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:719:FIN> (accessed 24 April 2023).

<sup>149</sup> *Ibidem*, p. 3.

<sup>150</sup> *Ibidem*, p. 7.



Table 4. 20. Criminalisation of clients' behaviour in the Romanian legislation, compared to the Palermo Protocol, CoE Convention and the EU Directive

CRIMINALISATION OF THE BEHAVIOUR OF USERS			
Palermo Protocol	CoE Convention	2011 EU Directive	Romanian legislation <sup>151</sup>
<p><b>“Article 9 – Prevention of trafficking in persons</b></p> <p>5. States Parties shall adopt or strengthen legislative or other measures, such as educational, social or cultural measures, including through bilateral and multilateral cooperation, to discourage the demand that fosters all forms of exploitation of persons, especially women and children, that leads to trafficking.”</p>	<p><b>“Article 19 – Criminalisation of the use of services of a victim</b> Each Party shall consider adopting such legislative and other measures as may be necessary to establish as criminal offences under its internal law, the use of services which are the object of exploitation as referred to in Article 4 paragraph a of this Convention, with the knowledge that the person is a victim of trafficking in human beings.”</p>	<p><b>“Article 18 – Prevention</b></p> <p>4. In order to make the preventing and combating of trafficking in human beings more effective by discouraging demand, Member States shall consider taking measures to establish as a criminal offence the use of services which are the objects of exploitation as referred to in Article 2, with the knowledge that the person is a victim of an offence referred to in Article 2.”</p>	<p><b>“Art. 216 NCC –</b></p> <p>The use of services of an exploited person</p> <p>The offence of using the services referred to in Article 182 provided by a person whom the beneficiary knows to be a victim of trafficking in human beings or trafficking in minors shall be punishable by imprisonment for a term of 6 months to 3 years or a fine unless the offence constitutes a more serious crime.”</p>

Source: Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive and the Romanian legislation

*iv) Non-Penalisation and Non-Prosecution of Victims: partially covered*

As pointed out by GRETA's *Third Round Evaluation Report* on Romania, the criminalisation of victims of HT not only counteracts the state's obligation to provide services and assistance to victims but also deters victims from self-identifying themselves as victims and cooperating with law enforcement agencies, thereby also preventing the state from fulfilling its obligation to investigate and prosecute perpetrators<sup>152</sup>.

<sup>151</sup> Translated from Romanian by the author (A/N).

<sup>152</sup> GRETA, *Third Round Evaluation Report Romania*, para. 110, p. 32.

Romania's legislation covers this aspect firstly by Art. 24 and 25 NCC (see *Table 4.21*), which refer to the **physical and moral coercion** that might be used against victims to force them to commit a certain offence, and secondly by Art. 20 of Law 678/2001, which specifically **exempts victims** from the responsibility for committing the offence of fraudulent crossing of a state border or the donation of organs, tissues or cells of human origin. As noted by GRETA, the scope of Art. 20 of the Anti-Trafficking Law is narrow, as it covers a limited range of offences; before the amendment of this law in 2014, it used to cover also prostitution, begging and illegal immigration<sup>153</sup>, but at present, it may be possible for a victim of sexual exploitation, for example, to be **fined for prostitution** unless it can be proven that she was a victim of forced prostitution and, therefore of HT. Article 2, para. (3) and (6) of Law 61/1991 on the Punishment of Violations of Social Standards (amended in January 2020) stipulate that persons who practice begging or prostitution shall be sanctioned by fines. However, GRETA was informed by Romanian authorities that these fines do not apply to victims of HT, as it is mentioned by Art. 20 of Law 678/2001, which says: "(2) A trafficked person who has committed one of the offences referred to in Article 3(3) and (6) shall not be penalised". At the moment of writing about this aspect, a new project of the USR political party was adopted in Romania by the Chamber of Deputies on 25<sup>th</sup> April 2023<sup>154</sup>, proposing the amendment of Art. 20 of Law 678/2001 to include a specific reference to Art. 2, para. (3) and (6) of *Law 61/1991 on the Punishment of Violations of Social Standards* (namely that victims of trafficking shall not be sanctioned for practising prostitution or begging)<sup>155</sup>.

TIP Report for the year 2021<sup>156</sup> mentions that, according to NGOs interviewed, Romanian authorities continued to fine persons in commercial sex without searching for trafficking indicators, but they typically dropped charges or fines once investigators and prosecutors confirmed that a suspect was a victim of HT<sup>157</sup>.

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<sup>153</sup> *Ibidem*, para. 112, p. 33.

<sup>154</sup> Parlamentul României, Camera Deputaţilor, *Proiect de Lege pentru modificarea și completarea Legii nr.678/2001 privind prevenirea și combaterea traficului de persoane, precum și pentru completarea Ordonanței de urgență nr.97/2005 privind evidența, domiciliul, reședința și actele de identitate ale cetățenilor români*, [Online] available at: [https://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?idp=20377](https://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=20377) (accessed 26 April 2023).

<sup>155</sup> Parlamentul României, Camera Deputaţilor, *PLx. 602/2022*, București, 21 martie 2023, p. 5, [Online] available at: [https://www.cdep.ro/comisii/administratie/pdf/2023/rs602\\_22.pdf](https://www.cdep.ro/comisii/administratie/pdf/2023/rs602_22.pdf) (accessed 26 April 2023).

<sup>156</sup> US Department of State, *Trafficking in Persons Report*, July 2022, [Online] available at: <https://www.state.gov/wp-content/uploads/2022/10/20221020-2022-TIP-Report.pdf> (accessed 26 April 2023).

<sup>157</sup> *Ibidem*, p. 462.

Table 4. 21. *The principle of non-penalisation and non-prosecution of victims in the Romanian legislation, compared to the Palermo Protocol, CoE Convention and the EU Directive*

<b>NON-PROSECUTION OR NON-APPLICATION OF PENALTIES TO THE VICTIM</b>			
<i>Palermo Protocol</i>	<i>CoE Convention</i>	<i>2011 EU Directive</i>	<i>Romanian legislation</i> <sup>158</sup>
-	<p><b>“Article 26 – Non-punishment provision</b> Each Party shall, in accordance with the basic principles of its legal system, provide for the possibility of not imposing penalties on victims for their involvement in unlawful activities, to the extent that they have been compelled to do so.”</p>	<p><b>“Article 8</b> Non-prosecution or non-application of penalties to the victim Member States shall, in accordance with the basic principles of their legal systems, take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of being subjected to any of the acts referred to in Article 2.”</p>	<p><b>“Art. 24 NCC: Physical restraint</b> An offence under criminal law committed as a result of physical coercion which the offender was unable to resist is not imputable.” <b>“Art. 25 NCC: Moral coercion</b> An offence under criminal law committed as a result of moral coercion, exercised by threat of serious danger to the person of the offender or another person, which could not be removed in any other way, shall not be punishable.” <b>Law 678/2001</b> <b>“Art. 20</b> (1) A trafficked person who, as a result of his or her exploitation, has committed the offence of fraudulent crossing of a State border or the donation of organs, tissues or cells of human origin shall not be punished for these offences. (2) A trafficked person who has committed one of the offences referred to in Article 3(3) and (6) shall not be penalized.”</p>

Source: *Table compiled by the author, using the Palermo Protocol, the COE Convention, the 2011 EU Directive and the Romanian legislation*

<sup>158</sup> Translated from Romanian by the author (A/N).

## B. Protection of victims

Concerning the protection of VOTs, which is the second element of the “4Ps” approach, Romania has in place the legislation to ensure adequate protection as stipulated by Article 28 of the *CoE Convention* and Article 12 of the *EU Directive* (see *Appendix 1*, table header *Assistance and protection of victims*).

*Law No. 682/2002 on the Protection of Witnesses*<sup>159</sup> applies to those VOTs who choose to testify in court. The Witness Protection Programme is implemented by the National Office for Witness Protection<sup>160</sup>, which is subordinated to the General Inspectorate of the Romanian Police (IGPR). GRETA notes in its *Third Round Evaluation Report* on Romania that since the establishment of the Office in 2003, 20 victims of HT have benefited from the programme<sup>161</sup>. The protection measures of this program are applied to victims under significant threat (see *Table 4.22*).

For cases where the threat level is considered not as high as to be prevented by measures in the Witness Protection Programme, certain provisions of the Criminal Procedure Code (CPC) are applied, such as Art. 113, para. 2 CPC<sup>162</sup>, which grants victims of trafficking the status of vulnerable victims, therefore giving them access to the special protection measures specified in Articles 124-130 CPC. Of the latter, Art. 125 CPC<sup>163</sup> deals with the status of a threatened witness, while Art. 126-129 CPC<sup>164</sup> provides for protection measures from which vulnerable victims and threatened witnesses may benefit (see *Table 4.22*). Also, the police (DCCO) refer presumed victims, according to necessities, to NGO shelters located at secret addresses<sup>165</sup>.

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<sup>159</sup> “Legea 682/2002 privind protecția martorilor - REPUBLICARE\*”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16837598/7/legea-682-2002-privind-protectia-martorilor-republicare?keyword=legea%20682~2F2002%20&cm=SFIRST> (accessed 26 April 2023) [hereinafter, *Law 682/2002 on the Protection of Witnesses*].

<sup>160</sup> *Oficiul Național pentru Protecția Martorilor*, Poliția Română, [Online] available at: <https://www.politiaromana.ro/ro/politia-romana/unitati-centrale/oficiul-national-pentru-protectia-martorilor> (accessed 26 April 2023).

<sup>161</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 118, p. 34.

<sup>162</sup> “Codul de Procedură Penală din 2010 (LEGEA nr. 135/2010), Monitorul Oficial nr. 486 din 2010, cu modificările și completările ulterioare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16910517/129/codul-de-procedura-penala-din-2010-legea-nr-135-2010?keyword=cod%20de%20procedura%20penala&cm=SFIRST> (accessed 26 April 2023) [hereinafter, *Code of Criminal Procedure*].

<sup>163</sup> *Ibidem*.

<sup>164</sup> *Ibidem*.

<sup>165</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 120, p. 34.

Table 4. 22. Laws applied for the protection of VOTs in Romania

LAWS APPLIED FOR THE PROTECTION OF VOTs <sup>166</sup>	MEASURES INCLUDED
<i>Law No. 682/2002 on the Protection of Witnesses</i>	<p><b>“Art. 12: Protective measures<sup>167</sup></b></p> <p>a) protection of the identity data of the protected witness;</p> <p>b) protection of the witness's statement;</p> <p>c) the hearing of the protected witness by judicial bodies under an identity other than the real one or by special means of distortion of the image and voice;</p> <p>(d) protection of a witness in custody or under preventive arrest or in execution of a custodial sentence, in cooperation with the bodies administering places of detention;</p> <p>(e) enhanced security measures at home and protection of the witness's movement to and from judicial bodies;</p> <p>f) change of domicile;</p> <p>g) change of identity;</p> <p>h) change of appearance.</p> <p><b>Assistance measures</b></p> <p>a) reintegration into another social environment;</p> <p>b) retraining;</p> <p>c) change or securing of employment;</p> <p>d) income support until a job is found.”</p>
<i>Articles 126-127 CPC</i>	<p><b>“Art. 126: Protective measures ordered in the course of criminal proceedings for the witness under threat</b></p> <p><b>(1)</b></p> <p>(a) supervision and guarding of the witness's home or provision of temporary accommodation;</p> <p>(b) accompanying and ensuring the protection of the witness or his or her family members during travel;</p> <p>(c) protection of identity data by providing a pseudonym under which the witness will sign his or her statement;</p> <p>(d) hearing the witness without the witness being present by means of audio-visual transmission, with voice and image distortion, when other measures are not sufficient.</p> <p>(...)</p> <p><b>(3)</b> In the event of the application of the protective measures referred to in paragraph 1, the Prosecutor shall, in accordance with the procedure referred to in Article 18(2), take the necessary</p>

<sup>166</sup> Translated from Romanian by the author (A/N).

<sup>167</sup> *Law 682/2002 on the Protection of Witnesses*, Art. 12.

measures. (1) lit. (c) and (d), the witness's statement shall not include his real address or identity data, but shall be recorded in a special register to which only the prosecuting authority, the judge of rights and freedoms, the judge of the preliminary chamber or the court shall have access on a confidential basis.”

**“Article 127: Protection measures ordered in the course of proceedings for the witness under threat**

- (a) supervision and security of the witness's home or provision of temporary accommodation;
- (b) accompanying and ensuring the protection of the witness or his or her family members when travelling;
- (c) non-publicity of the court hearing during the hearing of the witness;
- (d) hearing the witness without the witness being present in the courtroom by means of audio-visual transmission, with the voice and image distorted, where other measures are not sufficient;
- (e) protection of the witness's identity data and the giving of a pseudonym to the witness.”

Source: *Code of Criminal Procedure*

Perhaps one of the provisions most strongly influenced by the human-rights approach concerning the protection aspect is the provision set out in Art. 113 CPC, which stipulates the obligation of authorities to provide *ex officio* protection measures without a request on behalf of the victim or their representative<sup>168</sup>. From this obligation, the authorities are exempted only by the written request of the victim who refuses such protection measures<sup>169</sup>.

In accordance with Art. 6(1) of the *Palermo Protocol*, Art. 11(2) of the *CoE Convention*, Romania has established by law the **anonymisation of the names and addresses of VOTs**. According to Art. 127(e) CPC (see *Table 4.22*), the Romanian law provides for assigning a pseudonym to the threatened witness, with which they can sign their statements. Before 2020, though, the government was publishing the names of all witnesses, including children, on its public website. Following pressure exerted by the US Department of State through the TIP Reports<sup>170</sup> and the CoE through the GRETA Reports, in November 2020, the Ministry of Justice requested the Superior Council of

<sup>168</sup> *Code of Criminal Procedure*, Article 113(1).

<sup>169</sup> *Ibidem*, Article 113(3).

<sup>170</sup> US Department of State, *Trafficking in Persons Report*, June 2018, p. 361, <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>; *Trafficking in Persons Report*, June 2019, p. 393, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>; *Trafficking in Persons Report*, June 2020, p. 418, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> (accessed 26 April 2023).

Magistracy (CSM) to issue a decision by which courts are bound to anonymise victims' names in file registration from the moment of the first entry of the case in the ECRIS information system<sup>171</sup>, as well as to update the publication of cases in which both parties have been anonymised<sup>172</sup>. However, according to GRETA, during the third country evaluation visit (2<sup>nd</sup> to 6<sup>th</sup> March 2020), the GRETA delegation was shown data of VOTs, including names, published in connection with court cases, which proved that, in practice, the provision on the anonymisation of victims' names had not been implemented<sup>173</sup>. Later, in 2021, the Superior Council of Magistracy (CSM) adopted *Decision No. 600/13.05.2021*<sup>174</sup>, which may regulate the ways in which the anonymisation function of the name of the victim of a crime can be used at the victim's request, regardless of the subject of the criminal case.

Regarding the implementation of protection measures in practice, GRETA drew attention in its *Third Round Evaluation Report* to the concerns raised by NGOs that victims were still intimidated by defendants in courts, were not informed by the prosecutor of the release of the defendant, and their right to protection of personal data was still infringed upon. Therefore, one of GRETA's hard language recommendations to Romania was:

“... making more frequent use of the witness protection programme, banning the publication of trafficking victims' names on judicial websites, without affecting the ability of civil society to monitor cases with suspicion of corruption, and effectively investigating any cases of intimidation and threats against victims and witnesses.”<sup>175</sup>

### C. Assistance of victims: the rights of VOTs in Romania

In Romania, the law entitles VOTs to all types of assistance referred to in the *CoE Convention* and the *EU Directive*. However, the implementation of these laws has been deficient, including until recent years, as reported by GRETA's *Third Round Evaluation Report* and the *TIP Reports*. The rights of VOTs, the legislation that makes reference to them, and a short description of these rights are provided in *Table 4.23*, which was compiled using data from

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<sup>171</sup> The European Criminal Records Information System (ECRIS) (A/N).

<sup>172</sup> Andreea Olteanu, “Ministerul Justiției: numele victimelor din dosarele de trafic de persoane și trafic de minori vor fi anonimizate”, in: *MediaFax*, 17.11 2020, [Online] available at: <https://www.mediafax.ro/justitie/ministerul-justitiei-numele-victimelor-din-dosarele-pe-traffic-de-persoane-si-traffic-de-minori-vor-fi-anonimizate-19748297> (accessed 26 April 2023).

<sup>173</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 123, p. 35.

<sup>174</sup> Consiliul Superior al Magistraturii, *Hotărârea nr. 600/13.05.2021*, [Online] available at: [http://old.csm1909.ro/csm/linkuri/24\\_05\\_2021\\_\\_102012\\_ro.pdf](http://old.csm1909.ro/csm/linkuri/24_05_2021__102012_ro.pdf) (accessed 26 April 2023).

<sup>175</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 125, p. 36.

GRETA's *Third Round Evaluation Report on Romania*, ANITP's guidebook<sup>176</sup> on victims' rights compiled in partnership with the Swiss Confederation, the factsheet<sup>177</sup> on victims's rights in Romania from the eJustice European Portal, as well as the latest updates on legislation in the field.

Table 4. 23. *Rights of VOTs in the Romanian Legislation*

No.	Victims' rights	Romanian legislation <sup>178</sup>	Details on rights
1	<b>The right to information</b>	- Law No. 678/2001, Art. 43; - Law No. 211/2004, Art. 4 <sup>179</sup> .	Judicial bodies (i.e., criminal investigation bodies, the prosecutor, the judge of rights and freedoms, the preliminary chamber judge, the courts) are obliged to inform any victims of crime, including VOTs, of their rights under these laws <sup>180</sup> .  "Victims have the right to be informed of the following: a) the services and organisations that provide counselling or other assistance; b) the prosecution authority to which they can make a complaint; c) the right to legal counselling (and the institution providing it); d) the conditions and procedure for granting free legal counselling; e) the procedural right of the injured party and civil party in criminal proceedings 36);

<sup>176</sup> *Identificarea, asistența și returnarea voluntară a victimelor traficului de ființe umane între Elveția și România*, ANITP, Confederația Elvețiană, Programul de cooperare Elvețiano-Român, 13 octombrie 2006, p. 8, [Online] available at: [https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597\\_ANITP\\_Brosura\\_A5\\_ROMANA\\_13\\_OCTOMBRIE.pdf](https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597_ANITP_Brosura_A5_ROMANA_13_OCTOMBRIE.pdf) (accessed 26 April 2023) [hereinafter, ANITP, Swiss Confederation, *Identification, assistance and voluntary return of victims...*].

<sup>177</sup> Portalul European e-justitie, *Drepturile victimelor, pe țări. România*, last update: 04/02/2021, [Online] available at: [file:///C:/Users/Anca/Downloads/28042023\\_ro.pdf](file:///C:/Users/Anca/Downloads/28042023_ro.pdf) (accessed 26 April 2023) [hereinafter, e-Justice European Portal, *Victims' rights in Romania*].

<sup>178</sup> Translated from Romanian by the author (A/N).

<sup>179</sup> "Legea 211/2004 privind unele măsuri pentru asigurarea informării, sprijinirii și protecției victimelor infracțiunilor, Monitorul Oficial nr. 505 din 2004, cu modificările și completările ulterioare", *Sintact*, [Online] available at: <https://sintact.ro/#/act/16851672/9/legea-211-2004-privind-unele-masuri-pentru-asigurarea-informarii-sprajinirii-si-protectiei...?keyword=legea%20211~2F2004%20&cm=SFIRST> (accessed 26 April 2023) [hereinafter, *Law 211/2004*].

<sup>180</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 35, p. 14.



			<p>f) the conditions and procedures for benefiting from witness protection;</p> <p>g) the conditions and procedure for financial compensation from the State;</p> <p>h) the right to be informed when the defendant is deprived of liberty and/or released.</p> <p>i) the right to be informed of all the above in a language the victim understands”<sup>181</sup>.</p>
2	<b>The right to a reflection period of up to 90 days</b>	- Law 678/2001, Art. 39	For foreign victims, the law allows a 90-day reflection period to recover and escape the influence of traffickers and make an informed decision on cooperation with the competent authorities.
3	<b>The right to psychological assistance</b>	- Law No. 211/2004, Art. 7-13	Psycho-social counselling is to be provided free of charge to VOTs, regardless of the type of exploitation they have been subjected to and whether they decide to cooperate with competent authorities (in criminal proceedings) or not.
4	<b>The right to coordination during criminal proceedings</b>	- National Mechanism of the Identification and Referral of Victims (MNIR) <sup>182</sup> , updated in 2023	The Programme for the Coordination of Victims was initiated by ANITP in 2006 as a framework to encourage and empower VOTs to participate in legal proceedings. Within this programme, the victims are constantly connected with authorities and institutions able to provide them with information on their rights and services, on legal proceedings and updates on the progress of the case.
5	<b>The right to free legal assistance</b>	- Law No. 678/2001, Art. 44; - Law No. 211/2004, Art. 14, para. 1.	including information on the conditions and procedures for obtaining legal assistance
6	<b>The right to free legal aid (representation in criminal proceedings)</b>	- CPC, Art. 80; Art. 93(5)	The court has the obligation to appoint an <i>ex officio</i> lawyer in order to represent victims during criminal proceedings.

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<sup>181</sup> *Ibidem*.

<sup>182</sup> MNIR 2023.

7	<b>The right to submit civil claims for damages from the perpetrator</b>	- CPC, Art. 19	The victims have the right to participate in criminal proceedings as civil parties and claim compensation for physical and/or moral damages, as well as loss of earnings from the perpetrator <sup>183</sup> .
8	<b>The right to financial compensation from the State</b>	- Law No. 211/2004, Art. 21-34	Compensation from the State may cover any costs incurred by the victim as a result of the crime or the criminal procedure, including medical expenses and the hiring of a lawyer, as well as income the victim was deprived of because of the crime. There is no state compensation foreseen for moral damages. The maximum amount granted for state compensation is the equivalent of 10 gross minimum wages (i.e., about 4 600 Euros) <sup>184</sup> .
9	<b>The right to protection</b>	- Law No. 682/2002 on the Protection of Witnesses <sup>185</sup> ; - CPC, Art. 113, para. 2; Art. 125-129; - Law. 678/2001, Art. 24-26.	The right to protection includes physical protection. In high-risk situations, VOTs may even be included in the Witness Protection Programme.
10	<b>Access to work, vocational training and education (Article 12)</b>	- Law 76/2002 <sup>186</sup> ; - The “Second Chance School” Programme of the Ministry of Education <sup>187</sup>	Programmes to support employment opportunities for young vulnerable people, coordinated by the National Agency for Employment, under the Ministry of Labour and Social Protection (e.g.: the 3-year programme for VOTs implemented by the county employment offices). Law 76/2002 offers subsidies to employers who offer employment to young people at risk of marginalisation, including VOTs.

Source: Table compiled by the author using the information on victims’ rights from GRETA, *Third Round Evaluation Report Romania...*; ANITP, Swiss Confederation, *Identification, assistance and voluntary return of victims...*; e-Justice European Portal, *Victims’ rights in Romania*.

<sup>183</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 72-73, p. 20.

<sup>184</sup> *Ibidem*, para. 82-83, p. 23.

<sup>185</sup> *Law 682/2002 on the Protection of Witnesses*.

<sup>186</sup> “Legea 76/2002 privind sistemul asigurarilor pentru somaj si stimularea ocuparii fortei de munca, Monitorul Oficial nr. 103 din 2002, cu modificările și completările ulterioare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16830953/46?directHit=true&directHitQuery=Legea%20nr.%2076%2F2002> (accessed 28 April 2023).

<sup>187</sup> Ministrul Educației, *Programul „A doua șansă”*, [https://www.edu.ro/a\\_doua\\_sansa](https://www.edu.ro/a_doua_sansa)

We will analyse how the Romanian state has been complying with its obligation to secure a few of these rights, especially the most problematic ones, as concluded from international and EU reports on Romania. The period analysed is from 2011 to 2021. The main sources used for the data gathering and comparative analysis are the TIP Reports<sup>188</sup>, the three GRETA Reports<sup>189</sup> on Romania, the EUROSTAT Reports on trafficking in persons, the European Commission Progress Reports<sup>190</sup> on HT, and the ANITP Reports<sup>191</sup>.

The following aspects of assistance of VOTs are going to be analysed: coordination during criminal proceedings, free legal assistance, free legal aid, civil claims for damages, and state compensation.

*i) Coordination during criminal proceedings*

The National Programme for the Coordination of Victims in the Criminal Process<sup>192</sup> was initiated by the ANITP in 2006 in partnership with IGPR, DIICOT, IGJR, IGI, and IGPF; it aims to create institutional cooperation so that VOTs who accepted have the status of *a witness or injured party* can benefit from assistance and support in criminal proceedings. The programme maintains a permanent connection with victims to provide them with information on their rights and the services to which they are entitled, on procedures and updated information on the progress of the case<sup>193</sup>. Support for victims is provided both at national and transnational levels<sup>194</sup>. Table 4.24 below shows the number of VOTs coordinated in criminal proceedings (rows no. 2-4) and the number of VOTs who received free legal aid according to Law no. 211/2004 (rows no 5-6) from 2011 to 2021, as compared to the total number of victims registered in SIMEV. The data was compiled from TIP Reports and ANITP reports.

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<sup>188</sup> US Department of State, *Trafficking in Persons Report*, [Online] available at: <https://www.state.gov/trafficking-in-persons-report/> (accessed 28 February 2023).

<sup>189</sup> Council of Europe, *Romania*, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/romania> (accessed 28 February 2023).

<sup>190</sup> European Commission, *Publications*, [Online] available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/publications\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/publications_en)

<sup>191</sup> *ANITP Reports*.

<sup>192</sup> *Mecanismul național de identificare și referire a victimelor traficului de persoane*, Publication co-financed by the Internal Security Fund - Police Cooperation, P. 97, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/Proiecte/ISF01/MNIR%20Lb%20Romana.pdf> (accessed 28 February 2023); *2021 ANITP Report*, pp. 30-31.

<sup>193</sup> Programul de cooperare elvețiano-român, *Identificarea, asistența și returnarea voluntară a victimelor traficului de ființe umane între Elveția și România*, p. 8, [Online] available at: [https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597\\_ANITP\\_Brosura\\_A5\\_ROMANA\\_13\\_OC\\_TOMBRIE.pdf](https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597_ANITP_Brosura_A5_ROMANA_13_OC_TOMBRIE.pdf) (accessed 28 February 2023).

<sup>194</sup> *Ibidem*.

Table 4. 24. Victims coordinated in criminal proceedings and victims who received free legal aid from state authorities 2011-2021 (in numbers and percentages)

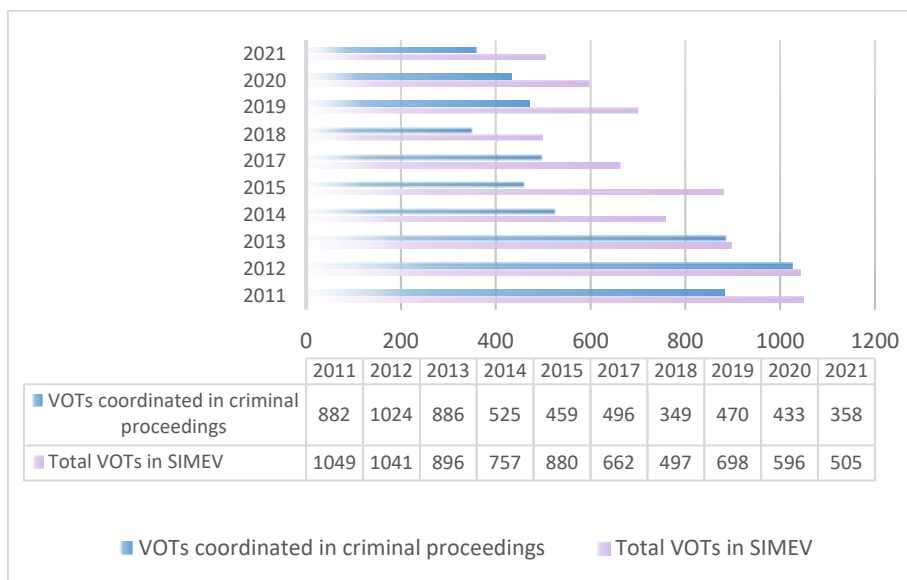
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>195</sup>	2021
1. Total VOTs in SIMEV	1049	1041	896	757	880	756	662	497	698	596	505
2. VOTs coordinated in criminal proceedings (identified in a specified year)	882	1024	886	525	459		496	349	470	433	358
						923					
3. VOTs coordinated in criminal proceedings (identified in previous years)	NA	NA	NA	NA	NA		NA	NA	338	NA	410
4. % VOTs coordinated in criminal proceedings, out of total VOTs in SIMEV	84%	98%	99%	69%	52%	-	75%	70%	67%	73%	71%
5. Victims who received free legal aid (identified in a specified year)	NA	NA	NA	NA	NA	188	317	296	369	360	331
6. % VOTs who received free legal aid, acc. to law no 211/2004, out of VOTs coordinated in criminal proceedings	-	-	-	-	-	-	64%	85%	79%	83%	92%

Source: The table was compiled with data from *Romania's Reply to the Questionnaire for the Third GRETA Report, TIP Reports, 2019 ANITP Report, 2020 ANITP Report*

<sup>195</sup> For year 2020, the numbers refer to VOTs identified in year 2020 only. Statistics were not provided for VOTs identified previously who received civil claims or financial compensation in 2020 (AN).

Firstly, we will analyse the shares of VOTs coordinated in criminal proceedings compared to the total VOTs registered in SIMEV (see *Table 4.24* and *Figure 4.16*). When comparing the data, we need to consider that for 2019 and 2021 only, reports provide us with the number of VOTs identified in the year specified and in previous years, as well (as legal proceedings can start in a given year and continue throughout several years), but for the year 2016, we are given the sum of these two indicators, without providing disaggregated data. It should be noted that since 2011, the number of VOTs coordinated in criminal proceedings has decreased from 85-99% in 2011-2013 to around 70% in more recent years, as compared to the total VOTs registered in SIMEV. Despite this declining trend, the share of VOTs participating in criminal proceedings is quite high, considering that on the one hand, some victims choose not to participate in the trial, and, on the other hand, most country reports in the TIP reports do not even provide this data.

*Figure 4.16. Victims coordinated in criminal proceedings vs total no. of victims registered in SIMEV, 2011-2021*



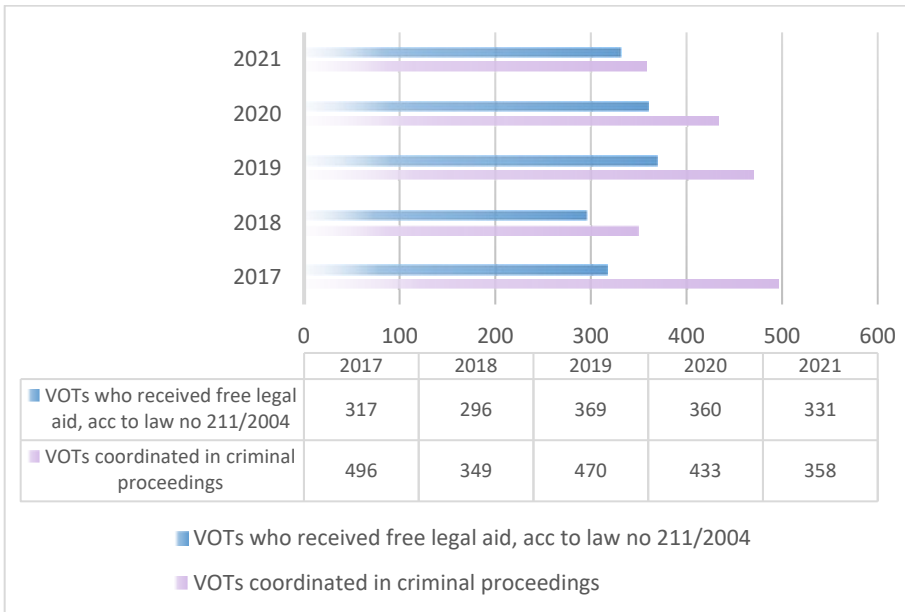
Source: The graphic was compiled with data from *Romania's Reply to the Questionnaire for the Third GRETA Report, TIP Reports, 2019 ANITP Report, 2020 ANITP Report*

#### ii) Free Legal Aid

As for free legal aid (*Table 4.24*, rows no. 5-6; *Figure 4.17*), we can notice a gradual increase, from 64% in 2017 to 92% in 2021, compared to the total

number of VOTs coordinated in criminal proceedings. Statistics on free legal aid have been missing for the years 2011-2016; therefore, a comparative analysis was conducted, taking into consideration this missing information. From the number of VOTs coordinated in criminal proceedings, **some victims choose not to testify** – data on how many victims testify is not provided, but the TIP Reports highlight the reason for this, namely that the Ministry of Justice used to publish (until 2021) the names of all trial witnesses, including children, on its public website, putting victim-witnesses at risk of retaliation and societal or familial ostracization<sup>196</sup>. Also, “the law does allow victims to provide testimony from a separate room, but this was rarely done in practice due to judges’ preference for live testimony in front of traffickers”<sup>197</sup>.

Figure 4. 17. Victims who received free legal aid versus victims coordinated in criminal proceedings, 2017-2021



Source: The graphic was compiled with data from *Romania’s Reply to the Questionnaire for the Third GRETA Report, TIP Reports, 2019 ANITP Report, 2020 ANITP Report*

<sup>196</sup> US Department of State, *Trafficking in Persons Report*, June 2018, p. 361, <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>; *Trafficking in Persons Report*, June 2019, p. 393, <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>; *Trafficking in Persons Report*, June 2020, p. 418, <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf> (accessed 26 April 2023).

<sup>197</sup> US Department of State, *Trafficking in Persons Report*, June 2018, p. 361, *Trafficking in Persons Report*, June 2019, p. 393.

**Free legal aid**, according to Law no. 211/2004, is granted to each victim throughout the proceedings, up to an amount equivalent to two gross national minimum basic salaries, established for the year in which the victim applied for free legal aid<sup>198</sup>, and the funds necessary for the granting of free legal aid are provided from the state budget through the budget of the Ministry of Justice<sup>199</sup>.

According to Law 211/2004, art. 14-18, free legal aid is granted on request (if the victim has reached the age of 18, provided that the victim's status as a VOT is proven or, according to Art. 15, if the monthly income of the victim per family member is at most equal to the minimum gross basic wage per country. Also, Law 678/2001 (art. 44) expressly provides that legal aid is compulsory in the case of VOTs:

“Article 44 - (1) The persons referred to in Article 43 shall be provided with compulsory legal assistance in order to be able to exercise their rights in criminal proceedings provided for by law, at all stages of the criminal process, and to defend their civil claims and demands against the persons who have committed the offences provided for by this Law in which they are involved.”<sup>200</sup>

It can be derived from this article that the purpose of free legal aid is to eventually empower the victim to benefit from all its rights in legal proceedings, including receiving civil claims.

It can be concluded from *Table 4.24* and *Figure 4.17* that the number of VOTs who received **free legal aid from the state** gradually increased throughout the years, reaching its highest rate in 2021, namely 92% of the total VOTs registered in SIMEV.

### *iii) Civil claims and state compensation*

Romanian law, in Art. 19 of the Criminal Procedure Code, entitles VOTs to participate in criminal proceedings as **civil parties** and claim compensation for physical and/or moral damages, as well as for loss of earnings from the perpetrator. VOTs are also entitled to financial compensation from the State, by Law no. 211/2004, Art. 21-34, which may cover any costs incurred as a result of the crime or the criminal procedure<sup>201</sup>, including medical expenses<sup>202</sup> and the hiring of a lawyer, as well as income the victim was deprived of because of the offence<sup>203</sup>. However, there is no state compensation foreseen for moral damages.

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<sup>198</sup> Law 211/2004, Art. 18(1).

<sup>199</sup> *Ibidem*, Art. 18(2).

<sup>200</sup> Law no. 678/2001, Art. 44(1).

<sup>201</sup> Law no. 211/2004, Art 27(2).

<sup>202</sup> *Ibidem*, Art 27(1).

<sup>203</sup> *Ibidem*, Art 27(3).

Table 4.25 below shows the number of VOTs who were officially granted and effectively received financial compensation from the state according to Law 211/2004<sup>204</sup>, based on their status as victims of crime, as well as the number of VOTs for whom a final court decision was granted for civil claims (from behalf of the perpetrator) versus the VOTs who actually received civil claims. The table was comprised of statistics provided by the state authorities of Romania in their reply to the Questionnaire for the Third GRETA Report (2021)<sup>205</sup>, covering statistics for years 2015-2018, and the ANITP Reports for years 2019-2021<sup>206</sup>.

Table 4. 25. Victims who effectively received civil claims and state compensation, 2011-2021

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020 <sup>207</sup>	2021
Total VOTs in SIMEV	1049	1041	896	757	880	756	662	497	698	596	505
1. victims for whom a final court decision was granted for civil claims	no such statistics are available				55	89	54	71	42	1	17
victims who received civil claims	no such statistics are available				5	2	2	1	2	NA	5
2. victims who requested financial compensation granted by the state by Law 211/2004	no such statistics are available				52	86	75	73	45	21	35

<sup>204</sup>*Ibidem.*

<sup>205</sup> GRETA, *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. Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings Reply submitted on 22 October 2019*, pp. 64-66, [Online] available at: <https://rm.coe.int/reply-from-romania-to-the-questionnaire-for-the-evaluation-of-the-impl/1680997282> (accessed 27 February 2023), [hereinafter, *Romania's Reply to the Questionnaire for the Third GRETA Report*].

<sup>206</sup> 2019 ANITP Report, p.38; 2020 ANITP Report, p. 94; 2021 ANITP Report, pp. 62-63.

<sup>207</sup> For year 2020, the numbers refer to VOTs identified in year 2020 only. Statistics were not provided for VOTs identified previously who received civil claims or financial compensation in 2020 (A/N).



3. % VOTs who requested financial compensation out of total VOTs in SIMEV	no such statistics are available	5.91	11.38	11.33	14.69	6.45	3.52	6.93
4. victims for whom financial compensation was granted acc. to Law 211/2004	no such statistics are available		0	1	0	0	1	0
5. victims who effectively received financial compensation acc. to Law 211/2004	no such statistics are available		0	0	0	0	NA	0

Source: *Romania's Reply to the Questionnaire for the Third GRETA Report, 2019 ANITP Report, 2020 ANITP Report*

From the table above, it can be seen that, from the number of victims for whom a final court decision was granted for **civil claims**, only an insignificant number of victims actually received them. Similarly, from the total of victims who **requested financial compensation** granted by the state by Law 211/2004, there is only one victim in 2017 and another one in 2020 for whom financial compensation was granted, but eventually, **none of them effectively received this compensation**. Another detail to note is that from the year 2011 to 2014, statistics are missing on these aspects<sup>208</sup>, and starting from the year 2015, even if information is provided regarding procedures for the granting of compensation, they are not followed up with. One conclusion which might be reached from here is that, due to international pressure from the USA and the Council of Europe on the state authorities of Romania to provide information on how the rights of victims are complied with, including compensation granted to VOTs. Romania has started to provide statistical data for these reports, but these rights have not been granted to them effectively, other than on paper.

Another conclusion which can be derived from *Table 4.25* is that the shares of VOTs who requested **financial compensation from the state** in the

<sup>208</sup> The ANITP Reports, at least, do not mention them until year 2019 (A/N).

years 2015-2021 (row no. 3) are very small compared to the total number of victims identified per year at the national level, reaching the highest share of 15% in 2018. A very important detail to consider at this point is that the numbers provided on civil claims and state compensation (*Table 4.25*, rows no. 1-6) include victims identified not only in the specified year but also victims identified in previous years, which makes the shares of VOTs who actually received civil claims or state compensation even more insignificant compared to the total number of VOTs identified per year.

Some conclusions can be derived from here. Firstly, it might be either that VOTs are not properly informed about their right to request state compensation as well as civil claims or that they do not wish to proceed with this process because of the lengthy and tiring trials<sup>209</sup> (which can last for several years due to the fact that evidence is hard to provide and due to the many numbers of cases<sup>210</sup>). On the other hand, in case the victim was indeed informed, it might be that the informing was done strictly in a formal manner (by using a form to be signed, for example, or by using legal, official language), not in a **victim-centred way**, taking into consideration the educational and intellectual level of the victim (who, in most of the cases, can be in a psychologically or emotionally unbalanced state as a result of the trauma, or might even suffer from a mental disorder), nor in a **child-sensitive way**, in case the victim is a minor. The numbers might show that state authorities do not appropriately “translate” these rights to the victims in an informal way so they can be empowered to request these rights and properly follow up with them, even if it appears that the share of victims who received free legal aid, according to Law no. 211/2004 (see *Table 4.25*, rows no. 6 and 7) is quite high.

The ProTECT Platform sent, on August 29, 2022, an official letter<sup>211</sup> to the ANITP Regional Centres (RCs) registered with ANITP under no. 4327049/29.09.2022, by which they requested by Law no. 544/2001 and the implementing rules contained in GD no. 123 of 7 February 2002, data on: 1) number of VOTs identified in 2021 and who were coordinated within the judicial procedures by the ANITP RCs, in cooperation with the civil society (see *Table 4.26*, Column A); 2) types of services offered to victims by the ANITP RCs (see Column B); 3) the number of victims monitored by the ANITP RCs in 2021 who effectively received compensation for moral and material damages and the

<sup>209</sup>The average length of court proceedings in human trafficking cases is 689 days in 2018, according to *Romania’s Reply to the Questionnaire to the Third GRETA Report*, Question 5.4. However, some court proceedings have lasted even for 10 years.

<sup>210</sup> Interview with ADPARE. See also Chapter 5.

<sup>211</sup> Platforma ProTECT, *Adresă 544 CR ANITP - intrebari pe date TIP Report 2022*, 30.08.2022 (document obtained with the approval of the ProTECT Platform. Unpublished. A/N).

amount of that compensation (see Column C); 4) the number of victims monitored by the ANITP RCs in 2021 who received financial compensation as per Law 211/2004 and the amount of that compensation (see Column D). ANITP's response letter no. 4327050/04.10.2022<sup>212</sup> provided the data for all regional centres for victims registered with ANITP for the year 2021, and the surprising answer was that **none of the victims** registered with the ANITP Regional Centres **received any type of compensation** as a result of being part of the National Programme for the Coordination of Victims in the Criminal Process in 2021 (see *Table 4.26*, Columns C and D).

*Table 4. 26. Number of VOTs assisted by the Regional Centres ANITP (A), type of assistance granted (B), compensation for moral and material damages(C), and financial compensation as per Law no. 211/2004 (D)*

<b>Regional Centre (RC)</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
<i>RC Alba-Iulia</i>	40	accommodation, medical assistance, psychological counselling, financial support, material support, legal assistance, school reintegration	0	0
<i>Bacău</i>	35	accommodation, medical assistance, material support, psychological counselling, school reintegration, vocational counselling, professional reintegration, legal counselling, legal assistance, transport, financial support	0	0
<i>Braşov</i>	39	medical assistance, psychological assistance, social counselling, family mediation, vocational counselling, emotional support, material support, financial support, residential support, shelter	0	0
<i>Bucureşti</i>	67	emergency and long-term residential services, health care, psychological counselling and psychotherapy, financial and/or material support, legal advice, school reintegration, vocational counselling, vocational training and reintegration for employment	0	0
<i>Constanţa</i>	5	psychological counselling, legal assistance, medical assistance, accommodation and financial support, obtaining identity documents (ID card, birth certificate for dependent child)	0	0
<i>Cluj-Napoca</i>	25	psychological counselling, vocational guidance, school reintegration, shelter, legal advice, medical assistance, transport	0	0

<sup>212</sup> Florin Bejan, Responsabil Legea 544/2001 (ANITP), *Adresă nr. 4327050/04.10.2022 către Platforma ProTECT*, 4 October 2022 [document obtained with the permission of the ProTECT Platform. Unpublished. A/N].

<i>Craiova</i>	50	material assistance, financial assistance, medical assistance, legal assistance, psychological counselling, psychotherapy, shelter	0	0
<i>Galați</i>	5	social, medical, psychological, legal	0	0
<i>Iași</i>	4	shelter, transport, legal assistance, material and financial assistance, medical assistance, social assistance and psychological counselling	0	0
<i>Oradea</i>	9	medical assistance, shelter, financial aid, school reintegration, psychological counselling, material aid, social and legal counselling	0	0
<i>Pitești</i>	13	medical assistance, psychological counselling, social assistance, financial aid, material aid, counselling/legal assistance, educational counselling, vocational counselling	0	0
<i>Ploiești</i>	12	placement in residential centre, placement in foster care, accommodation, psychological counselling, social, legal, educational assistance, accommodation, medical, material, legal, psychological assistance, psychotherapy, school reintegration, socio-economic reintegration, family mediation, transport	0	0
<i>Târgu-Mureș</i>	0	psychological counselling, material support, accommodation, reintegration assistance, legal counselling, medical assistance	0	0
<i>Timișoara</i>	43	shelter, medical assistance, psychological counselling, school reintegration, material support	0	0

Source: Table compiled by the author using data from: Florin Bejan, Responsabil Legea 544/2001 (ANITP), *Adresă nr. 4327050/04.10.2022 către Platforma ProTECT*, 04.10.2022.

The reasons mentioned in the TIP Reports for why victims entitled to restitution from their traffickers did not request civil claims (especially victims of sexual exploitation) is either because victims generally could not afford the fees necessary to initiate civil trials<sup>213</sup>, because they lacked resources to hire judicial executors to induce payment from convicted offenders<sup>214</sup>, or, as reported by NGOs for the TIP Reports, traffickers refused to pay restitution to victims, even when ordered by courts<sup>215</sup>.

As for state compensation, some reforms have recently been made by the state, but they are at an incipient stage. For instance, in 2015, the Romanian state

<sup>213</sup> 2016 TIP Report (for 2015), p. 316; 2017 TIP Report (for 2017), p. 335; 2018 TIP Report (for 2017), p. 361.

<sup>214</sup> 2014 TIP Report (for 2013), pp. 323-324; 2015 TIP Report (for 2014), p. 287; 2016 TIP Report (for 2015), p. 316.

<sup>215</sup> 2019 TIP Report (for 2018), p. 393.

passed Law no. 318/2015 on the setting up, organisation and activity of the **National Agency for the Management of Seized Assets (ANABI)** and on amending and supplementing other legal documents<sup>216</sup>. The purpose of ANABI is the “recovery of assets derived from crime by combining the support functions for prosecution authorities and courts with those of international cooperation, effective management of seized assets and social re-use of confiscated goods and assets”<sup>217</sup>, and more specifically, represents a fund that reuses assets confiscated in criminal proceedings for social benefit. However, many of the assets are still frozen; as of April 28, 2023, ANABI had a total amount of assets seized estimated to 918,933,238 RON, out of which only 16,998,358 RON had been sold<sup>218</sup> - that means **only 1.85%**. In February 2023, the Ministry of Justice initiated a public consultation procedure on the draft government decision for the approval of the methodology for the issuance, distribution and settlement of vouchers for victims of crime<sup>219</sup>, according to which victims of crime may apply for a down-payment from the financial compensation in the form of a voucher to cover urgent needs, up to an amount equivalent to 5 gross minimum basic salaries per country. The vouchers are supposed to be granted within 72 hours of approval of the application<sup>220</sup>. This program comes as a result of GRETA’s recommendation to the Romanian Authorities in paragraph 88 of the *Third Round Evaluation Report on Romania*<sup>221</sup>.

Mark Ebling, consultant of IOM Romania, further describes that a functional Agency would be the best solution to finance state support for

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<sup>216</sup> “Legea 318/2015 pentru înființarea, organizarea și funcționarea Agenției Naționale de Administrare a Bunurilor Indisponibilizate și pentru modificarea și completarea unor acte normative, Monitorul Oficial nr. 961 din 2015, cu modificările și completările ulterioare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16952146/4/legea-318-2015-pentru-infiintarea-organizarea-si-functionarea-agentiei-nationale-de-administrare...?keyword=Legea%20318~2F2015%20&cm=SFIRST> (accessed 27 February 2023).

<sup>217</sup> Ministerul Justiției, ANABI, *Mission*, [Online] available at: <https://anabi.just.ro/en/about-us/mission> (accessed 27 February 2023).

<sup>218</sup> Ministerul Justiției, ANABI, *Șase ani de la operaționalizarea ANABI*, [Online] available at: <https://anabi.just.ro/en> (accessed 27 February 2023).

<sup>219</sup> Ministerul Justiției, *Proiectul de Hotărâre de Guvern pentru aprobarea Metodologiei de emitere, distribuire și decontare a voucherelor destinate victimelor infracțiunii, pentru stabilirea cuantumului acestora, precum și a criteriilor de selectare a entităților publice și private înrolate în mecanismul de acordare și pentru completarea Hotărârii Guvernului nr. 652/2009 privind organizarea și funcționarea Ministerului Justiției*, [Online] available at: <https://www.just.ro/proiectul-de-hotarare-de-guvern-pentru-aprobarea-metodologiei-de-emitere-distribuie-si-decontare-a-voucherelor-destinate-victimelor-infraciunii-pentru-stabilirea-cuquantumului-acestora-precum-si-a/> (accessed 27 February 2023).

<sup>220</sup> *Ibidem*.

<sup>221</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 88, p. 24.

victims, including state compensation, NGOs offering assistance, and other types of assistance that VOTs are entitled by law to receive, in a way similar to the functioning for the US Marshall Service<sup>222</sup>:

“The National Agency for the Management of Seized Assets (ANABI) needs to do a better job in turning the assets that have been seized from crimes, including trafficking crimes, into money, to fund compensation for victims, but also to fund these [assistance] programs [for victims]. I believe one of the solutions to the problem is to make ANABI and entities like that more efficient at converting assets that have been seized into actual, not cash, necessarily, but actual proceeds that can then be used by the state, and/or various state partners with the NGOs or other CSOs to provide for these victims.”<sup>223</sup>

He also highlights that one of the reasons why a significant number of assets are still frozen in ANABI is the prolonged court cases lasting for even twelve years, resulting in stagnant assets such as apartments or houses that cannot be legally dealt with due to ongoing litigation<sup>224</sup>.

*iv) Other types of assistance available to VOTs in Romania*

Victims of trafficking are assisted on a case-management basis, following an initial evaluation and an analysis of each case. Assistance services are provided by the state, by private service providers or in public-private partnerships. The Romanian legislation grants VOTs the right to assistance and protection, without discrimination, regardless of the type of exploitation and regardless of their decision to participate or not in legal proceedings<sup>225</sup>.

The social services provided to VOTs are the following<sup>226</sup>: information and social counselling; coordination of victims in judicial proceedings; accommodation in a shelter run by the State or non-governmental organisations; provision of basic needs; medical assistance; psychological counselling; legal assistance; financial and material assistance; educational assistance; professional counselling, and recreational activities.

*Table 4.27* describes the few centres in Romania, run by the State and by NGOs, which offer residential social services (shelters) for VOTs, as provided in the latest GRETA Report<sup>227</sup> and on the websites of the respective NGOs, with the information at hand.

<sup>222</sup> Interview with Mark Ebling (IOM). See also Chapter 5.

<sup>223</sup> *Ibidem*.

<sup>224</sup> *Ibidem*.

<sup>225</sup> ANITP, Swiss Confederation, *Identification, assistance and voluntary return of victims...*, pp. 8-9.

<sup>226</sup> *Ibidem*.

<sup>227</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 206-209, pp. 49-50.

Table 4. 27. Residential social services for VOTs in Romania

<b>(Residential social services) Shelters for VOTs in Romania</b>		
<b>STATE-RUN SHELTERS</b>		
<b>Centre</b>	<b>Capacity</b>	<b>Facilities</b>
<b>Centre in Craiova (Dolj county)</b>	Max. 8 VOTs	- the centre consists of two apartments in a residential building; - can accommodate both men and women VOTs for up to 90 days, with a possibility of extension at the request of the DGASPC. - security guard and secret location.
<b>Centre in Leorda (Botoşani county)</b>	Max. 4 adult VOTs	- the centre consists of an apartment with two rooms
<b>Centre in Iaşi (Iaşi county)</b>	Max. 6 adult VOTs	- functions within the structure of the Centre for Social Services for Adult Persons in Difficulty
<b>SHELTERS RUN BY THE CIVIL SOCIETY, non-funded by the state</b>		
<b>People to People Foundation (Oradea)</b>		licensed shelter <sup>228</sup> for adult and minor VOTs
<b>Open Doors Foundation (Bucharest)</b>	Max. 16 women (accommodated with their children)	- spacious two-story house with 16 places for female victims - protected shelter - VOTs included in an 18 months programme <sup>229</sup>
<b>ADPARE Foundation</b>	Not mentioned	Protected home for women VOTs in transit in Bucharest (for 1-2 nights) or in crisis (for 1-2 weeks) and long-term (for several months, depending on individual needs). In 2021, ADPARE assisted 175 VOTs <sup>230</sup> .
<b>Micu Bogdan Foundation (FMB), Brasov</b>	Not mentioned	protective apartment system for VOTs in transit (1 to 3-4 nights), in crisis (for 1-3 or 4 weeks) and for the long term <sup>231</sup> .

Source: Table compiled with data from GRETA, *Third Round Evaluation Report Romania...*, para. 206-209, pp. 49-50, and the official websites of the NGOs mentioned.

<sup>228</sup> *People to People Foundation*, [Online] available at: <https://www.people2people.ro/> (accessed 25 April 2023).

<sup>229</sup> *Open Door Foundation*, [Online] available at: <http://www.usadeschisa.ro/about-us> (accessed 25 April 2023).

<sup>230</sup> "Raportul anual 2021", ADPARE, p. 6, [Online] available at: <https://adpare.eu/wp-content/uploads/2022/10/ADPARE-Raport-anual-2021.pdf> (accessed 25 April 2023).

<sup>231</sup> *Micu Bogdan Foundation*, [Online] available at: <https://fundatiamicubogdan.ro/> (accessed 25 April 2023).

We can notice in *Table 4.28* and *Figure 4.18* that, except for 2021, less than 50% of VOTs identified and registered in SIMEV since 2011 received any form of assistance. In 2021, as a result of the pressure exerted by international actors such as the USA through the Tier system of the TIP Report, the government of Romania publicly declared its intention to step up its anti-trafficking efforts to avoid the danger of falling into the Tier 3 level, after being downgraded for 3 consecutive years on the Tier 2 Watchlist<sup>232</sup>.

*Table 4. 28. VOTs who received assistance from public institutions, NGOs and public-private partnership, by numbers and percentages*

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
Total VOTs registered in SIMEV	1049	1041	896	757	880	756	662	497	698	596	505
Victims who received assistance in specified year - identified in specified year	453	369	291	380	328	314	307	236	339	289	315
% victims who received assistance from the total no. of VOTs	43.18	35.45	32.48	50.20	37.27	41.53	46.37	47.48	48.57	48.49	62.38
Victims assisted by public institutions	364	283	201	286	194	166	215	133	207	175	185
% victims who received assistance from public institutions from the total no. of assisted VOTs	80.35	76.69	69.07	75.26	59.15	52.87	70.03	56.36	61.06	60.55	58.73
% Victims assisted by NGOs	89	86	63	72	84	88	48	70	98	79	76
% victims who received	19.65	23.31	21.65	18.95	25.61	28.03	15.64	29.66	28.91	27.34	24.13

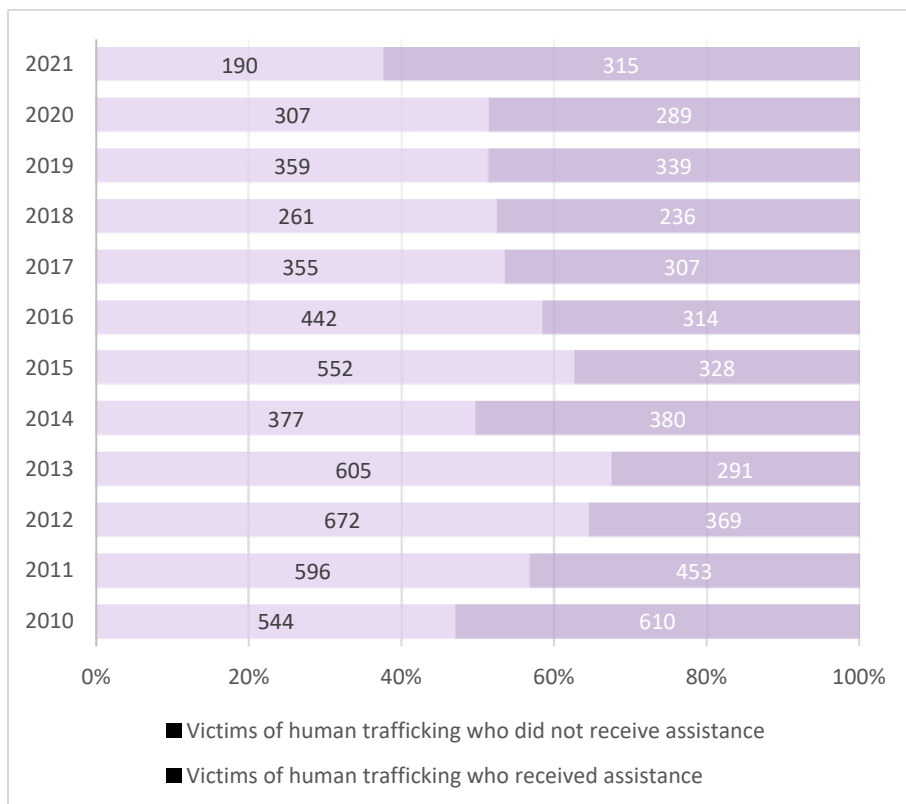
<sup>232</sup> For years 2019, 2020 and 2021. See *TIP Report 2020*, *TIP Report 2021*, respectively *TIP Report 2022 (A/N)*.



assistance from NGOs from the total no. of assisted VOTs											
Victims assisted by public-private partnership	-	-	27	22	50	60	44	33	34	35	54
% victims assisted by public-private partnership from the total no. of assisted VOTs	-	-	9.28	5.79	15.24	19.11	14.33	13.98	10.03	12.11	17.14

Source: The data was gathered and compiled by the author from the TIP Reports 2012-2022

Figure 4. 18. Victims of human trafficking who received assistance in Romania, 2011-2022



Source: ANITP Reports, TIP Reports

Figure 4.19 below shows the numbers of VOTs assisted by the state's public institutions, NGOs and public-private partnerships. It appears that more than 50% of the victims have been assisted by the state throughout the period from 2011 to 2021. Also, it appears that the share of VOTs assisted by NGOs has been increasing, with the lowest share of 16% in 2017 and the highest share in the years 2018-2020 (30%, 29%, respectively 27%). These shares, however, are concluding only to the degree that NGOs report to ANITP every year the specific data on VOTs assisted so their real involvement in the assistance of victims can be visible. However, there are NGOs who do not report these numbers to ANITP due to various reasons. In the year 2022, the ProTECT Platform, comprising 23 anti-trafficking organisations in Romania, published an open letter<sup>233</sup> on their website, addressed to the government of Romania, as a result of the data reported by the Romanian authorities for the TIP Report. Their main concern was that the number of VOTs assisted by the government was disproportionately higher (60%) than the number of VOTs assisted by NGOs (24%) (see assisted victims in the year 2021 in *Table 4.28*) in a context where the NGOs, members of the ProTECT Platform, had allegedly provided specialised assistance to 201 victims of trafficking in 2021 (40%)<sup>234</sup>. They also contested the amount of 55 million RON that the report mentioned as public funding for minor VOTs, in addition to 1.75 million reportedly granted for assistance to adult VOTs from the Ministry of Labour and Social Justice, complaining that the amount is unjustifiably high, considering that none of the NGOs members of the Platform (which include the majority of the specialised anti-trafficking NGOs in Romania), had received any funding from the state up to year 2021<sup>235</sup>. It can be noticed that no data is recorded for public-private partnerships in 2011 and 2012. Such data started to be recorded in the year 2013, continuing in 2014 with the lowest share (of 6%) of public-private partnerships recorded until now, steadily increasing in the following two years and culminating in 2016 with the highest share of 19%, then gradually decreasing again throughout 2017-2020, to again rise to 17% in 2021.

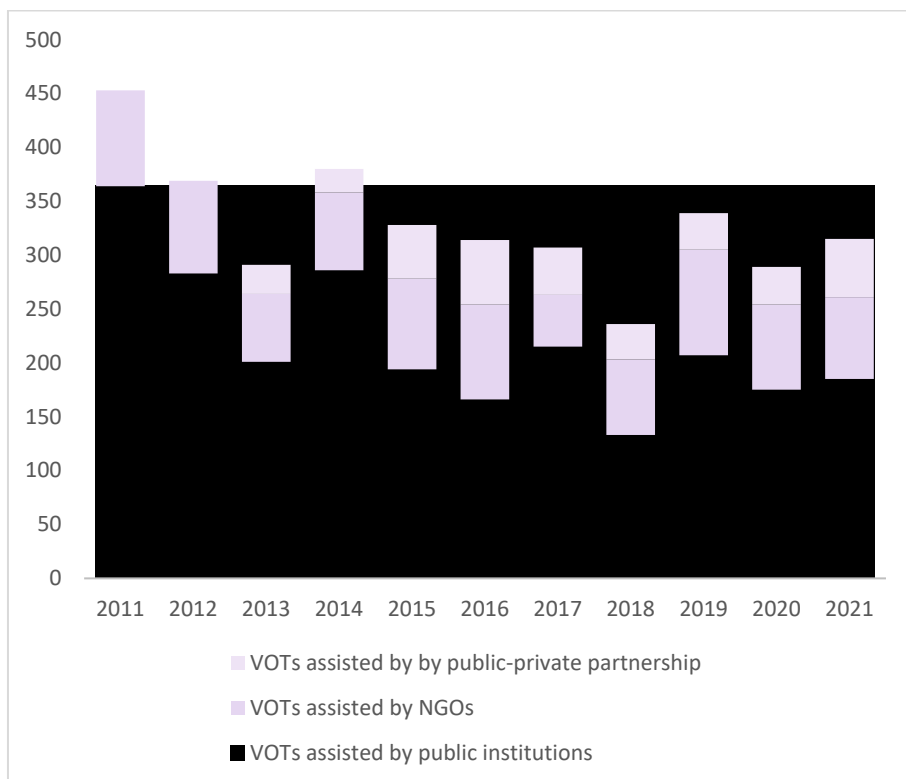
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<sup>233</sup> Platforma ProTECT, *Scrisoare deschisă adresată Guvernului României privind Raportul TIP 2022*, 22 July 2022, [Online] available at: <https://www.dropbox.com/s/nxzaik8m3caoi0i/Scrisoare%20deschis%C4%83%20-clarific%C4%83ri%20TIP%20Report.pdf?dl=0> (accessed 27 April 2023).

<sup>234</sup> *Ibidem*.

<sup>235</sup> *Ibidem*.

Figure 4. 19. Victims of human trafficking assisted by public institutions, NGOs and public-private partnerships 2011-2021



Source: The data was gathered and compiled by the author from various report: TIP Reports, GRETA Reports, ANITP Reports.

However, as GRETA's *Third Round Evaluation Report* mentions, the funding was granted through local governments to the General Directorates of Social Assistance and Child Protection (DGASPC) in order to pay salaries for the multi-disciplinary teams<sup>236</sup> composed of social workers, psychologists, legal advisors, and paediatricians, who were in charge of providing services to minor VOTs. The issue, in this regard, could be that those teams need to be maintained through funding even if there is no child victim registered in a given year, or even if there are just a few.

While acknowledging complaints from civil society, there have also been changes worth mentioning in the Romanian state anti-trafficking

<sup>236</sup> Implemented by Government Decision in 2011, through *HOTĂRÂRE nr. 49 din 19 ianuarie 2011*, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/126229> (accessed 27 April 2023).

system<sup>237</sup>. Some of these changes, enumerated in a press conference<sup>238</sup> by State Councillor Mădălina Turza, covered both assistance and prosecution. The assistance element consisted of the establishment of minimum quality standards and services for child victims and of identification procedures for presumed victims within the protection system<sup>239</sup>.

#### D. Prevention

Concerning prevention, which is the third element of the “4P” paradigm, Romania has been increasing its efforts, according to the latest TIP Report<sup>240</sup>.

The National Strategy against Trafficking in Human Beings for the period 2018 - 2022<sup>241</sup> [hereinafter, SNITP] establishes prevention of HT as objective no. 1<sup>242</sup>, highlighting not only the need to inform and raise the awareness of target groups but also the need to take social, economic and educational measures to reduce vulnerability to trafficking<sup>243</sup>. In this regard, the Strategy states that the involvement of the private sector in supporting prevention activities is essential.

Furthermore, the Anti-trafficking National Action Plan<sup>244</sup> builds upon the objective set out in the Strategy and has targeted a number of specific objectives, as follows<sup>245</sup>:

- a) Raise public awareness about the consequences of HT;
- b) Create and implement information and awareness campaigns/projects/initiatives concerning HT, including online platforms;
- c) Tackle demand through preventive campaigns/projects/initiatives;

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<sup>237</sup> Guvernul României, *România câștigă credibilitate și recunoaștere în lupta împotriva traficului de persoane*, 20 iulie 2022, [Online] available at: <https://gov.ro/ro/stiri/romania-ca-tiga-credibilitate-i-recunoa-tere-in-lupta-impotriva-traficului-de-persoane> (accessed 27 April 2023).

<sup>238</sup> *Departamentul de Stat la SUA a ridicat ratingul de țară al României în domeniul traficului de persoane la nivelul 2, în cadrul Raportului anual publicat la data de 19 iulie 2022*, Facebook video published on the Facebook account Maria Madalina Turza, [Online] available at: <https://www.facebook.com/watch/?v=3260841890871196> (accessed 27 April 2023).

<sup>239</sup> *Ibidem*.

<sup>240</sup> *2022 TIP Report* (for 2021); *2023 TIP Report* (for 2022).

<sup>241</sup> Guvernul României, *SNITP*.

<sup>242</sup> *Ibidem*, p. 15.

<sup>243</sup> *Ibidem*.

<sup>244</sup> *Planul Național de Acțiune 2018-2020 pentru implementarea Strategiei naționale împotriva traficului de persoane pentru perioada 2018-2022 | Hotărâre 861/2018*, [Online] available at: <https://lege5.ro/Gratuit/gmydjojxhe3a/planul-national-de-actiune-2018-2020-pentru-implementarea-strategiei-nationale-impotriva-traficului-de-persoane-pentru-perioada-2018-2022-hotarare-861-2018?dp=gi3tgnbqgq3dinq> (accessed 27 August 2023) [hereinafter, *The Anti-trafficking National Action Plan*].

<sup>245</sup> *Ibidem*.

- d) Implement information campaigns/projects/initiatives targeting Romanian communities abroad;
- e) Provide teachers with training to educate parents and children about the dangers associated with HT;
- f) Develop initiatives to counteract school dropout rates among children and adolescents;
- g) Organise vocational training programs for marginalised social groups;
- h) Establish incentives for businesses that hire trafficking victims;
- i) Monitor the operations of businesses in sectors with high workforce turnover (such as construction, agriculture, logging, tourism, etc.).

However, the monitoring and evaluation of the Strategy and the Action Plan have not been carried out yet. We consider this a significant setback, as the absence of a thorough evaluation of the preceding Strategy and Action Plan, along with their outcomes, could impede the successful formulation and execution of a new Strategy and Action Plan. There is, indeed, a Monitoring Committee responsible for monitoring SNITP<sup>246</sup>, but no official evaluation has been publicized as of now<sup>247</sup>. Therefore, we consider that one of the priorities for the following period should be the official publishing of a comprehensive evaluation document with clear indicators, based on which the next Anti-Trafficking Strategy and Action Plan should be created. Furthermore, according to GRETA's recommendation<sup>248</sup>, civil society should be more involved in the process of creating, monitoring and evaluating the Strategy and the Action Plan<sup>249</sup>.

Every year, ANITP, together with CSOs, conduct a series of prevention campaigns, not only for the general audience but also for targeted groups,

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<sup>246</sup> SNITP, Chapter XIII; Mihaela Draguș, *Reuniunea comitetului interministerial de monitorizare a implementării strategiei naționale de prevenire și combatere a traficului de persoane*, 12 decembrie 2022, [Online] available at: <https://anitp.mai.gov.ro/reuniunea-comitetului-interministerial-de-monitorizare-a-implementarii-strategiei-nationale-de-prevenire-si-combatere-a-trafficului-de-persoane/> (accessed 27 August 2023).

<sup>247</sup> Update: On December 30, 2023, an evaluation of the SNITP 2018-2022 was published. However, the results indicated were considered by the civil society as inadequate to be the basis for the drafting of the new SNITP for 2024-2028. See MAI, *Evaluarea calitativă a implementării și analiza datelor STRATEGIEI NAȚIONALE ÎMPOTRIVA TRAFICULUI DE PERSOANE 2018-2022*, [Online] available at: <chrome-extension://efaidnbmninnipcbajpcgclclefindmkaj/https://anitp.mai.gov.ro/ro/docs/Despre%20Noi/Anexe/Raport%20SNITP%2031%20Aug.pdf>.

<sup>248</sup> GRETA, *Third Round Evaluation Report*, para. 16.

<sup>249</sup> *Ibidem*.

such as teachers<sup>250</sup>, students<sup>251</sup>, prosecutors<sup>252</sup>, judges, police and 112/119 operators, medical staff and others<sup>253</sup>. However, prevention campaigns should continue to be organised by public authorities in cooperation with specialised NGOs and experts, in order to scale up efforts to raise awareness about HT and create a social movement where every individual is aware of the risks of HT and is empowered to recognise the signs of this crime, especially professional categories that may come in contact with VOTs, such as the police, doctors and other medical staff, airlines operators, beauticians and others.

### F. Partnerships

Partnerships (or cooperation), constituting the fourth component of the “4P” paradigm, play an essential role in the development and execution of strategies and operational plans both at the national and EU levels. Given the growing transnational nature of HT, coupled with its escalating occurrence within the online sphere, transnational collaboration has become imperative. As a signatory of the Palermo Protocol<sup>254</sup>, the CoE Convention<sup>255</sup>, and the *EU Directive*<sup>256</sup>, Romania is bound to develop cooperation with the EU member states, as well as with third countries, to meet the international requirements concerning the 3Ps: prevention, prosecution and protection/assistance.

Romania’s Anti-trafficking National Action Plan has a number of specific objectives targeting international and European collaboration in the field, such as:

- Specific Objective 3.6: Enhancing international judicial collaboration among entities tasked with countering organised crime related to HT by improving cooperation with Europol, Interpol, Eurojust and SELEC<sup>257</sup>.

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<sup>250</sup> “Program educațional”, *eLiberare*, [Online] available at: <https://www.eliberare.com/educatie/> (accessed 27 August 2023).

<sup>251</sup> *Ibidem*.

<sup>252</sup> “Training pentru avocați, procurori, judecători, în București România”, *Asociația Pro Refugiu*, May 15, 2017, [Online] available at: <https://prorefugiu.org/training-avocati-procurori-judecatori/>; Proiectul ANITP și IJM “Consolidarea răspunsului proactiv al justiției penale față de trafic de persoane din România”, *ANITP*, 2020, [Online] available at: <https://anitp.mai.gov.ro/proiect-ijm/> (accessed 27 August 2023).

<sup>253</sup> *2021 ANITP Report*, pp. 33-42.

<sup>254</sup> *Palermo Protocol*, Art. 10.

<sup>255</sup> *CoE Convention*, Chapter VI.

<sup>256</sup> *EU Directive*, Recital 5 and 15.

<sup>257</sup> *The Anti-trafficking National Action Plan*, Specific Objective 3.6.

- Specific Objective 5.3: Establishing international collaborative partnerships with analogous foreign institutions, international organisations, EU bodies, or institutions<sup>258</sup>.
- Specific objective 5.4: Enhancing cooperation with destination states in order to coordinate actions and efforts to prevent and deter trafficking in human beings and to assist Romanian citizens<sup>259</sup>.

However, as mentioned in the previous section on Prevention, since we do not have an official document evaluating the Strategy and the Action Plan, we may only make assumptions on the level of cooperation that Romania has been engaging with other EU countries, using the latest TIP Reports, the GRETA Reports, as well as the ANITP reports. We are going to mention a few of the most recent collaboration projects that Romania has been undertaking.

GRETA acknowledges that “Romania is the European country with the highest number of agreements on joint investigation teams (JITs)”<sup>260</sup> for the investigation of HT cases. JITs are mostly initiated by other EU countries in relation to Romania, as in transnational cases where Romanian victims are identified abroad, even though the evidence of the exploitation is found in the country of exploitation, the profits of the crime are occasionally transferred to Romania, and cooperation is needed with the Romanian authorities to carry out financial investigations<sup>261</sup>. Most of the JITs have been concluded with the UK, but there were also teams with France, Germany, Italy, the Netherlands, and Spain<sup>262</sup>. Additionally, the Directorate for Combating Organised Crime (DCCO) took on the role of co-leader for the HT priority within the EU Policy Cycle-EMPACT (European Multidisciplinary Platform Against Criminal Threats) for the period 2018-2021 and also acted as co-leader for various operational actions<sup>263</sup>.

In partnerships with other EU countries, Romania has also accessed non-reimbursable external funds. We mention two of the most recent and notable ones, especially in the area of judicial and police cooperation: the project “WESTEROS 2 - Further strengthening the capacity to combat trafficking in human beings with a focus on prevention, cooperation and recovery of proceeds of crime” (2021), implemented in partnership by judicial

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<sup>258</sup> *Ibidem*, Specific Objective 5.3.

<sup>259</sup> *Ibidem*, Specific Objective 5.4.

<sup>260</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 140.

<sup>261</sup> *Ibidem*.

<sup>262</sup> *Ibidem*.

<sup>263</sup> Europol, *EU Policy Cycle – EMPACT. EMPACT 2022+ Fighting crime together*, 20 Jan 2022, [Online] available at: <https://www.europol.europa.eu/crime-areas-and-statistics/empact> (accessed 27 August 2023).

authorities from Romania, Belgium and Poland<sup>264</sup>, and the project “PDP2 - Strengthening national capacity in the field of international police cooperation and the fight against crime” (2021), aiming to strengthen police cooperation between Norway and Romania.

Moreover, in 2022, ANITP arranged a meeting with embassy representatives from main destination countries for Romanian victims, including Austria, France, Germany, Italy, the Netherlands, Spain, and the UK<sup>265</sup>. The aim was to discuss Romania’s national anti-trafficking system and the steps to identify and help victims. Moreover, Romanian embassies collaborated with officials from Austria, the UK, and Spain to exchange effective strategies against trafficking, foster bilateral cooperation, and enhance victim support<sup>266</sup>.

This fourth element of the “4P” paradigm, cooperation, will be further analysed in Chapter 5, where we will pinpoint key concerns and possible resolutions regarding European collaboration in cases of transnational HT, with a particular emphasis on the cooperation between Romania and other EU member states, particularly in addressing the issue of sexual exploitation.

#### ***4.2.3. Analysis of the three constitutive elements of the definition of human trafficking as reflected in the Romanian legislation and case law***

The following section will analyse the definition of HT in the Romanian legislation according to its three constitutive elements: the “action”, the “means”, and the “purpose”, also using three Case Studies based on Romanian case law on the crime of HT to evaluate at a glance how these three main components are proven in court and the main intricacies and obstacles that the judicial bodies encounter in practice. This section will be organised as follows:

- A. The element of “action” of the HT definition
- B. The element of “means” of the HT definition
- C. The element of “purpose” of the HT definition
- D. Other possible types of exploitation to be included in the Romanian legislation
- E. Case Study 1
- F. Case Study 2
- G. Case Study 3

##### **A. The element of “action” of the HT definition**

Concerning the element of action of the definition of HT, as seen in *Table 4.15* above, Art. 210 NCC is formulated in a simple way, identical to

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<sup>264</sup> 2021 ANITP Report, p. 48.

<sup>265</sup> 2023 TIP Report.

<sup>266</sup> *Ibidem*.



the *Palermo Protocol* and the *CoE Convention*, leaving aside the two additional forms of trafficking mentioned by the *EU Directive*, namely “the exchange and transfer of control”. However, this meaning is implied in the term “transfer (of a person)”, a fact which is illustrated in the judicial practice. For instance, in *Case Study 1* (see *Appendix 3*), the defendant was accused, among other things, of transferring the authority he had over the victim to another person<sup>267</sup>.

The same Court Decision (see *Case Study 1*) explains the meaning attributed to each term contained in the definition of HT, as interpreted in the judicial practice. Thus:

**“Recruitment**, as an alternative way in which trafficking takes place, is the luring of the victim to be exploited for profit.

**Transportation** involves moving the victim from one place to another, either within the borders of the victim's home state or from the victim's home state to the destination state, which most often involves crossing one or more border lines.

**Transfer** is the handing over of the victim from one trafficker to another, when the victim is simply sold as a commodity, initially without the victim's knowledge, or is the subject of another transaction between traffickers (e.g. exchange).

**Harbouring** is a way of achieving the material element of the offence of trafficking in human beings and means receiving a person in a dwelling on a temporary basis.”<sup>268</sup>

## **B. The element of “means” of the HT definition**

As regards **the element of “means”**, as seen in *Table 4.15*, the Romanian legislation keeps the exact wording used in all the three international documents analysed in the previous chapter, except for the definition of the concept of “position of vulnerability”, contained in Article 2(2) of the Directive:

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<sup>267</sup> Curtea de Apel Oradea, *Decizie nr. 673/2020 din 03-dec-2020, Curtea de Apel Oradea, traficul de persoane (art.210 NCP) (Penal)*, [Online] available at: [https://sintact.ro/#/jurisprudence/534753200/1/decizie-nr-673-2020-din-03-dec-2020-curtea-de-apel-oradea-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20673~2F2020%20din%2003-dec-2020,%20Curtea%20de%20Apel%20Oradea,%20traficul%20de%20persoane%20\(art.210%20NCP\)%20\(Penal\)&cm=SFIRST](https://sintact.ro/#/jurisprudence/534753200/1/decizie-nr-673-2020-din-03-dec-2020-curtea-de-apel-oradea-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20673~2F2020%20din%2003-dec-2020,%20Curtea%20de%20Apel%20Oradea,%20traficul%20de%20persoane%20(art.210%20NCP)%20(Penal)&cm=SFIRST) (accessed 14 April 2023) [hereinafter, *Decision no. 673/2020 of 3rd December 2020 of Court of Appeal Oradea*].

<sup>268</sup> *Ibidem*.

“A position of vulnerability means a situation in which the person concerned has no real or acceptable alternative but to submit to the abuse involved.”<sup>269</sup>

However, how the prosecuting and judicial bodies can determine such a situation and what the minimum evidence is so as to validate whether the person had no “real” or “acceptable” alternative are not defined by the *EU Directive*. Likewise, the Romanian New Criminal Code provides for a similar definition of “position of vulnerability” as meaning “taking advantage of a person’s inability to defend himself or herself or to express his or her wishes, or of a person’s state of obvious vulnerability”. However, it does not specify what “state of obvious vulnerability”<sup>270</sup> would entail or how it can be proven in court, nor the act of “taking advantage” of it, which would equal the “abuse” element mentioned in the *EU Directive*.

As the scope of this paper does not allow us to analyse in detail each of the components of “means”, we will focus on the concept of “abuse of a position of vulnerability” to see how the Romanian judicial practice understands and applies it.

UNODC published a study<sup>271</sup> in 2013 on the concept of “abuse of vulnerability”, analysing the legislation and jurisprudence of several countries; even though Romania is not one of the studied countries, valuable information can be drawn from it. UNODC advises that the position of vulnerability should be evaluated on a case-by-case basis by assessing the personal, situational or circumstantial situation of the injured party<sup>272</sup>. The same is the case in Romania; some courts may even use as evidence a psychological or psychiatric evaluation of the victim to better identify the elements of vulnerability, especially concerning the unstable mental state of the victim, but the legislation does not impose it.

*Tables 4.29 and 4.30* below are compiled from the UNODC study, showing the various types of vulnerabilities (although not limited to them), revealing the diverse aspects of vulnerability that must be taken into account when attempting to identify the “means” element of the definition of trafficking and the way it connects to the “act” and the “purpose” of exploitation. On the one hand, personal, situational or circumstantial

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<sup>269</sup> *EU Directive*, Art 2(2).

<sup>270</sup> In Romanian, “stare de vădită vulnerabilitate” (A/N).

<sup>271</sup> UNODC, *Issue Paper. Abuse of a position of vulnerability and other “means” within the definition of trafficking in persons*, New York, 2013, pp. 15-21, [Online] available at: [https://www.unodc.org/documents/human-trafficking/2012/UNODC\\_2012\\_Issue\\_Paper\\_-\\_Abuse\\_of\\_a\\_Position\\_of\\_Vulnerability.pdf](https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Issue_Paper_-_Abuse_of_a_Position_of_Vulnerability.pdf) (accessed 25 April 2023) [hereinafter, *Issue Paper. Abuse of a position of vulnerability...*].

<sup>272</sup> *Ibidem*.

vulnerability must be identified (see *Table 4.29*), and on the other hand, pre-existing vulnerability must be distinguished from created vulnerability to establish if there was an abuse of that vulnerability and what the level of abuse involved was (see *Table 4.30*).

*Table 4. 29. Personal, situational and circumstantial vulnerability*

<b>Personal vulnerability</b>	<b>Situational vulnerability</b>	<b>Circumstantial vulnerability</b>
<b>physical disability</b>	irregular status in a foreign country	unemployment
<b>mental disability</b>	social isolation (the person does not have acquaintances in the country of exploitation)	economic destitution
	linguistic isolation (the person does not speak the language of the country)	

Source: Table compiled by the author using content from UNODC, *Issue Paper. Abuse of a position of vulnerability and other “means” within the definition of trafficking in persons*, New York, 2013, pp. 15-21.

*Table 4. 30. Pre-existing and created vulnerability*

<b>Pre-existing vulnerability</b>	<b>Created vulnerability</b>
poverty	social, cultural or linguistic isolation
mental or physical disability	having entered the country illegally or without proper documentation
youth or old age	dependency cultivated through drug addiction
gender	dependency cultivated through a romantic or emotional attachment (“the <i>loverboy</i> method”)
pregnancy	dependency cultivated through the use of cultural or religious rituals or practices
culture	
language	
belief	
family situation	
irregular status	

Source: Table compiled by the author using content from UNODC, *Issue Paper. Abuse of a position of vulnerability and other “means” within the definition of trafficking in persons*, New York, 2013, pp. 15-21.

Due to the fact that judges decide on a case-by-case basis, verdicts can vary from case to case. For instance, in *Case Study 1* (see *Appendix 3*), the Court recognised the victim's position of vulnerability after diligently providing a specialised psychological assessment, which corroborated all evidence available in this regard. On the other hand, in *Case Study 2* (see *Appendix 4*), the judges failed to recognise and validate both the **pre-existing vulnerability** (*Table 4.30*) of the victim, given her background (she came from a broken family and was raised by her father since the age of 10), and the **created vulnerability** (*Table 4.30*), given by the fact that she was emotionally attached to the defendant (with whom she had been in a relationship for four years and easily trusted him; hence, "the *loverboy* method" method of recruitment could have been identified), that her ID card was taken from her by the defendant and that she had no money, being dependent on the defendant, and thus giving in to the moral and physical constraint exerted by him.

In another example, *Decision no. 134/2018 of 29-May-2018 High Court of Cassation and Justice Bucharest*<sup>273</sup> recognises the family situation, lack of life experience and even "suggestibility" (defined in psychology as "a state, especially under hypnosis, in which a person will accept the suggestions of another person and act accordingly"<sup>274</sup>) as elements of a position of vulnerability. Based on this definition, it could have been proven that the defendant in *Case Study 2* took advantage of the victim's position of vulnerability:

"In all cases of trafficking in persons or minors, the vulnerability of the victim, due primarily to age, lack of life experience, high degree of suggestibility and reduced possibilities to defend themselves in the case of minors, as well as other factors (family situation, lack of employment opportunities, the success stories of those who have carried out such activities, lack of education or any other form of training, extreme poverty, lack of respect for human values) place her in an inferior position which is exploited by the trafficker, in a context in which free and informed consent by the victim is excluded."<sup>275</sup>

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<sup>273</sup> *Decision no. 134/2018 of 29-May-2018, High Court of Cassation and Justice Bucharest.*

<sup>274</sup> As defined in dictionary.com, [Online] available at: <https://www.dictionary.com/browse/suggestibility> (accessed 2 May 2023).

<sup>275</sup> *Ibidem.*

### C. The element of “purpose” of the HT definition

Concerning the element of “purpose”, the Romanian New Criminal Code aligns with the international documents by mentioning it in Art. 210, “exploitation” as the end purpose of HT; furthermore, Art. 182 NCC specifically defines exploitation and covers all types of exploitation mentioned in the *EU Directive*, except one – “**exploitation of criminal activities**”<sup>276</sup>. This could include, according to the *EU Directive*, “the exploitation of a person to commit, inter alia, pick-pocketing, shop-lifting, drug trafficking and other similar activities which are subject to penalties and imply financial gain”<sup>277</sup>.

On the other hand, when speaking of “the exploitation of the prostitution of others or other forms of sexual exploitation”, Art. 210 NCC specifically adds the act of “compelling an individual to engage in (...) pornographic performances for the purpose of producing and disseminating pornographic material”, and Law 678/2001 (The Anti-Trafficking Law) explicitly determines that “exploitation of a person means the activities referred to in Article 182 of the Criminal Code” (see *Table 4.15*). As a result, statistics on HT in Romania include persons who have been exploited for the purpose of pornography, either adults or children, even if the exploitation took place exclusively online. For instance, from the 500 VOTs identified and registered in SIMEV in 2022, 35 were victims of child pornography<sup>278</sup>, with four of them being male victims between the ages of 11 and 16 and the rest of them girls between ages as young as five up to age 17. *Figure 4.20* below shows the number of female minor victims of child pornography in 2022 as reported in the ANITP database for 2022<sup>279</sup>. It can be noticed that the highest number of victims were between 12 to 13 years old (6, respectively 7 victims).

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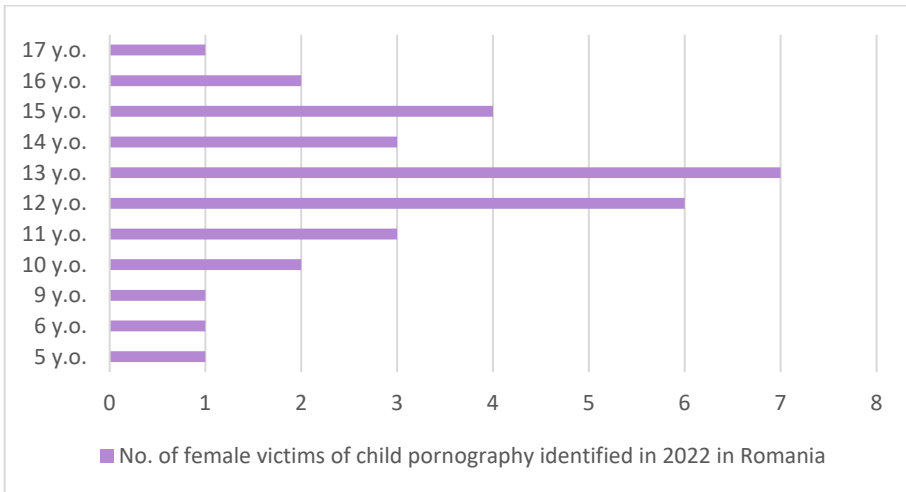
<sup>276</sup> *EU Directive*, Art. 2(3).

<sup>277</sup> *EU Directive*, Recital 11.

<sup>278</sup> International law on human rights does not recognize this term, as it argues that there is no such thing as “pornography” when it comes to children; therefore, the term recommended is “online sexual exploitation and abuse of children” (A/N). See UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography*; Council of Europe, *Convention on Cybercrime. Council of Europe Treaty Series – No. 185*, 2001, Article 9(2), [Online] available at: <https://www.europarl.europa.eu/cmsdata/179163/20090225ATT50418EN.pdf>; Interagency Working Group on Sexual Exploitation of Children, *Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, Bangkok, ECPAT International, 2016, p. 40, [Online] available at: <https://ecpat.org/wp-content/uploads/2021/05/Terminology-guidelines-396922-EN-1.pdf>; (accessed 2 May 2023).

<sup>279</sup> ANITP, *Datele deschise privind situația victimelor traficului de persoane în anul 2022*, 6 aprilie 2023, [Online] available at: <https://data.gov.ro/dataset/datele-deschise-privind-situatia->

Figure 4. 20. Number of female victims of child pornography identified and registered in SIMEV in 2022, by age



Source: Figure created by the author with data gathered and analysed from ANITP, *Datele deschise privind situația victimelor traficului de persoane în anul 2022*, 6 April 2023<sup>280</sup>.

#### D. Other possible types of exploitation to be included in the Romanian legislation

The *EU Directive* suggests the inclusion of illegal adoption or forced marriage<sup>281</sup> as types of exploitation under the element of “purpose”, which would be a very needed aspect in the Romanian legislation. Even if there are no official data available on child marriage statistics for Romania, there is a study made by Save the Children Romania and the World Bank in 2017, according to which “over 20,000 girls under the age limit provided by the national law get married each year, and 44,000 girls aged 15 to 19 become mothers”<sup>282</sup>. In 2021, Romania ranked second in the birth rate of underage

victimelor-traficului-de-persoane-in-anul-2022/resource/f10759c1-461e-4d45-901d-e4a259b47a1c (accessed 1 May 2023).

<sup>280</sup> *Ibidem*.

<sup>281</sup> See *EU Directive*, Recital 11: “as well as, for instance, other behaviour such as illegal adoption or forced marriage in so far as they fulfil the constitutive elements of trafficking in human beings”. Update: These types of exploitation are included in *The revised EU Anti-trafficking Directive* (July 2024). Romania is bound to transpose this in national legislation by 2026.

<sup>282</sup> Irina Marica, “Save the Children: Over 9,000 girls in Romania become mothers at a young age”, in: *Romania Insider*, 11 October 2017, [Online] available at: <https://www.romania-insider.com/girls-romania-mothers-young-age> (accessed 17 April 2023) [hereinafter, “Save the Children: Over 9,000 girls...”]

mothers at the EU level<sup>283</sup>. This phenomenon is considered normal even at the time of writing this paper, especially in the Roma communities and other vulnerable populations in Romania, where parents sell their daughters into marriage, and afterwards, they are taken abroad or trafficked within the country by their husbands for prostitution<sup>284</sup>. This practice safeguards the aggressor, who can escape the scrutiny of the police, posing as an authoritative figure<sup>285</sup>.

The following sections will analyse three Case Studies taken from Romanian case law on HT from 2020 to 2023. The Case Studies were explicitly chosen according to a few elements:

- a. They are recent cases. According to international and EU reports Romania has been making some progress in the area of preventing and combatting this crime, following endeavours to implement recommendations, especially after 2020. We aimed to analyse recent cases so as to evaluate judicial practice in the field according to the latest recommendations;
- b. They all tackle the crime of HT (not child trafficking), since this offence is more difficult to prove in court due to the need to confirm the element of “means”;
- c. For all three cases, the type of exploitation was sexual exploitation, and the method used was “the *loverboy* method”. We specifically chose cases where the trafficker recruited the victim through “the *loverboy* method” because such cases are often judged in court as procuring instead of HT. We aimed to identify the main difficulties and issues in proving a *loverboy* case as an HT case and how judicial bodies evaluate and prove the three elements of the HT definition.

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<sup>283</sup> Dr. Michaela Iuliana Nanu *et al.*, *Report on Report Adolescent pregnancy in Romania*, Asociația SAMAS & UNICEF, 8 January 2021, [Online] available at: <https://www.unicef.org/romania/media/4081/file/Adolescent%20Pregnancy%20in%20Romania%20Report.pdf> (accessed 17 April 2023).

<sup>284</sup> See *Decizie din 09-iul-2020 Curtea de Apel - Bucuresti, Sectia II penala*, [Online] available at: <https://sintact.ro/#/jurisprudence/534349697/1/decizie-nr-658-2020-din-09-iul-2020-curtea-de-apel-bucuresti-proxenetismul-art-213-ncp-penal?keyword=Decizie%20nr.%20658~2F2020%20din%2009-iul-2020,%20Curtea%20de%20Apel%20Bucuresti,%20proxenetismul%20&cm=SFIRST> (accessed 1 May 2023).

<sup>285</sup> See Andreea Bragă, Diana-Elena Neaga and Georgiana Anca Nica, *TOATĂ LUMEA ȘTIA! Violența împotriva femeilor rome și nerome între „normal” și normativ*, Editura Hecate, 2017, [Online] available at: [https://centrulfilia.ro/new/wp-content/uploads/2021/01/Toata-lumea-stia\\_coperta.pdf](https://centrulfilia.ro/new/wp-content/uploads/2021/01/Toata-lumea-stia_coperta.pdf) (accessed 1 May 2023).

### E. Case Study 1

In *Case Study 1* (see *Appendix 3*), based on *Decision no. 673/2020 of 3rd December 2020 of the Court of Appeal Oradea*<sup>286</sup>, the judges found that the defendant was guilty of all four **elements of “action”** (recruitment, transportation, transfer and harbouring); however, it is stated that the offence of HT was already in place when the defendant **recruited** the victim, and even if none of the other elements of action had taken place, one element alone was enough to serve as basis for the crime of HT to be considered as such<sup>287</sup>. Regarding the element of **“means”**, it was found that the defendant’s act was committed by “coercing the victim and taking advantage of her obvious vulnerability and by obtaining a sum of money from the transfer of authority over the victim to another person”<sup>288</sup>. Lastly, the element of **“purpose”** was proven to be “the exploitation of the victim by forcing her into prostitution”<sup>289</sup>. The defendant was sentenced to 5 years of imprisonment, with the prohibition to exercise certain rights, as well as the obligation to pay RON2,200 as moral damages to the victim and RON1,500 for the legal costs of the criminal proceedings and trial advanced by the State<sup>290</sup>.

*Case Study 1* represents an example of a neat and unquestionable case of HT, easy to prove in court as a result of the evidence provided by the *in flagrante delicto* arrest, which the prosecuting authorities managed to arrange based on the information provided by a witness. Added to this are the defendant’s criminal record, his own admission of guilt and several other pieces of evidence provided both during the criminal proceeding and the court trial (see details in *Appendix 3*). As the names are anonymised in the original sources, the name codification was preserved in this paper, as well.

However, the offence of HT is difficult to prove in court, as it can be concluded from *Case Study 2* (see details in *Appendix 4*), unless unquestionable evidence can be provided, such as optical evidence (photos, videos), recordings of conversations, *in flagrante delicto* arrest, or, as the Court states in *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*<sup>291</sup> (see *Case Study 2*), “the hearing

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<sup>286</sup> Curtea de Apel Oradea, *Decision no. 673/2020 of 3rd December 2020 of Court of Appeal Oradea*.

<sup>287</sup> *Ibidem*.

<sup>288</sup> *Ibidem*.

<sup>289</sup> *Ibidem*.

<sup>290</sup> *Ibidem*.

<sup>291</sup> Decizie nr. 227/2021 din 22-iul-2021, Tribunalul Argeş, traficul de persoane (art.210 NCP) (Penal), [Online] available at: [https://sintact.ro/#/jurisprudence/535438631/1/decizie-nr-227-2021-din-22-iul-2021-tribunalul-arges-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20227~2F2021%20din%2022-iul-2021,%20Tribunalul%20Argeş,%20traficul%20de%20persoane%20\(art.210%20NCP\)%20\(Penal\)&cm=SFIRST](https://sintact.ro/#/jurisprudence/535438631/1/decizie-nr-227-2021-din-22-iul-2021-tribunalul-arges-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20227~2F2021%20din%2022-iul-2021,%20Tribunalul%20Argeş,%20traficul%20de%20persoane%20(art.210%20NCP)%20(Penal)&cm=SFIRST) (accessed 14 April 2023) [hereinafter, *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*].



*of witnesses - under protected identity if necessary - of the persons who provided the information contained in the investigation reports, respectively the carrying out of supplementary investigative procedures (...)*<sup>292</sup>

## F. Case Study 2

In *Case Study 2* (see *Appendix 4*), based on *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*<sup>293</sup>, the defendant, who had been in a four-year relationship with the victim at the time of the recruitment, was indicted of recruiting and transporting the victim to Germany, initially by means of deception and eventually by coercion and abuse of a position of vulnerability, for the purpose of exploitation of forced prostitution. However, the Court of Argeş came to the conclusion that the only piece of evidence provided by the prosecution was the victim's testimony, which, according to them, could not be proven in the absence of additional evidence, especially since it was a case of "one person's word against another's". We quote from the *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*<sup>294</sup> the basis for the Court's **acquittal of the defendant**:

"The Court finds that the prosecution based its allegations largely on indirect evidence - the statements of witnesses D \_\_\_\_\_ D \_\_\_\_\_ and E \_\_\_\_\_ E \_\_\_\_\_ who know exclusively from the victim's accounts of the recruitment and deception of the victim by the defendant as to the purpose of going to Germany, the investigation reports drawn up on the basis of information gathered from public rumour, from pimps and prostitutes in the municipality of Câmpulung and from the information of the victim's family and friends, without any concrete data that could be verified by the court, evidence that cannot lead to the conviction of a person, all the more so as the charge brought is a very serious one."<sup>295</sup>

As a conclusion, the Court of Argeş acquitted the defendant and also rejected the victim's civil claim for the restitution of the amount of RON2,500 obtained from the practice of prostitution, which she had allegedly handed over to the defendant<sup>296</sup>. In the judges' perspective, "the evidence in the case does not reveal in concrete and unequivocal terms" the **deception** element of the case, nor the purpose, namely **exploitation** of the victim by forcing her into prostitution. The judges also disregarded the statement of the witness EE, the victim's client, who was an eyewitness to the aggression to which the

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<sup>292</sup> *Ibidem.*

<sup>293</sup> *Ibidem.*

<sup>294</sup> *Ibidem.*

<sup>295</sup> *Ibidem.*

<sup>296</sup> *Ibidem.*

defendant subjected the victim at the end of the day when he forced her to hand him the money she had made from prostitution in the respective day, on account that “the concrete motive for this aggression was not proven”<sup>297</sup>.

As a result, since the statement of the eyewitness was disregarded in this matter, the statements of the other witnesses were also considered invalid, and finally, the judges settled that “on the basis of the injured party’s statements alone” and “of witnesses with indirect knowledge of the situation”, “under no circumstances (...) is it possible to convict the defendant of the offence in question”<sup>298</sup>.

From the author’s perspective, the Court of Argeş, in this case, should have ordered further ex-officio investigations, including the creation of joint investigation teams to gather evidence from Wurzburg, the locality where the offence took place. We consider that the court hastily and unjustifiably acquitted the defendant of all charges, and for this claim, the following arguments can be made:

- a. the statements of both the victim BB and the victim’s client EE, who had been an eyewitness to the aggression in public to which the defendant subjected the victim, were disregarded as invalid, most probably because of the special circumstances posed by the COVID-19 pandemic and the post-pandemic situation and by the fact that the victim BB and the witness EE could not leave Germany, in order to show up at the trial in 2020 for the in-court hearing, because of their children and the pandemics;
- b. the statement of witness FF’s (the defendant’s friend who stated that the victim appeared to be ignorant of the true purpose of why she was brought to Wurzburg by her boyfriend and that he, FF, was the one who informed the victim of the defendant’s other girlfriend GG, who was working as a prostitute in his benefit) were disregarded on account that GG (the defendant’s other girlfriend) was doing prostitution for AA by her own choice;
- c. the judges appear to be ignorant of the main method used by Romanian traffickers in recruiting victims, namely “the *loverboy* method”, mistakenly concluding that the fact that the victim had been in a four-year relationship with the defendant made her claim even more implausible: “the prosecution had to prove beyond reasonable doubt that the defendant recruited the victim for the purpose of sexual exploitation by misleading her as to the real

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<sup>297</sup> *Ibidem.*

<sup>298</sup> *Ibidem.*

purpose of going to Germany, especially as the two had been involved in an emotional relationship for about four years”<sup>299</sup>;

- d. the Court also disregarded the witnesses’ statements that the defendant had another woman working for his benefit as a prostitute in Wurzburg, with whom he was also in a relationship, as well as the phone conversation recorded on April 1<sup>st</sup>, 2020, when AA was contacted by a male friend who asked him about his (third) woman and to which AA responded that they are planning to go to Germany to make money. Even if these are considered not enough to count as evidence for the offence of HT, or at least procuring, the Court should have continued to use investigative tools for a longer period of time so as to invalidate the apparent suspicion that AA was a trafficker who lured his victim by “the *loverboy* method”.

Taking all these arguments into consideration, we conclude that:

1. the court, as well as the prosecution bodies, appear to be **lacking in professional training** regarding the constitutive elements of HT; therefore, professional training on HT is crucial to be provided to prosecuting and judicial bodies;
2. the Court appears to be ignorant of the **obligation to conduct due diligence or to investigate** a case when the state authorities are aware of “circumstances giving rise to a credible suspicion” that an individual is or was at risk of being trafficked<sup>300</sup>, as stated by the ECtHR Judgement in the *Case of Rantsev v. Cyprus and Russia*<sup>301</sup>; under such circumstances, the Court has the “positive obligation” to further and *ex officio* employ investigative methods so as to fully confirm or to infirm the accusation brought against the defendant;
3. even though there was some evidence that could have led to further investigation, the Court was not able (or willing) to make efficient use of it; this statement is supported by a 2020 study<sup>302</sup> by the European Parliamentary Research Service, where it is stated that “Romania signals a lack of efficient use of the evidence furnished by other Member States within the framework of JITs, which in some cases results in very light sentences for the perpetrators, including

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<sup>299</sup> *Ibidem*.

<sup>300</sup> *Case of Rantsev v. Cyprus and Russia*, para. 286.

<sup>301</sup> *Ibidem*.

<sup>302</sup> Alina Dinu (ed.), *Implementation of Directive 2011/36/EU: Migration and gender issues European implementation assessment*, EPRS | European Parliamentary Research Service, PE 654.176 – September 2020, [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS\\_STU\(2020\)654176\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS_STU(2020)654176_EN.pdf) (accessed 14 April 2023).

suspended sentences”<sup>303</sup>. In this case, the lack of efficient use of evidence resulted in the acquittal of the perpetrator;

4. the Court’s decision to disregard all the statements of witnesses appears to be vitiated by **gender bias**, as it gave credit to one statement, namely the defendant’s statement who denied all accusations (without having evidence to back up his denial), rather than giving credit to the other four statements contrary to his, namely the statement of the victim BB, of the eyewitness EE, of the witness FF and the witness GG; the decision seems to be also vitiated by **cultural bias**, since the defendant was not charged at least with a lesser penalty (e.g., for the offence of procuring, which could have been proven in court much easier in this case), thus revealing the Court’s decision to overlook the offence of procuring altogether; another aspect which is not mentioned in the decision is whether the victim was of Roma ethnicity, case in which there might also have been **racial discrimination**, based on – as stated by the European Commission in its *2016 Commission Staff Working Document*<sup>304</sup> – the “hesitation by public authorities in taking action”, who “may erroneously consider” prostitution and procuring as part of the Roma cultural tradition<sup>305</sup>;
5. there is a need for a **standard of evidence** in HT cases (including child trafficking), both general and specific, which both the prosecution and the judiciary can use as guidelines; as of now, the standard of evidence is decided on a case-by-case basis, following the principle of “in dubio pro reo”<sup>306</sup>, the same principle that the Court of Argeş applied in *Case Study 2*, according to Art. 16, para 1, letter c) of the Romanian Criminal Procedure Code<sup>307</sup>, thus acquitting the perpetrator;

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<sup>303</sup> *Ibidem*, p. 112.

<sup>304</sup> European Union: European Commission, *Commission Staff Working Document accompanying the document Report from the Commission to the European Parliament and the Council. Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims* {COM(2016) 267 final}, Brussels, 19 May 2016, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0159> (accessed 14 April 2023).

<sup>305</sup> *Ibidem*, p. 21.

<sup>306</sup> A legal principle stating that in case the evidence analysed is insufficient to prove the guilt of an accused person for a criminal offence, the judicial decision must be in his or her favour (A/N).

<sup>307</sup> “Noul Cod de Procedură Penală”, Art. 16. Cazurile care împiedică punerea în mişcare şi exercitarea acţiunii penale, *Legea de la A la Z*, <https://legeaz.net/noul-cod-procedura-penala-ncpp/art-16> (accessed 24 April 2023).

6. except for a standard of evidence, there is need for a **unitary and binding standardised methodology** (i.e., minimum standards) regarding the judicial practice in cases of HT and procuring, according to which training and examples of best practice are provided as to how evidence can be corroborated and used towards the verdict; as of now, the judicial bodies decide on a case-by-case basis, in accordance with the law, as stated in the Romanian Constitution, Art. 124(3)<sup>308</sup>. The principle of the independence of judges and their submission only to the law implies that “both the assessment of the factual situation and the choice of how to apply the law in each specific case are and must remain the expression of the judge’s own intimate conviction, which he must form without any outside influence or interference”<sup>309</sup>; there are guidebooks provided by various international organisations, such as ICMPD’s *Anti-Trafficking Training Material for Judges and Prosecutors Handbook*<sup>310</sup> UNODC’s *Anti-human trafficking manual for criminal justice practitioners*<sup>311</sup> ILO’s *Judges, prosecutors and legal aid practitioners’ training on forced labour*<sup>312</sup>, OSCE’s *Resource Police Training Guide: Trafficking in Human Beings*<sup>313</sup> etc.; however, there is no methodology or guidelines providing minimum standards for investigating and judging HT cases in Romania;
7. there is a need for a new or existing judicial **mechanism to evaluate and monitor the sentences and decisions** given by courts in cases of HT, procuring/prostitution and other related offences so as to investigate whether the validation or invalidation of evidence

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<sup>308</sup> *Constituția României*, [Online] available at: <https://www.constitutiariomaniei.ro/> (accessed 24 April 2023).

<sup>309</sup> *Principiul independenței judecătorilor și supunerii lor numai legii*, Legea de la A la Z, [Online] available at: <https://legeaz.net/dictionar-juridic/principiul-independentei-judecatorilor-si-supunerii-lor-numai-legii#comentarii> (accessed 18 April 2023).

<sup>310</sup> International Centre for Migration Policy Development, *Anti-Trafficking Training Material for Judges and Prosecutors Handbook in EU Member States and Accession and Candidate Countries*, Vienna, 2006, [Online] available at: [https://documentation.lastradainternational.org/Isidocs/540%20AGIS\\_JUD\\_Handbook.pdf](https://documentation.lastradainternational.org/Isidocs/540%20AGIS_JUD_Handbook.pdf) (accessed 18 April 2023).

<sup>311</sup> UNODC, *Anti-human trafficking manual for criminal justice practitioners. Module 11*.

<sup>312</sup> ILO, *Judges, prosecutors and legal aid practitioners’ training on forced labour*, 2018, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_686734.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_686734.pdf) (accessed 18 April 2023).

<sup>313</sup> OSCE, *Resource Police Training Guide: Trafficking in Human Beings*, TNTD/SPMU Publication Series Vol. 12, Vienna, July 2013, [Online] available at: <https://www.osce.org/files/f/documents/8/9/109935.pdf> (accessed 18 April 2023).

decided by the Court was in accordance with the legislation and the methodology in place, and whether the offence was correctly classified. This could be done following the example of the Judicial Inspection's *Report on the practice of courts and public prosecutors' offices in investigating and prosecuting cases of sexual offences against minors*<sup>314</sup>, which was published following endeavours of the Superior Council of Magistracy to investigate malpractices and best practices in cases of sexual offences involving child victims (recorded between February 1, 2014, and July 29, 2020). The most important issue that the Judicial Inspection's Report documents identified was **the lack of a uniform judicial practice** regarding the assessment and determination of the validity of consent of child victims in sexual offence cases. As a consequence, depending on the prosecutor's office or court that is dealing with a case of a victim under the age of 12, for instance, it may be prosecuted either as a sexual act with a minor or as rape<sup>315</sup>. The same situation can be noticed in the judicial practice concerning cases of HT as opposed to procuring or other offences sanctioned more leniently.

### G. Case Study 3

*Case Study 3* (see *Appendix 5*) was adapted from excerpts from *Judgment no. RJ 86452de62/2023 of 16-Mar-2023, Court of Suceava*<sup>316</sup> on HT and is an example of a case that was instrumented in a professional way, given the array of evidence gathered both by the prosecutor and the court. It is in a relatively similar context to *Case Study 2*, where the defendant was acquitted for lack of evidence.

The difference between the Court of Argeş (*Case Study 2*) and the Court of Suceava (*Case Study 3*) is composed of a series of factors, which should be taken into consideration when dealing with HT cases where “the *loverboy* method” was used:

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<sup>314</sup> Consiliul Superior al Magistraturii, Inspecția Judiciară, *Raportul privind practica instanțelor de judecată și a parchetelor de pe lângă acestea în investigarea și soluționarea cauzelor privind infracțiuni la viața sexuală cu victime minore*, 27 iulie 2021, [Online] available at: <https://www.csm1909.ro/ViewFile.ashx?guid=1c656a33-bd25-4118-85f1-6411fdeb1c4f-InfoCSM> (accessed 18 April 2023) [hereinafter, *Raportul privind practica instanțelor de judecată...*]

<sup>315</sup> *Ibidem*, pp. 170-270, 289-290.

<sup>316</sup> *Sentinta din 16-mar-2023 Tribunalul SUCEAVA Suceava, Sectia penala*, [Online] available at: <https://sintact.ro/#/jurisprudence/553759802/1/sentinta-nr-rj-86452-de-62-2023-din-16-mar-2023-tribunalul-suceava-traficul-de-persoane-art-210...?keyword=decizie%20RJ%2086452de62~2F2023%20&cm=SFIRST> (accessed 2 May 2023) [hereinafter, *Judgment no. RJ 86452de62/2023 of 16-Mar-2023, Court of Suceava*].

1. The court did not rely only on the statements of witnesses but gathered **extra evidence by *ex officio* investigation**, including through judicial cooperation with the German judicial authorities, investigations of Facebook accounts, financial investigations concerning the defendant's assets, psycho-social assessments to validate the state of vulnerability of the victims;
2. The court was **aware of the "loverboy" *modus operandi*** of HT, thereby considering the "means" used by the defendant to be "the *loverboy* method", which includes deception and psychological coercion at the minimum;
3. The Court was aware that "consent" given by the victim where any of the "means" was used is irrelevant; therefore, both victim BB and victim CC, even if they consented to practise prostitution, were declared victims of trafficking, not prostitutes, based on their position of vulnerability (pre-existing and created) at the moment when they gave their consent, and on the fact that the defendant was aware of their position of vulnerability and took advantage of it (abuse of a position of vulnerability);
4. The Court **informed the victims of their rights**, including the possibility to submit civil claims for material and moral damages;
5. The Court provided the victims with **free legal assistance**;
6. The Court ordered the **seizure of the defendant's assets**, appropriated through the offence of HT and obliged him to the payment of RON40,000 for moral damages to victim CC;

Some other conclusions could be made based on the Case Studies analysed in this paper.

1. As *Case Study 2* and *Case Study 3* were transnational cases, with recruitment happening on the territory of Romania, while the action of harbouring and transportation, as well as the exploitation happening on the territory of Germany, **transnational judicial cooperation** should be **binding** so as to rightfully judge such cases;
2. Furthermore, since the majority of the Romanian victims are women exploited through prostitution, as statistics analysed within this paper prove, it is extremely important **not to disregard the legislation on procuring/prostitution** and how it differs from the legislation on HT, not only in Romania but also in the countries of destination. The legal loopholes concerning these two apparently different offences restrict the early identification of victims;
3. The **legalisation of prostitution** (in Germany, in this example) not only facilitates but also promotes and contributes to the exploitation

and abuse of vulnerable persons, especially immigrants who do not know the language, their rights, the legislation of the country and their options to exit the situation of exploitation they are being subjected to, regardless of whether they initially gave their consent to it or not. It is easier for traffickers to exploit the victims in plain sight in countries which have legalised prostitution without fear of being punished. The evidence to support this argument is apparent from *Case Study 3* (see *Appendix 5*), where the victim BB was assaulted by the defendant while she was in a brothel in Germany, who even tried to dispose of her ID card; however, no one intervened to stop this aggression. Moreover, when she disclosed to the receptionist that she was forced to practise prostitution, neither the receptionist nor any other person with authority in the brothel called the police in order to investigate the case and assist a presumed victim of trafficking. This is a striking example of how the legalisation of prostitution “blurs” the line between “consented prostitution” versus exploitation. The victim BB’s declaration in this regard is self-explicit: “I cannot leave, as here in Germany, this activity is legal, and I cannot call the police”. Therefore, **legalisation can never be a solution to diminish HT**, but on the contrary, it will be a legal guise which will encourage and shelter criminal activity under the state’s authority (not only traffickers, but also brothel owners), and discourage VOTs from coming forward and reporting the abuse;

4. **the demand for sexual services** sky-rockets in a country which has legalised prostitution: it is interesting to notice that the defendant AA in *Case Study 3*, together with his friend, who also had a fiancé whom he introduced in prostitution, managed to arrange the entry into prostitution for victim CC, by making a profile for her on a public website, posting her address (at the apartment which they rented and which was paid with the money made by victim CC from prostitution) and her telephone number; it is also interesting to notice that her phone called nonstop on certain days. From all these details, it can be asserted that the legalisation of prostitution is a “friendly environment” or a “safe haven” not only for traffickers to conduct their “business” in public but also for buyers of sex services, which can very well be services exacted from a victim of HT; on the other hand, the **Equality model** (i.e., the abolitionist or Swedish model) discourages the demand for sexual services by criminalising the sex buyer.



We believe that it is of utmost importance that these aspects be taken into consideration as a matter of urgency, considering the ever-increasing number of VOTs and the issues arising in transnational cases. If solutions can be found to these questions – solutions that can be applied uniformly throughout the EU – then Romanian victims in Germany, for instance (or in other EU countries where prostitution is legal) will no longer be considered “sex-workers”, and will benefit from the same treatment and the same rights as Romanian victims identified in Sweden, Ireland or France (where the person engaged in prostitution is considered to be a potential victim of HT, regardless of the consent given). Otherwise, a Romanian girl taken by her fiancé in Germany to “make money” for their “wedding” will be simply considered a “sex-worker” who freely consented to the activity of sex work, while the same victim taken to Sweden for the same reason will be carefully scrutinised by the authorities and other outreach organisations to identify whether she was a victim of “the *loverboy* method” (i.e. HT), or whether she truly consented to prostitution as being entirely her idea and her personal decision (case in which she will still be offered an exit program by which she will have a real choice to leave prostitution, including financial and material means)<sup>317</sup>.

It is our conviction that more VOTs would be identified if careful scrutiny were done by the police among persons who claim or appear to be “sex workers”, especially in countries where prostitution is legalised. The table provided in the booklet *Decriminalisation of the sex trade vs. the Nordic Model. What you need to know*, published by Nordic Model Now (see Table 4.31), is relevant when attempting to understand the apparent gap between victims of trafficking and “sex workers”. It is evident that countries which legalise prostitution have a higher number of people involved in prostitution, as the legal climate is favourable to such a culture (i.e., FKK, the *Frei Körper Kultur*), demand for sexual services goes rampant, and police is lenient towards it.

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<sup>317</sup> The Swedish Criminal Code, SFS 1962:700 Brottsbalken, Chapter 6, Section 11: “A person who, in cases other than those previously referred to in this Chapter, obtains casual sexual relations in return for a payment, is guilty of purchase of sexual services and is sentenced to imprisonment for at most one year. The provision in the first paragraph also applies if the payment was promised or made by another person”, updated 2 December 2022, [Online] available at: <https://www.government.se/contentassets/7a2dcae0787e465e9a2431554b5eab03/the-swedish-criminal-code.pdf>; Charlotta Holmström, *The Swedish Sex Purchase Act: Where Does it Stand?*, Oslo Law Review 2017/2, Årgang 4, side 82-104, 25 August 2017, [Online] available at: [https://juridika.no/tidsskrifter/oslo-law-review/2017/2/artikkel/holmstr%C3%B6m;Decriminalisation of the sex trade vs. the Nordic Model. What you need to know, Nordic Model Now, April 2022, \[Online\] available at: https://nordicmodelnow.org/wp-content/uploads/2022/04/Decrim-vs-the-NM-booklet-with-references.pdf](https://juridika.no/tidsskrifter/oslo-law-review/2017/2/artikkel/holmstr%C3%B6m;Decriminalisation%20of%20the%20sex%20trade%20vs.%20the%20Nordic%20Model.%20What%20you%20need%20to%20know,%20Nordic%20Model%20Now,%20April%202022,%20[Online]%20available%20at:%20https://nordicmodelnow.org/wp-content/uploads/2022/04/Decrim-vs-the-NM-booklet-with-references.pdf) (accessed 2 May 2023).

Table 4. 31. Number of persons in prostitution compared to the legal model on prostitution per each country

Country	Number of people in prostitution	Total population	% people in prostitution	Sex trade
Germany	400,000	84,242,771	0.47%	Legalised
The Netherlands	25,000	17,199,668	0.15%	Legalised
New Zealand	8,000	4,888,873	0.18%	Decriminalised
Sweden	2,500	10,207,834	0.03%	Nordic Model <sup>318</sup>
Norway	3,000	5,494,575	0.05%	Nordic Model
France	20,000	65,520,393	0.03%	Nordic Model

Source: The table was retrieved from *Decriminalisation of the sex trade vs. the Nordic Model. What you need to know, Nordic Model Now*, April 2022, p. 33, <https://nordicmodelnow.org/>

Concerning the concepts of “abuse of a position of vulnerability” and “consent”, some questions should be taken into consideration, especially for legislators, the judiciary, prosecutors, and law enforcement (including transnational) bodies who are directly involved in the investigation and prosecution of HT cases. These questions would also be useful in any future attempt to adopt a legislative model similar to the Equality Model or otherwise to compile a unitary methodology and any other tools for the investigation and prosecution of such cases in the existing legislative framework of Romania. Table 4.32 below provides some questions suggested by UNODC in the 2013 *Issue Paper*<sup>319</sup> on abuse of a position of vulnerability and other “means”:

Table 4. 32. Questions inherent within the concepts of “abuse of a position of vulnerability” and “consent”

Element of “means”	Questions to take into consideration
Abuse of a position of vulnerability (APOV)	What should be the elements of proof for proving the abuse of vulnerability?
	Would reverse burden of proof be useful, requiring alleged traffickers to prove that they did not abuse vulnerability? Are there potential risks with this approach?
	What are the potential risks of setting a low threshold for the requisite mental state? How can those risks be mitigated?

<sup>318</sup> Alternative terminology for the *Equality Model*. The *Equality Model* is the most current term, used to refer to all countries who have adopted a model similar to Sweden’s (A/N).

<sup>319</sup> UNODC, *Issue Paper. Abuse of a position of vulnerability...*, pp. 79-82.

	<p>How can the perpetrator's state of mind be proven in establishing APOV so that not only the position of vulnerability is proven but also abuse of that vulnerability?</p> <p>In cases where victims of trafficking do not identify themselves as victims, particularly where APOV appears to be the only "means" used (e.g., "the <i>loverboy</i> method"), are there specific challenges unique to APOV that make it particularly difficult to gain the cooperation of victims? If so, how can these specific challenges be addressed?</p> <p>How can APOV be used to establish victimisation where the victim does not testify against his or her trafficker?</p> <p>What are the specific protection and assistance considerations to empower a victim to support the criminal justice process where APOV was the means of trafficking used?</p>
<b>Consent</b>	<p>What are the specific investigative and prosecutorial challenges of establishing that a victim's consent has been nullified through APOV when victims do not identify themselves as victims?</p> <p>To what extent do the personal opinions or biases as to what a person will consent to impact the finding that consent was or was not vitiated by APOV?</p> <p>How can guidance be offered on APOV so as to harmonise understandings of how consent may – or may not be – vitiated through the use of this "means" across the range of sectors in which exploitation may occur?</p>

Source: The table was retrieved from UNODC, *Issue Paper. Abuse of a position of vulnerability and other "means" within the definition of trafficking in persons*, New York, 2013, pp. 79-82.

### 4.3. Analysis of the Romanian Institutional Framework in the Area of Preventing and Combatting Human Trafficking

The following section will briefly present the anti-trafficking institutional framework in Romania, as compared to the EU institutional framework in the field. *Figure 4.21* shows the organigram of the main institutions with responsibilities in preventing and combatting HT in Romania, following the three main pillars of the anti-trafficking structure proposed by OSCE<sup>320</sup> – the National Coordinator, the National Rapporteur and the multiagency Task Force (see Chapter 3, section 3.4.2).

The position of **Anti-trafficking National Coordinator**<sup>321</sup> was first held and fulfilled for a short period of time by State Counsellor in the Prime Minister's

<sup>320</sup> OSCE, *Decision no. 2/03 Combating Trafficking in Human Beings*.

<sup>321</sup> Guvernul României, *Plan comun de acțiune pentru combaterea traficului de persoane între Guvernul României și Guvernul Regatului Unit al Marii Britanii și Irlandei de Nord*, 18 mai 2023,

Chancellery, Maria Mădălina Turza, a position from which she headed the Department for Community Social Responsibility and Vulnerable Groups, starting from February 2022<sup>322</sup> until August 2023<sup>323</sup>. As a national anti-trafficking coordinator, Mădălina Turza was also the coordinator<sup>324</sup> of the **Interinstitutional Intersectoral Strategic Coordination Committee for the fight against trafficking in human beings**<sup>325</sup> [hereinafter, the Interinstitutional Anti-Trafficking Committee] of the Romanian Government, which plays the role of the multiagency Task Force recommended by OSCE. The Committee was instituted in 2023.

According to *Prime Minister's Decision nr. 22/2023*<sup>326</sup>, the Interinstitutional Anti-Trafficking Committee is responsible for guaranteeing a unified and harmonised strategy for executing public policies related to preventing and countering HT, as well as providing aid to VOTs<sup>327</sup>. Some of the most important objectives of the Committee are<sup>328</sup>: 1) Facilitating the development of the National Strategy against Human Trafficking; 2) Facilitating the cooperation among all relevant institutions to effectively execute the action plan, as well as the goals and objectives of both national and international public

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[Online] available at: <https://gov.ro/ro/media/comunicate/plan-comun-de-actiune-pentru-combaterea-traficului-de-persoane-intre-guvernul-romaniei-i-guvernul-regatului-unit-al-marii-britanii-i-irlandei-de-nord&page=1> (accessed 24 august 2023).

<sup>322</sup> Ioana Câmpean, "Mădălina Turza, numită de către premier la conducerea Departamentului pentru responsabilitate socială comunitară și grupuri vulnerabile", in: *G4 Media*, 2 February 2022, [Online] available at: <https://www.g4media.ro/madalina-turza-numita-de-catre-premier-la-conducerea-departamentului-pentru-responsabilitate-sociala-comunitara-si-grupuri-vulnerabile.html> (accessed 24 august 2023).

<sup>323</sup> Ioana Câmpean, "Mădălina Turza (PNL), demisă din Guvern de către premierul Ciolacu", in: *G4 Media*, 13 July 2023, [Online] available at: <https://www.g4media.ro/madalina-turza-pnl-demisa-din-guvern-de-catre-premierul-ciolacu-ea-conducea-departamentul-pentru-responsabilitate-sociala-comunitara-si-grupuri-vulnerabile.html> (accessed 24 august 2023) [hereinafter, "Mădălina Turza (PNL), demisă din Guvern de către premierul Ciolacu"].

<sup>324</sup> "Politici publice mai bune la nivel european, pentru mai puține victime ale traficului de persoane în scop sexual", in: *RFI*, 17 May 2023, [Online] available at: <https://www.rfi.ro/eveniment-155936-politici-publice-mai-bune-la-nivel-european-pentru-mai-putine-victime-ale> (accessed 24 august 2023).

<sup>325</sup> *Decizia Prim-Ministrului nr. 22/2023 privind constituirea și atribuțiile Comitetului interministerial de coordonare strategică intersectorială a luptei împotriva traficului de persoane*, publicată în Monitorul Oficial, Partea I nr. 85 din 31 ianuarie 2023. În vigoare de la 31 ianuarie 2023, Art. 2, [Online] available at: <https://lege5.ro/gratuit/geztenzqg42ds/decizia-nr-22-2023-privind-constituirea-si-atributiile-comitetului-interministerial-de-coordonare-strategica-intersectoriala-a-luptei-impotriva-traficului-de-persoane> (accessed 15 July 2023) [hereinafter, *Prime Minister's Decision nr. 22/2023*].

<sup>326</sup> *Ibidem*.

<sup>327</sup> *Ibidem*.

<sup>328</sup> *Ibidem*, Art. 3.

policies; 3) Evaluating the progress of tasks undertaken by each institution; 4) Orchestrating the cross-sectoral implementation of international recommendations in the field of HT; 5) Ensuring the collection of data and information essential for reporting to international and European entities; 6) Establishing and monitoring specialised working groups focused on the prevention of HT and related offences<sup>329</sup>.

The Committee is comprised of representatives of the ministries with responsibilities in the field, as follows<sup>330</sup>:

1. Prime Minister's Chancellery;
2. Ministry of Interior;
3. Ministry of Labour and Social Solidarity;
4. Ministry of Foreign Affairs;
5. Ministry of Health;
6. Ministry of Education;
7. Ministry of Economy;
8. Ministry of Entrepreneurship and Tourism;
9. Ministry of Family, Youth and Equal Opportunities;
10. Ministry of Finance;
11. Ministry of Justice.

Furthermore, the Committee is also comprised of permanent guests<sup>331</sup>, which include representatives from the Department for Community Social Responsibility and Vulnerable Groups (Prime Minister's Chancellery), the Department for Romanians Abroad (Ministry of Foreign Affairs), the Department for the Republic of Moldova, the National Agency against Trafficking in Human Beings (ANITP), the National Authority for the Protection of the Rights of Persons with Disabilities (ANPDPD), and the National Authority for Employment (ANOFM). Additionally, the National Agency for Equal Opportunities for Women and Men (ANES), the Authority for the Protection of Children's Rights and Adoption (ANPDCA), the Labour Inspectorate, the Directorate for the Investigation of Organised Crime and Terrorism of the Public Prosecutor's Office (DIICOT), along with representatives from the ProTECT Platform<sup>332</sup> of civil society having firsthand involvement in aiding VOTs, also take part in these Committee's meetings.

Lastly, the **National Agency against Trafficking in Human Beings (ANITP)**<sup>333</sup> under the Ministry of Interior is the Anti-Trafficking National

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<sup>329</sup> *Ibidem*.

<sup>330</sup> *Ibidem*.

<sup>331</sup> *Ibidem*, Art. 1(3).

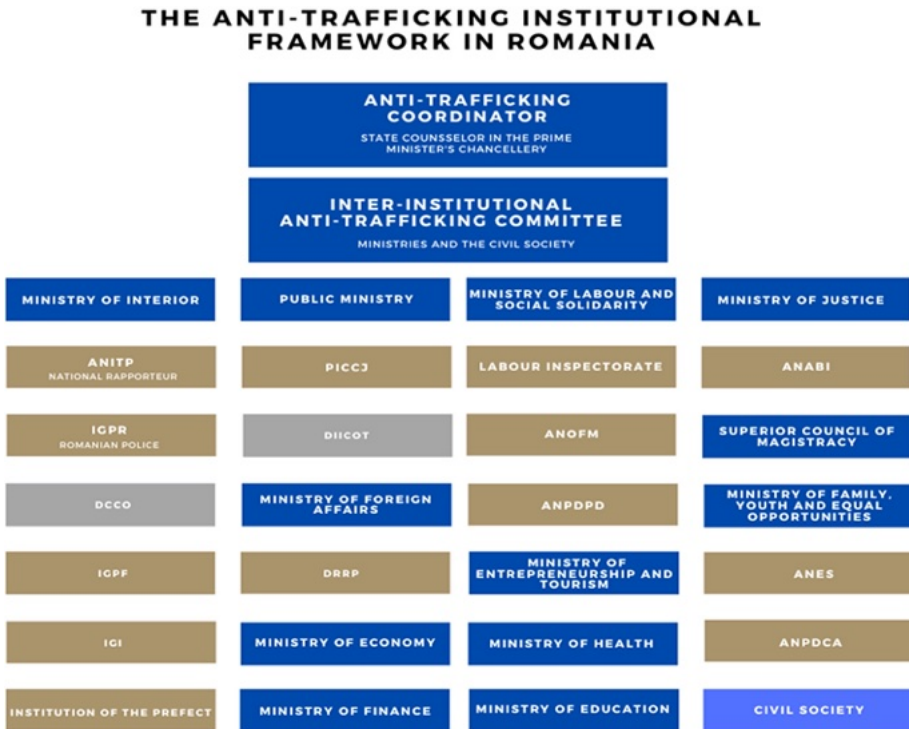
<sup>332</sup> *Platforma ProTECT*, [Online] available at: <https://traficdepersoane.ro/> (accessed 25 August 2023).

<sup>333</sup> "Despre noi", *Agencia Națională Împotriva Traficului de Persoane*, [Online] available at: <https://anitp.mai.gov.ro/despre-noi/> (accessed 25 August 2023).

Rapporteur in Romania, as provided for in Article 19 of the *EU Anti-Trafficking Directive*, in Article 29(4) of the CoE Convention, and by OSCE. ANITP as a National Rapporteur has been the first of the three pillars instituted in Romania, being founded in 2011 through Decision No. 460 of 11 May 2011<sup>334</sup> as a response to the requirement of the *EU Directive*<sup>335</sup>.

Figure 4.21 below shows the Anti-trafficking institutional framework in Romania, composed of the three main pillars recommended by OSCE: the National Coordinator, represented by the Prime Minister’s Chancellery, the National Rapporteur, which in Romania is ANITP, and the Anti-Trafficking Task Force, which is the Interinstitutional Anti-Trafficking Committee.

Figure 4. 21. The Anti-trafficking institutional framework in Romania



Source: Created by the author according to information from SNITP<sup>336</sup> (see List of Acronyms)

<sup>334</sup> HOTĂRÂRE nr. 460 din 11 mai 2011 privind organizarea și funcționarea Agenției Naționale împotriva Traficului de Persoane, Publicat în MONITORUL OFICIAL nr. 331 din 12 mai 2011 Data intrării în vigoare 12-05-2011 [Online] available at: <https://anitp.mai.gov.ro/ro/docs/legislatie/460-2011-modificat-1.pdf> (accessed 26 August 2023).

<sup>335</sup> *EU Directive*, Art. 19.

<sup>336</sup> Guvernul României, *SNITP 2018-2022, Capitolul XIV. Instituții responsabile.*

Since the Interinstitutional Anti-Trafficking Committee was only instituted at the beginning of 2023 and since the position of the Anti-Trafficking Coordinator was only recently established with the mandate of State Counsellor in the Prime Minister's Chancellery, it can be stated that the anti-trafficking three-pillar structure recommended by OSCE is still weak in Romania. Moreover, it must be highlighted that the position of National Coordinator should not be dependent on a political mandate since the progress made by one coordinator in the process of enacting the international and EU recommendations in the field of anti-trafficking in Romania, together with collaborations built with representatives of the Interinstitutional Anti-Trafficking Committee must be taken over by another coordinator at the end of mandate; thus, momentum in the anti-trafficking endeavours is slowed down or even halted for a certain period. Therefore, we recommend that **the Anti-Trafficking National Coordinator be politically independent.**

Furthermore, regarding the National Rapporteur, which is ANITP in Romania, GRETA recommends that Romanian authorities consider creating **an independent National Rapporteur** or enabling an existing mechanism as an independent entity<sup>337</sup>. We agree with GRETA's recommendation that such a step would be able to enhance the monitoring of state institutions' anti-trafficking efforts and provide recommendations to relevant individuals and entities.

## Conclusions

We started with two hypotheses for this chapter, for which we provide the conclusions below.

Regarding the phenomenon of HT in Romania:

**H4:** *Romania has been the main source country for victims of human trafficking, mainly for sexual exploitation and also for labour exploitation in the European Union, in the last 10 years.*

This hypothesis has been proven to be true, according to statistics published by EUROSTAT. This conclusion has emerged as a result of objective O3.

Regarding the alignment of the Romanian anti-trafficking framework with the EU anti-trafficking framework:

**H5.** *The Romanian anti-trafficking system (legislative, policy and institutional framework) is not adequately tailored to the EU requirements, and the main consequence of this is the inadequate assistance offered to victims of human trafficking.*

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<sup>337</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 19.

This hypothesis has been proven to be false to a certain extent, as the Romanian legislation, policy and mechanisms are in line with the *EU Directive* and the EU Anti-Trafficking Strategies. However, the major issue discovered from the research has been the lack of proper funding and the lack of specialised human resources, as well as the need for a better implementation of the mechanisms and instruments set in place. Added to these is the lack of the EU-TRM, which negatively affects Romania in proactively identifying and assisting Romanian nationals and VOTs. This conclusion has emerged as a result of objective O4.



## Chapter 5.

# European Cooperation in Transnational Human Trafficking Cases

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### Introduction

This chapter aims to identify the main issues and potential solutions in the area of European cooperation in transnational HT cases, with a focus on cooperation between Romania and other EU countries, specifically regarding sexual exploitation.

This chapter aims to achieve the above-mentioned purpose by reaching objective O5, objective O6, and partially objective O7:

**O5.** Identify the main issues and potential solutions concerning cross-border/transnational cooperation between Romania and other EU member states as regards **proactive identification of VOTs**.

**O6.** Identify the main issues and potential solutions concerning cross-border/transnational cooperation between Romania and other EU member states as regards the **investigation of transnational cases of HT**.

**O7.** Elaborate policy recommendations to enhance EU transnational cooperation in the context of preventing and combating human trafficking, especially targeting proactive identification of victims and investigation of cases.

Except for these three objectives, other themes have resulted from the interviews, as well, which support and enrich the objectives previously targeted.

We started with two hypotheses concerning these two main objectives, as follows.

For objective O5, the hypothesis was the following:

**H6.** Cooperation between Romania and other EU member states regarding transnational cases of HT is deficient and mainly formal.

For objective O6, the hypothesis was the following:

**H7.** Transnational human trafficking cases, especially cases where “the *loverboy* method” (sexual exploitation) has been used, are difficult to prove because of differing legal models for prostitution adopted across the EU.

## 5.1. Methodology

### 5.1.1. Research design

For this chapter, **qualitative research** was used, based on interviews with fifteen anti-trafficking experts and practitioners from Romania and two foreign anti-trafficking experts (see *Table 5.1* and section 5.3 *Interviewees' Bios* for more details about the interviewees) – **17 interviews** in total to which **one written response** to the interview guide was added from the General Inspectorate of the Romanian Police which only generally and selectively touches upon the interview questions. All in all, we had **18 responses**.

The interview questions were based on the literature review and on the conclusions retrieved from the data analysis in Chapter 4, including statistics, ANITP reports, EU reports and TIP reports, as well as from questionable aspects emerging from the three Case Studies analysed in Chapter 4. Two main areas of concern have arisen from the theoretical analysis: **proactive identification of victims of trafficking** and **investigation of transnational HT cases**.

The interview questions were also built on Recital 5 and Article 11(4) of the *EU Directive* targeting cooperation between EU Member States, especially police and judicial cooperation, and the creation of mechanisms for the proactive identification and assistance of VOTs:

**“Recital 5.** The law enforcement authorities of the Member States should continue to cooperate in order to strengthen the fight against trafficking in human beings. In this regard, *close cross-border cooperation, including the sharing of information and the sharing of best practices*, as well as a *continued open dialogue between the police, judicial and financial authorities of the Member States*, is essential. The *coordination of investigations and prosecutions* of cases of trafficking in human beings should be facilitated by enhanced cooperation with Europol and Eurojust, the *setting-up of joint investigation teams*, as well as by the implementation of Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and *settlement of conflict of jurisdiction in criminal proceedings*.<sup>1</sup>

**“Article 11 (4).** Member States shall take the necessary measures to *establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims*, in cooperation with relevant support organisations.”<sup>2</sup>

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<sup>1</sup> *EU Directive*, Recital 5 (*Emphasis added*).

<sup>2</sup> *EU Directive*, Article 11(4) (*Emphasis added*).

### 5.1.2. Data collection method

The data collection method used for this chapter was one-on-one interviews conducted online with anti-trafficking experts and practitioners due to the unique contributions which they have already brought to this field. The following advantages of the interview method were considered:

- a) **In-depth insights and rich data:** Interviews have proven to allow for a deep exploration of the participants' perspectives, experiences, and subjective viewpoints. They have provided an opportunity to capture rich and detailed data from each anti-trafficking expert that may not have been easily obtained through other methods. By engaging in direct conversations with participants, the author was able to discover nuanced information and gain a deeper understanding of the research topic.
- b) **Participant voice:** Interviews have given the participants a platform to express their thoughts, emotions, and experiences in their own words, as well as share their stories, contributing to a more comprehensive and holistic understanding of the topics under discussion.
- c) **Validating and complementing other data sources:** Data extracted from the interviews has served as a source of information, complementing and validating conclusions that the author has reached through quantitative data or document analysis employed in this paper.

#### A. Type of interviews

**Semi-structured interviews** were used in this research, as they offered the advantage of providing both structure and flexibility according to any new information that needed further clarification. The questions were open-ended, allowing respondents to provide detailed and nuanced responses. In certain interviews, based on the flow of conversation with each participant and on their responses, the order and wording of questions were adjusted so as to enable interviewees to share their experiences and perspectives more freely.

#### B. Selection of interviewees

The author used a **purposeful sampling technique** to select participants for this research based on their relevant knowledge, expertise, and experience related to the research objectives. The author targeted individuals who hold key positions within state institutions, NGOs, and IOs and have a particular level of experience or are known to be experts in the anti-trafficking field.

*Table 5.1* below further illustrates the wide range of contexts and expertise provided by representatives from different institutions and organisations.

Table 5. 1. List of interviewees

Nr.	ORGANISATION	NAME	POSITION
<b>The Group of Experts on Action against Trafficking in Human Beings (GRETA) – Council of Europe monitoring mechanism on human trafficking</b>			
1.	GRETA	Antoaneta Vassileva	First Vice-President of GRETA
<b>International organisations (IOs)</b>			
2.	IOM Romania	Mark Ebling	IOM Consultant and former US law enforcement officer
3.	IJM Romania	Ştefan Coman	Advocacy Lead of IJM Romania
<b>Romanian state institutions</b>			
4.	General Inspectorate of the Romanian Police, Ministry of Internal Affairs (MAI)	Raluca Erdiñç	Police Commissioner International Relations Service, Directorate General for European Affairs, Schengen and International Relations
5.	ANITP	Laurenţiu Dincă	Regional Coordinator of the ANITP Regional Centre in Timişoara
6.	DIICOT	Iulian Iftodi	DIICOT prosecutor specialised in investigating HT cases based in Iaşi
7.	DIICOT	Mihai Cazacu	Former DIICOT police officer with experience in joint investigation teams with the UK
8.	BCCO	Andrei Vasile	BCCO police officer based in Iaşi, experienced in joint investigation teams
9.	BCCO	Marcel Puiu	Former BCCO police officer, current consultant for ASSOC Association
10.	BCCO	Silviu Pătran	Former BCCO police officer, former SELEC representative, current IJM casework manager
<b>Romanian specialised anti-trafficking NGOs</b>			
11.	ADPARE	Name anonymised	Specialised anti-trafficking NGO with more than 20 years of experience in the field
12.	Centre for the Study of Democracy Romania (CSD)	Mădălina Mocan	Researcher

13.	<b>eLiberare Association</b>	Ioana Bauer	President of eLiberare Association
14.	<b>eLiberare Association</b>	Loredana Urzică-Mirea	Executive Director of eLiberare Association
15.	<b>Generație Tânără Association (GTR)</b>	Francisc Czismarik	Vice-President of GTR Responsible for funding policies and public relations
16.	<b>Justice and Care Romania Foundation</b>	Cora Moțoc	Executive Director of Justice and Care Romania; Co-founder and Board Member of ProTECT
17.	<b>Open Door Romania Foundation</b>	Monica Bosseff	Executive Director of Open Door Romania
<b>German specialised anti-trafficking NGOs</b>			
18.	<b>Kainos Germany</b>	Rebecca Streit	Outreach coordinator

### 5.1.3. Data collection process

All interviews were conducted online, through the Zoom application, except for one, which was conducted face-to-face – the interview with Monica Bosseff, Executive Director of Open Door Romania Foundation. All respondents gave their consent to have the interviews recorded. The majority of the interviews were about one hour long. Some of them exceeded one hour, where the participants were available to answer additional questions, and others were restricted to 30 minutes due to the interviewees' limited time availability. Questions were personalised according to the interviewees' position, experience and expertise in the field, but there was a set of questions which was applied to all respondents, so as to compare their opinions on the selected topics of analysis.

### 5.1.4. Interview questions

Below are the questions used for all the interviews, to which a few other questions were added according to the experience of each participant.

**Question 1.** In your perspective, what are the most difficult issues encountered in cross-border/transnational HT cases, from the moment of identification of the victim in the destination country to the moment of repatriation to Romania and coordination in criminal proceedings? What solutions would you recommend to these challenges?

**Question 2.** According to data recorded in the annual reports of the Romanian National Agency against Trafficking in Persons, between 2011 and 2021, the rate of identified Romanian victims of trafficking exploited abroad (in another EU country) has been around 50% or higher, as compared to victims exploited within Romania. For example, in the year 2021, 49% of the total of 504 Romanian VOTs registered by ANITP were trafficked abroad, but

only 16% of the number of VOTs trafficked at the international level were repatriated to Romania. Similarly, in 2018, the rate was 51% to 8%. Based on this information, in order to avoid the revictimisation of victims identified abroad and not repatriated to their country of origin:

(a) I propose the creation of an EU-wide transnational database (similar to SIMEV) that would allow state authorities to track the victim's journey through its various stages, from identification to participation in criminal proceedings and their outcome, protection and assistance to the victim, as well as the institutions involved and the services offered at each of these stages. Do you consider that such a database would be necessary?

b) If so, who should manage such a database?

c) What steps could be involved in setting up such a database?

**Question 3.** a) From your experience and your colleagues' experience, what differences have you noticed between the way a case of HT is handled by the authorities of states where prostitution is legalised (e.g.: Germany, the Netherlands) versus states that have adopted the Equality model (e.g., Sweden, France, Ireland)? Could you provide some examples?

b) Have you encountered greater difficulties in certain countries and cases (especially in terms of cooperation with authorities in the destination country) compared to other countries?

c) Could you give an example of such difficulties?

**Question 4.** From your perspective, how could transnational cooperation between states be improved, including in the framework of joint investigation teams and other international judicial cooperation instruments, to ensure that sufficient evidence is gathered in each transnational trafficking case and discourage the culture of impunity?

**Question 5.** *A transnational HT case from 2021, tried by the Court of Argeş<sup>3</sup>, ended with the defendant's acquittal for lack of evidence (in the context where the only evidence was the complaint/testimony of the victim, the testimony of the defendant and witnesses, without a joint investigation team having been set up). The victim had been trafficked by her boyfriend to Germany through deception and abuse of vulnerability, but insufficient evidence was found to validate these testimonies. It is worth noting that the trial took place during the period of restrictions imposed by the Covid-19 pandemic.*

a) Given the difference in Criminal Codes and Codes of Criminal Procedure between EU countries, do you think it would be useful to develop a standard of evidence (minimum standards for investigation) imposed by the EU in a uniform way on Member States in cases of cross-border trafficking in human beings (e.g. obligation to use investigative tools used in organised

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<sup>3</sup> This question was based on *Case Study 2* in *Appendix 4 (A/N)*.

crime cases or in cases concerning other serious crimes: interception of communications, discreet surveillance, including electronic surveillance, monitoring of bank accounts and other financial investigations)?

b) If not, what would be the reasons? If yes, what do you think the positive and/or negative implications might be?

**Question 6.** *Another case of HT, prosecuted by the Romanian authorities in 2023<sup>4</sup>, in which the Romanian victim was trafficked to Germany by her Romanian boyfriend, ended with the conviction of the defendant based on the evidence obtained through police and judicial cooperation. However, an interesting aspect of this case is that the victim was registered in several brothels in Germany by the trafficker, who regularly visited her at the brothel to pick up the money she earned at the end of the day. On a certain day, the defendant even resorted to physical violence when the victim declared that she no longer wanted to practice prostitution but wanted to return to Romania. However, no one from the staff of the brothel notified the police, not even when the victim told the receptionist that she was being forced into prostitution by her boyfriend. The victim managed to escape the trafficking situation with the help of a friend and filed a complaint once she arrived in Romania.*

What solutions would you recommend (at the national but also at the European level) to proactively identify potential victims of trafficking among people working in prostitution (given that many people working in brothels in countries where prostitution is legalised are Romanian nationals)?

**Question 7.** a) What is your opinion about cooperation between law enforcement agencies and specialised NGOs to create joint teams in which a representative of specialised anti-trafficking NGOs takes part in field investigations and assists the victim from the moment of identification by law enforcement agencies (including in joint investigation teams at European level)? Would such cooperation be feasible and sustainable?

b) If such cooperation were feasible, how could it be achieved?

**Question 8.** Do you think there are other aspects to mention that could improve transnational and European cooperation in cases of cross-border HT, including in terms of the legislative, political or institutional framework?

### 5.1.5. Data saturation

In the context of our study, data saturation was a critical consideration. After conducting a number of 17 interviews, in addition to a written response from the General Inspectorate of the Romanian Police, which only partially answered the interview questions, we analysed the data to identify recurring

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<sup>4</sup> This question was based on *Case Study 3* in *Appendix 5 (A/N)*.

themes and patterns. As the interviews progressed, we observed that the information shared by participants became repetitive, and the themes and patterns identified started to converge.

Data saturation was reached not only as a result of a sufficient number of interviews conducted but also as a result of the diverse information, which was representative of the various actors in the anti-trafficking field, from a Council of Europe representative to Romanian national authorities, law enforcement agencies, international organisations with prerogatives in the anti-trafficking field, as well as a significant number of specialised anti-trafficking NGOs in Romania, to which a German NGO was also added.

Furthermore, the information retrieved from the 17 interviews and one written response confirmed perspectives discussed in the most recent national, international, and European conferences and working groups in which the author has participated in the last twelve months (i.e., since July 2022). This provided confidence that the dataset was comprehensive and allowed for a thorough exploration of the research topic.

#### **5.1.6. Ethical considerations**

Prior to conducting the interviews, the interviewees gave their consent for the recording of the interviews, also approving the use of their names and the reproductions of quotes within the paper, as well as the attachment of transcripts to the *Appendices*. Out of the 17 interviews conducted and one written response to the interview, only one interviewee expressed the need for anonymity due to safety concerns. However, this individual consented to be identified as a representative of ADPARE, a specialised anti-trafficking Romanian NGO. To appropriately highlight the significance of the interview in relation to the paper, background information and the NGO's experience in the field will be provided under Section 5.3. *Interviewees' Bios*.

#### **5.1.7. Limitations**

**Sample Size and Composition:** While our study involved interviews with seventeen experts, the relatively small sample size might limit the generalizability of our findings. Additionally, the majority of respondents were Romanian experts, which could potentially introduce a bias toward an Eastern European regional perspective.

**Limited Representation:** Although our respondents are highly qualified and experienced in the field, the sample's composition might not fully represent the diverse range of perspectives and practices across all EU member states.

*Appendix 6* shows the list of interviews which have no longer been conducted due to the lack of a response on behalf of the targeted respondents,



or due to lack of time availability on behalf of the potential respondents, or due to declined competence for the topics under discussion in the interviews. Invitations for interviews were sent to all Offices of Romanian Attachés for Home Affairs, as well as to European agencies with competence in the area of cooperation for transnational investigation, such as EUROJUST, EUROPOL, as well as SELEC (regional law enforcement organisation). In addition, invitations were sent to the departments of Romanian institutions with competence in the field, such as the International Cooperation, Representation and Legal Assistance Service within DIICOT, the Centre for International Police Cooperation within the Romanian Police, and the International Judicial Cooperation, International Relations and Programmes Service of the Prosecutor's Office of the High Court of Cassation and Justice.

Despite these limitations, the insights gathered from the respondents who did participate are highly valuable due to their experience and expertise in the field. Furthermore, the inclusion of seventeen respondents holds considerable weight, particularly given the relatively limited pool of anti-trafficking specialists within Romania.

Notwithstanding the author's one year<sup>5</sup> involvement in the field of anti-trafficking and the opportunities to establish connections with experts, it is important to acknowledge that a more extensive duration of engagement in this field could have contributed to even deeper relationships and a wider range of participants.

**Potential Bias:** The presence of Romanian experts (state representatives, anti-trafficking NGOs, and Romanian academia) could introduce a bias toward certain viewpoints, especially those aligned with Romania's interests and policies. This may impact the broader applicability of our findings to other EU member states.

**Varying Levels of Experience:** While all respondents are experts, their levels of experience, roles, and exposure to transnational trafficking cases might vary. This variance could influence the depth and richness of the insights gathered during the interviews.

**Contextual Factors:** Our study focuses on cooperation between Romania and other EU member states. This might narrow the extent to which our findings can be extrapolated to different regional contexts within the European Union.

**Subjective Interpretation:** We recognise that the data collected through interviews may be subject to interpretation and bias, both from the respondents' perspectives and our own as the researcher. This subjectivity could influence the conclusions drawn from the study.

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<sup>5</sup> From July 2022 until August 2023, at the time of writing this chapter (A/N).

**Missing Stakeholder Groups:** Our study targeted a wide range of experts in preventing and combating HT, as well as representatives from law enforcement agencies and judicial bodies in Romania, but the perspectives of survivors of HT were not included in our sample, due to the sensitivity of this issue. However, their perspectives could provide additional valuable insights into cooperation efforts.

**Temporal Limitations:** Time limitations in terms of data collection have also impacted the depth of analysis and prevented a possibly more extensive exploration of the topic.

### 5.1.8. *Data analysis*

The interviews were first transcribed, and a coding system was developed after thoroughly reading each one according to the recurrent themes.

## 5.2. The International and European Context for the Need for Transnational Cooperation in Human Trafficking Cases

Based on the most recent EU Report on Trafficking in Human Beings<sup>6</sup>, approximately 37% of all registered victims were citizens of the country in which they were registered<sup>7</sup>, indicating that the remainder of 63% of cases involve a transnational element. This highlights the need for an improved cross-border approach at the EU level. The report emphasises that victims are often subjected to short-term exploitation in multiple countries as they are moved around. Additionally, traffickers engage in “sex tours”, transporting victims to different locations to meet clients in rented accommodations. Likewise, the ANITP reports highlight that the average percentage of Romanian victims trafficked across borders during the period 2011-2021 is 52% (see *Table 4.5* in Chapter 4), revealing the need for increased cooperation at the EU level to properly combat transnational trafficking.

Furthermore, according to the latest report by UNODC<sup>8</sup>, there has been a decrease in the global identification of VOTs. One reason is that sexual exploitation is increasingly taking place online at all stages, from recruitment to exploitation. The report emphasises that in 2020, only 53,800 VOTs were officially identified worldwide<sup>9</sup>. When compared to the estimate provided by the International Labour Organization (ILO), which suggests that

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<sup>6</sup> European Commission, *2022 Commission Staff Working Document*, p. 9.

<sup>7</sup> *Ibidem*, p. 9.

<sup>8</sup> UNODC, *Global Report on Trafficking in Persons 2022*, United Nations publication, New York, 2022, [Online] available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf) (accessed 1 July 2023).

<sup>9</sup> *Ibidem*, p. 11.

approximately 50 million individuals<sup>10</sup> are currently subjected to some form of HT, it becomes evident that less than 1 in 1000 (0.1%) victims of trafficking are actually identified globally. These figures represent conservative estimates.

In the context of the revision of the *EU Directive*, Directive 2011/36/EU, a highly anticipated and needed action, this chapter intends to build upon two of the six **priorities outlined by the Commission in its draft proposal**<sup>11</sup>, namely: 1) the establishment of formal National Referral Mechanisms (NRMs) to improve early identification and referral for assistance and support for victims as a basis for a European Transnational Referral Mechanism (EU-TRM) by the appointment of national focal points<sup>12</sup>, and 2) EU-wide annual HT data collection to be published by Eurostat<sup>13</sup>.

In addition to these two main aspects already mentioned in the draft proposal, this chapter will also tackle the need for increased **cooperation** in the **investigation of transnational HT cases**, and the **proactive identification of victims**.

In this regard, the written response to the interview guide provided by police commissioner Raluca Erdiñ, representative of the Directorate for General European Affairs, Schengen and International Relations within the Ministry of Internal Affairs, highlights transnational cooperation as an indispensable aspect in prosecuting HT crimes with a cross-border element<sup>14</sup>:

“Since most of the constituent elements of the offence of trafficking in human beings take place in the State of destination, with the exception of direct recruitment in the State of origin, criminalisation is more effective if there is the involvement of the authorities of the State where the exploitation takes place since almost all the evidence (proof of exploitation) is found there.”<sup>15</sup>

### 5.3. Interviewees' Bios

This section will provide the interviewees' bios or relevant background in the field of anti-trafficking, as they were provided by the interviewees themselves and reproduced in this paper with their approval. The order of the bios will follow the order in *Table 5.1*.

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<sup>10</sup> ILO, Walk Free, IOM, *Global Estimates of Modern Slavery*.

<sup>11</sup> *Proposal for a revised EU Directive*. Update: By the time this book (thesis, at that time) was written, the EU Anti-Trafficking Directive had not yet been revised. The *Revised EU Directive* was published in July 2024.

<sup>12</sup> *Ibidem*, pp. 2-3, 14-15. See also *Revised EU Directive*, Article 11 as amended: MS are obliged to establish a National Referral Mechanism and a national focal point for cross-border cases.

<sup>13</sup> *Ibidem*, pp. 7-8, 15-16. See also *Revised EU Directive*, Article 19a.

<sup>14</sup> *Response of the General Inspectorate of the Romanian Police on the topics in the interview guide*.

<sup>15</sup> *Ibidem*.

**Antoaneta Vassileva, First Vice President of GRETA**

Antoaneta Vassileva has over 18 years of experience in the areas of human rights and combating HT, including international development and implementation of policies in prevention, prosecution of HT, victim identification, and direct assistance and protection of victims, in compliance with international standards, including the Council of Europe Convention on Action against Trafficking in Human Beings and Directive 2011/36/EU.

Ms Vassileva has worked for nine years as Secretary General of the National Commission for Combating Trafficking in Human Beings under the Council of Ministers of Bulgaria. She is an experienced trainer and consultant and has expertise in direct work with vulnerable groups (such as children and Roma people) and support to victims of trafficking. Her publications cover topics such as trafficking and sexual exploitation of children, social aspects of HT and victims' support, transnational and national mechanisms for referral of victims, and the Bulgarian experience in combating HT.

**Mark Ebling, Anti-Trafficking Consultant at IOM Romania**

Mark Ebling is a former FBI Special Agent, having retired from the Bureau in March 2020 after 23 years of service. Mark Ebling is currently employed as an anti-trafficking consultant for the IOM office in Bucharest, Romania, and co-leads, along with the NGO eLiberare, the Ukraine Crisis Refugee Response Anti-Trafficking Task Force.

During his time in the FBI, he has served as a Pilot-in-Command and a Firearms Instructor, and held several Supervisory Special Agent positions in FBI Headquarters units, including in the FBI's Office of Congressional Affairs, the 24/7 Counterterrorism Watch Unit, and on a Joint Duty assignment to the Office of the Director of National Intelligence's (ODNI) National Counterterrorism Center (NCTC).

In 2007, he was requested to serve as the Law Enforcement Technical Advisor to an anti-trafficking task force during a long-term TDY to Chisinau, Moldova. He was responsible for planning, developing, and coordinating a functional multi-agency task force approach to combatting HT through effective resource use and interagency collaboration in the former Soviet Bloc nation. During his FBI career, he was twice awarded the Director of National Intelligence Meritorious Unit Commendation medal.

**Ștefan Coman, Advocacy & Partnerships Lead, IJM Romania**

Ștefan Coman is the Advocacy and Partnerships Coordinator for the IJM Romania, helping to promote the IJM's new activities to combat cross-border trafficking in Europe. He started working with IJM in 2019 and has been working in the anti-trafficking field since 2013. He works with social

workers, government partners, other non-profits and law enforcement to advocate for survivors of trafficking and for stronger systems to hold traffickers accountable.

**Laurențiu Dincă, Regional Coordinator of the ANITP Regional Centre in Timișoara**

Laurențiu Dincă graduated in 1999 from the “A.I.Cuza” Police Academy in Bucharest, Faculty of Law, specialising in Passports and Border Police. Subsequently, Laurențiu Dincă worked both in the Timiș County Border Police and as a specialist in the Office for Combating Cross-border Crime, being involved in particular in combating HT and illegal migration. Until 2007, he worked as a law enforcement officer in the Organised Crime Brigade (BCCO) Timișoara - Service for Combating Trafficking in Human Beings (SCTP), specialising in combating HT, trafficking in minors, illegal migration and child pornography. Since October 2007, Laurențiu Dincă has been coordinating, as Chief Commissioner, the Timișoara Regional Centre of the National Agency against Trafficking in Human Beings, with competence in the counties of Timiș, Caraș Severin and Arad.

**Alexandru Iulian Iftodi, Prosecutor at the Directorate for the Investigation of Organised Crime and Terrorism (DIICOT), Iași Territorial Service**

Alexandru Iulian Iftodi has been a prosecutor since 2010 and at DIICOT Territorial Service in Iași from 2017 to the present. His jurisdiction includes the investigation of all types of crimes under DIICOT's jurisdiction, but mainly trafficking in persons.

**Andrei Vasile, police officer in the Organised Crime Squad (BCCO) in Iași, Anti-Trafficking Service**

Andrei Vasile is a police officer in the Iași Organised Crime Brigade - Anti-Trafficking Service. He has 10 years of experience in combating crimes related to HT. Between January 2016 and March 2017, he was a specialist operational support officer in the Modern Slavery and Kidnap Unit in London, UK, where he helped initiate 10 joint investigation agreements between Romania and the UK. From 2017 to date, he has participated in numerous joint investigation teams (JITs) with European countries such as France, UK, Netherlands, and Italy. During 2022 and 2023, he participated as an operational support specialist in the Kingdom of Norway at the headquarters of the organised crime units in Stavanger and Oslo. The experience gained helped him to continuously identify appropriate forms of cooperation in relation to the destination states where victims of Romanian citizenship are trafficked and to establish a solid relationship with European partners.

**Mihai Cazacu, former DIICOT/BCCO police officer**

Mihai Cazacu, Major (Ret), has a law enforcement background and a degree in Law Sciences. His career started within the Ministry of Interior Intelligence Unit, where he worked mainly on illegal migration topics. Since 2003, he has worked for DIICOT, during which time he investigated a large number of HT cases and illegal migration networks targeting Western European countries.

For two years (2007 – 2009), Mihai Cazacu was seconded by the New Scotland Yard, working in London within the first European joint investigation team on an HT case, together with specialists from the Metropolitan Police Service, Intelligence Unit of Europol and prosecutors from CPS & Eurojust. Cazacu is also involved in civic activities, participating in various events and projects to prevent HT. He is a member of several global think tanks, such as the Aspen Institute & the German Marshall Fund of the United States.

**Marcel Puiu, former BCCO police officer**

From May 2022 to February 2023, Marcel Puiu was a case manager for the Romanian NGO ASSOC, handling a European project on assistance to VOTs. Between 1995 and 2020, he served as a police officer in the Directorate for Combating Organised Crime Maramureş, having specialised in the area of prevention and combating of HT and migrant smuggling, as well as other related offences. In his career as a police officer, he was also involved in cross-border operations, targeting migrant smuggling and HT.

**Silviu Pîtran, current IJM case manager, former BCCO police officer**

Virgil-Silviu Pîtran currently serves as IJM Romania's Casework Manager with over 20 years of experience working in law enforcement, with a focus on combating organised crime and HT and extensive knowledge of international cooperation mechanisms.

As a Casework Manager at IJM Romania since 2022, Silviu Pîtran provides leadership and supervision to implement and monitor casework projects and to evaluate outcomes, supports and liaises with law enforcement, NGOs and other statutory bodies to increase proactive and reactive anti-trafficking outcomes and developments, supports Romanian Police investigations and operations to enhance arrest plans and successful prosecutions of human traffickers, and increased identification and rescue of trafficking victims, and builds collaborative relationships with other organisations security leads and focal points. From 2018 to 2022, he served as a Romanian Police Liaison Officer in the *Southeast European Law Enforcement Center – SELEC, Romania*.

As a Specialist Police Officer in Combatting Trafficking of Human Beings within the *DCCO in Bucharest, Romania*, from 2005 to 2018, Pitran handled operational activities as an investigator within DCCO Unit for Combating Trafficking on Human Beings - Central Unit, as well as activities for the prevention and early identification of VOTs, conducted internal and international criminal investigations on major HT cases and related offences, using all the international cooperation instruments, and using the cooperation capabilities of different international institutions, as INTERPOL, EUROPOL, SELEC, a/o, and was involved in international cooperation with counterparts and different foreign Law Enforcement Agencies.

### **Representatives of Specialised Anti-trafficking Civil Society Organisations**

#### **ADPARE, a specialised anti-trafficking Romanian NGO with 20 years of experience in the field**

ADPARE is a non-governmental organisation in Romania that has been working mainly in the field of the fight against HT since 2003. ADPARE is also an essential partner of ANITP in the victim coordination activities within juridical proceedings, protection, and promotion of victims' rights. In addition, ADPARE offers support services for victims, and is also involved in research, training, and prevention.

Specialised protection and assistance services for victims of HT are permanent and have been provided in collaboration with relevant international institutions, NGOs and organisations in the field.

The implementation of the coordination program for victims/witnesses in judicial proceedings is a collaborative effort between ANITP and other stakeholders involved in supporting and protecting VOTs, including minors and child pornography. This program is an integral component of comprehensive assistance provided to victims. The program ensures support for the victim throughout all stages of the criminal process, including the prosecution and criminal investigation, the trial itself, and the enforcement of legal decisions. Additionally, it assists victims in seeking compensation for physical and psychological harm as well as financial restitution as granted under the provisions of law no. 211/2004.

#### **Ioana Bauer, President of eLiberare Association**

Ioana Bauer has been active in protecting human rights and dignity since 2005. Since 2010, she has dedicated her efforts to eradicating HT by leading and shaping prevention activities, developing materials on the issue, designing capacity-building activities, and creating new policy frameworks on the issue.

Ioana is an Ashoka Fellow, a 2020 Resilience Fellow with GITOC, and is recognised as one of the women leaders advancing the UN SDGs globally. She is currently serving as Chairwoman at eLiberare, a leading Romanian anti-trafficking CSO, after finishing her term as policy adviser in the office of the Prime Minister in the Romanian Government, where she led the working group on child safety and piloted policy initiatives in the area of combating and preventing HT.

As part of the Ukrainian crisis response, Ioana has spearheaded a new protection model designed to prevent and identify HT cases among refugees and has supported capacity-building efforts among many first responders.

#### **Loredana Urzică-Mirea, Executive Director eLiberare Association**

Currently, the Executive Director of eLiberare Association since June 2022, Loredana Urzică-Mirea has also designed and co-facilitated the establishment of the national coalition of NGOs fighting HT in Romania, the ProTECT Platform.

Experienced in strategic development and social and youth work, Loredana Urzică-Mirea has worked in youth development on grassroots, national and international levels with several organisations. She did advocacy work in the social and educational field and also worked on topics such as social entrepreneurship where she conducted research for the European Commission. She worked briefly within the Ministry of Labour, Family, Social Protection and Elders as an adviser on social protection and social justice and was a member of the Romanian Social and Economic Council for two years. She has a background in political science and competitive intelligence and is a US Department of State Alumni after graduating from the Community Solutions Program.

#### **Mădălina Mocan, Researcher at the Center for the Study of Democracy (CSD)**

Mădălina Mocan is a member of the Executive Board of ProTECT, a national platform of anti-trafficking civil society organisations and an anti-trafficking expert affiliated with the Centre for the Study of Democracy (CSD). She previously held executive positions in the civil sector in Romania.

For more than a decade, she has been involved in the development and implementation of prevention and assistance programs in the field of trafficking in persons and has co-authored research and training support for the prevention and identification of exploitation in Romania and abroad, with a specific focus on Central and Southeast Europe. Her broader interests include developing frameworks for more inclusive social and political participation and representation and a deeper understanding of the determinants that enable exploitation. As a political scientist, she is a Fellow of the Aspen Institute Romania and the German Marshall Transatlantic, as well as a board member of Techsoup Romania.



**Francisc Czismarik, Vice-President of Generație Tânăra Association**

Francisc Czismarik is the Vice-President of Generație Tânăra Association, responsible for the funding policies and public relations.

Generație Tânăra Association is an apolitical, non-religious NGO that campaigns for children's rights against trafficking, domestic violence and all forms of abuse. GTR also represents the International Social Service in Romania and Hungary<sup>16</sup>.

GTR is licensed to provide community support services to children and families in need, specifically psychosocial counselling, information, legal advice and support, and emotional support. They develop intervention plans aimed at social integration or reintegration, primary health care, vocational guidance, and school reintegration.

**Cora Moțoc, Executive Director of Justice and Care Romania; Co-founder and Board Member of ProTECT**

Cora Moțoc is currently\* the Executive Director of Justice and Care Romania Foundation, a British-Romanian charity fighting HT and modern slavery. Until 2020, for almost a decade, she was a Senior Political Officer with the British Embassy in Bucharest, leading on the Modern Slavery & Migration dossiers. Previously, she worked as an Advisor with the Sustainable Development Unit in the Prime Minister's Office, a department designed to implement The Prince of Wales's rural sustainability initiatives in Romania. At the beginning of her career, Cora Moțoc started in the third sector as a Program Coordinator of the Konrad Adenauer Foundation's Rule of Law Program for Southeast Europe and as an activist with ActiveWatch Media Monitoring, a watchdog human rights organisation working in the field of media freedom. Cora is a graduate of the Political Science Department at the University of Bucharest and spent one academic year in the USA on a Department of State scholarship.

She is a Fellow of the 2008 ASPEN Young Leaders Program. In 2020, H.M. the Queen Elizabeth II of the United Kingdom of Great Britain and Northern Ireland appointed Cora a Member of the Royal Victorian Order (MVO). She is also the co-founder and Board Member of the ProTECT Platform.

**Monica Boseff, Executive Director of Open Door Romania Foundation**

Monica Boseff opened the first emergency shelter for VOTs in Bucharest, Romania, in 2012 and continues to provide support to victims. She began working for the Open Door Foundation in 2003, a year after its inception by two medical doctors. In 2011, the Foundation began to get involved with anti-

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<sup>16</sup> Generație Tânăra, [Online] available at: <https://www.generatietanara.ro/> (accessed 17 July 2023).

\* November 2023 (A/N).

trafficking work by engaging in an awareness campaign in partnership with an organisation called Men Against the Trafficking of Others (MATTO).

Currently, Open Door runs an 18-month program, some of which is residential, for women survivors of modern-day slavery. Their focus is sex trafficking, and they provide counselling services, medical assistance and consultations, comprehensive legal assistance, job training, and other various services. They have formed a partnership with the Starbucks Corporation to provide jobs for some of the survivors who are in their program. She was given the Trafficking in Persons Report Hero Award in 2014, recognising her incredible work with survivors.

**Rebecca Streit, outreach coordinator at Kainos Foundation, Stuttgart (Germany)**

Rebecca Streit is currently the outreach coordinator of Kainos Foundation in Stuttgart, Germany. She graduated from Studies of Religious and Parish Education and Social Work at the YMCA University of Applied Sciences Kassel, Germany.

Between 2017 and 2020, she volunteered with a Christian women's group "Precious" in Kassel, which made brothel visits. Between August 2018 and February 2019, she did an internship at a drop-in centre/café called HoffnungsHaus for women in prostitution in the red-light district of Stuttgart. Since March 2022, she has been a social worker at Kainos e.V. in Stuttgart, as well as an intervention leader, coordinating brothel outreach, online outreach, community outreach and social work with participants in the Kainos New Beginnings Home and Programme.

## **5.4. Findings, Discussion and Interpretation**

### ***5.4.1. Initial considerations regarding "the loverboy method"***

Some aspects have arisen from the interviews concerning the particularities of "the *loverboy* method", which are worth mentioning for a better understanding of its implications. Organised crime prosecutor Iulian Iftodi and the Romanian NGO ADPARE, which has been assisting victims of trafficking for more than twenty years and has been closely working with law enforcement and the judiciary for the coordination of victims in criminal proceedings, reveal aspects of this crime which are not apparent from national or EU reports.

Concerning sexual exploitation, Iftodi states that "the *loverboy* method is becoming more and more common. Basically, we are seeing a repositioning of the modern trafficker in terms of exploitation. We no longer have brutal violence but more psychological-emotional constraints. Because that's what the *loverboy* method means. It basically involves a rather subtle deception. The

perversity of this method is also disturbing.”<sup>17</sup> Iftodi further explains that through this method, the traffickers exploit the vulnerabilities of the victims: “They manage to mislead these girls under the pretence of developing a lasting relationship of love, of marriage. They inoculate them with the idea of a stable relationship. And, yes, it’s what these girls have lacked all their lives.”<sup>18</sup>

Furthermore, Iftodi reveals that contrary to common assumptions, VOTs often come from seemingly normal backgrounds and from well-adjusted families. They have a good education, having completed twelve years of schooling, and some may even be pursuing higher education, completely unaware of the imminent circumstances they find themselves in. This statement is in contrast with the ANITP reports, which highlight the low level of education of the majority of victims<sup>19</sup>.

Concerning this contrast, ADPARE underlines the need for a better data collection and management process in the SIMEV database and, subsequently, in the ANITP reports since the victims’ schooling levels are misrepresented. ADPARE explains where the misleading information stems from: since around 50% of the identified victims were minors at the time of exploitation and even identification, it must be taken into consideration that they did not have the opportunity to complete their education. ADPARE considers that it is essential to establish a correlation between the age of the victim and their educational background when reporting data. The current practice of labelling them as uneducated based on incomplete data leads to stigmatisation and creates an inaccurate perception among the public that mainly uneducated persons are prone to becoming victims of trafficking<sup>20</sup>.

ADPARE also emphasises the insufficient awareness among law enforcement in destination countries, particularly countries that legalise prostitution, regarding indicators of sex trafficking, and primarily “the *loverboy* method”. They share a conversation they had with a Swiss police officer during their involvement in an international outreach mission in a Swiss city where street prostitution is permitted from the age of 16 and where the majority of women involved in prostitution were from Romania at that time<sup>21</sup>:

“The policeman who accompanied us kept telling me: ‘It’s unbelievable how many 16-year-old Romanian girls you have here.’ [...]

I looked at him and asked him, ‘Do you think that a 16-year-old girl has been preparing, since she was a little girl, to become a prostitute? That

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<sup>17</sup> Interview with Iulian Iftodi.

<sup>18</sup> *Ibidem*.

<sup>19</sup> *Ibidem*.

<sup>20</sup> Interview with ADPARE.

<sup>21</sup> *Ibidem*.

she thought to herself: ‘Well, when I grow up, I’ll become a prostitute in Switzerland, because it’s a beautiful, rich country. Let me look up on the map the cantons where I can work legally from the age of 16, the streets, as well...’ She keeps searching and searching, and at some point, she makes up her mind: ‘That’s it, I’m off, I’ve got my ticket, my parents gave me the money. I’m leaving the country. I’ve got a power of attorney, and I’ve also found an adult to accompany me since that’s what the law requires [for a minor to exit the country].’

I asked him, ‘Do you think there is such a girl? Don’t you think that someone has been behind all of this, setting all this up to lure this girl so that she could end up here, on your streets, and in this situation?’ He looked at me as if I was speaking Chinese: ‘And why don’t they tell us when we talk to them?’ ‘Well, how could they tell? Because they’re in debt, they’re traumatised, they’ve certainly been through a lot and so on.’

They all had the same wigs. I also asked him, ‘Don’t you find it suspicious that they all bought the same wig? They obviously belong to someone. Let’s look for their tattoos. We’ll see they have pretty much the same tattoos.’<sup>22</sup>

Concerning this situation, ADPARE believes that the primary responsibility for finding a solution lies with the state authorities in these countries, and cooperation would then further be built on state endeavours.

#### *5.4.2. Analysis of the respondents’ answers to the interview questions*

##### **A. Question 1. Issues encountered in cross-border/transnational human trafficking cases**

Some of the interviewees were asked to identify the main challenges they have encountered in their experience of working with transnational HT cases and provide some recommendations (see *Table 5.2*). The following question was formulated in a general tone intentionally so as not to restrict the interviewees’ answers:

##### **Question 1**

In your perspective, what are the most difficult issues encountered in cross-border/transnational human trafficking cases, from the moment of identification of the victim in the destination country to the moment of repatriation to Romania and coordination in criminal proceedings? What solutions would you recommend to these challenges?

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<sup>22</sup> *Ibidem.*

Table 5.2 below summarises the respondents' answers to Question 1, revealing both the issues identified by the interviewees in transnational HT cases and the recommendations they propose.

Table 5. 2. Summary of the respondents' answers to Question 1

<b>Question 1. Issues encountered in cross-border/transnational human trafficking cases</b>	
<b>Issues identified by respondents</b>	<b>Solutions from respondents</b>
<p><i>i) issues concerning the identification and repatriation of victims</i></p> <ul style="list-style-type: none"> <li>▪ the lack of proactive investigation is one of the main issues in destination countries: very few cases are identified within the destination countries; the majority of Romanian trafficking victims are identified upon their return to Romania rather than in the destination country;</li> <li>▪ Law enforcement in certain EU countries makes summary checks without using all the special investigative means used in complex, transnational cases.</li> </ul>	<p><b>Create TRMs and the EU-TRM</b></p> <p>Create and implement the Transnational Referral Mechanisms (TRMs), as well as the European Transnational Referral Mechanism (EU-TRM) to enhance cooperation between EU member states for the identification, protection and assistance of victims.</p>
<p><i>ii) issues concerning the investigation of the crime and the collection of evidence</i></p> <ul style="list-style-type: none"> <li>▪ the over-reliance on the victim's witness; in the absence of it, additional evidence gathered is not enough to open a criminal investigation;</li> <li>▪ as a result, the victim is not officially recognised as a victim, which further deprives her/him of their right to assistance as a victim of trafficking.</li> </ul>	<p>Recommendations made under Section D of this chapter.</p>
<p><i>iii) Issues concerning the repatriation of victims</i></p> <ul style="list-style-type: none"> <li>▪ generally, destination countries automatically repatriate victims, even if they are entitled by the EU legislation to choose the country in which they would like to settle;</li> <li>▪ most repatriations are conducted coercively and rapidly, leaving victims uncertain about their prospects upon returning home, which means that their right to being informed of their rights as a VOT has not been complied with;</li> </ul>	<p><b>Ensure the right of the victim not to be repatriated:</b></p> <ul style="list-style-type: none"> <li>▪ allow the victim not to be repatriated, if they choose so.</li> </ul> <p><b>If the victim is repatriated:</b></p> <ul style="list-style-type: none"> <li>▪ conduct thorough risk assessments before making any decisions regarding the victim's return.</li> <li>▪ establish direct connections with non-governmental organisations (NGOs) or</li> </ul>

<ul style="list-style-type: none"> <li>▪ generally, destination countries do not perform risk assessments before repatriation nor subsequent monitoring or support after repatriation.</li> </ul>	<p>state-run shelters to minimise the risk of further exploitation.</p>
<p><i>iv) Issues concerning cooperation in transnational referrals</i></p> <p>The lack of cooperation between destination countries and origin countries is attributed to:</p> <ul style="list-style-type: none"> <li>▪ a lack of trust between counterpart institutions from EU countries</li> <li>▪ lack of common references, even in countries with an NRM</li> </ul> <p>All these lead to a lack of cooperation in transnational referrals.</p>	<p><b>Develop bilateral and multilateral agreements and personal interaction channels</b></p> <ul style="list-style-type: none"> <li>▪ set up official communication mechanisms, such as bilateral agreements and an EU common framework;</li> <li>▪ develop personal interactions between practitioners with responsibility in the field;</li> <li>▪ establish trained practitioners as focal points in a European Transnational Referral Mechanism (EU-TRM).</li> </ul>

Source: Interviews conducted by the author

A few recurring aspects appeared from the interviews, highlighting mainly the identification and the repatriation of victims, as well as cooperation between the country of destination and the country of origin.

*i) Issues concerning the identification of victims*

Antoaneta Vassileva, first vice-president of GRETA, highlighted three main aspects, namely: 1) identification of victims; 2) collection of sufficient evidence to support the victim's testimony in court, as well as the over-reliance on the victim's testimony, and 3) the lack of proper risk assessments before repatriating victims to their country of origin.

First, **the identification of victims** in transnational cases of HT was considered by Vassileva as the primary difficulty<sup>23</sup>:

“The biggest challenge when it comes to transnational cases is the identification [...]. When we talk about EU citizens like Romanians exploited abroad, it's very tricky because, in order to identify such persons, you need to have *proactive identification*, or the victim needs to *self-identify* by going directly to the police, which, of course, we know it's not happening very often.”<sup>24</sup>

This aspect is confirmed by all the interviewees. ADPARE specifically states that **the majority of Romanian trafficking victims are identified upon their return to Romania** rather than in the destination country. This

<sup>23</sup> Interview with Antoaneta Vassileva.

<sup>24</sup> *Ibidem* (Emphasis added).

highlights a significant challenge in the identification process, as there are very few cases identified within the destination countries. Consequently, this lack of identification leads to difficulties with regard to investigation, prosecution, and cooperation, as these often require a substantial amount of time<sup>25</sup>. This aspect is confirmed by Loredana Urzică-Mirea (Executive Director of eLiberare)<sup>26</sup> and Cora Moțoc (Executive Director of Justice and Care Romania)<sup>27</sup>.

Silviu Pîtran, from his experience as a former law enforcement officer working in the investigation of transnational HT cases, also considers the lack of proactive investigation one of the main issues in destination countries, which should be tackled through closer cooperation with origin countries<sup>28</sup>:

“[...] more attention should be paid to identifying, first of all, this crime on their [the destination countries’] territory. That would be my experience, from what I have encountered in practice, that, for example, countries where victims are exploited do not carry out investigations proactively, that is, investigations to identify all the perpetrators, the group, and all the members of the group. They usually act rather reactively. The moment they get a referral or identify a place where, for example, prostitution is practised, *they make some rather summary checks without using all the special investigative means that Romania uses in all complex, transnational cases.*”<sup>29</sup>

*ii) Issues concerning the investigation of the crime and the collection of evidence*

The second issue mentioned by Antoaneta Vassileva was the **investigation of the crime and the collection of evidence**, as “in many cases, not only in Bulgaria, Romania but also in other countries, they rely on the witness’s information”<sup>30</sup>. The victim’s cooperation in the criminal proceedings is still of paramount importance and, in the absence of additional evidence gathered, is not enough to open a criminal investigation. In such cases, the victim is not officially recognised as a victim, which further deprives her/him of their right to assistance as a victim of trafficking. On the other hand, in countries where victims do receive support without the formal victim’s status, the support they receive is time-limited (sometimes a maximum of one

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<sup>25</sup> Interview with ADPARE.

<sup>26</sup> Interview with Loredana Urzică-Mirea.

<sup>27</sup> Interview with Cora Moțoc (Justice and Care Romania).

<sup>28</sup> Interview with Silviu Pîtran (IJM).

<sup>29</sup> *Ibidem* (Emphasis added).

<sup>30</sup> Interview with Antoaneta Vassileva.

month), and they no longer receive other rights they are entitled to, such as state compensation, remedies, and other types of long-term support<sup>31</sup>.

One recommendation made on this issue by Vassileva was the **implementation of the Transnational Referral Mechanisms (TRMs)**<sup>32</sup>, as well as the **European Transnational Referral Mechanism (EU-TRM)**, which the *EU Directive*<sup>33</sup> and the *EU Anti-Trafficking Strategy for 2021-2025*<sup>34</sup> mention, but which has not been put into place until now. However, the new amendments<sup>35</sup> to the *EU Directive* are again highlighting the stringent need for such a European mechanism to be put into place as a matter of priority<sup>36</sup>.

*iii) Issues concerning the repatriation of victims*

The third issue highlighted by Vassileva is **the lack of proper risk assessments** and consideration for the safety of victims when referring them back to their home country or place of origin. In many cases, law enforcement and investigation agencies do not have enough time or resources to thoroughly verify if a victim will be safe upon return. Although they may ask the victim about their safety, the victim may not have a clear understanding of it or may provide misleading information. Vassileva recounts that this has resulted in instances where victims believed they were safe to return, but were actually re trafficked.

This aspect is further confirmed by Loredana Urzică-Mirea<sup>37</sup>, Francisc Czismarik<sup>38</sup>, and Mădălina Mocan from Center for the Study of Democracy<sup>39</sup>, who highlight that the most common approach employed by destination countries in the EU until now has been that once a victim is identified on their territory, the victim is automatically subjected to the repatriation process, even if she or he is entitled by the EU legislation to choose the country in which

<sup>31</sup> *Ibidem*.

<sup>32</sup> *Ibidem*.

<sup>33</sup> *EU Directive*, Recital 5.

<sup>34</sup> *EU Anti-Trafficking Strategy for 2021-2025*, p. 14.

<sup>35</sup> *Proposal for a revised EU Directive*.

<sup>36</sup> *Ibidem*, pp. 2-3, 14. Update: By the time this book (thesis, at that time) was written, the EU Anti-Trafficking Directive had not yet been revised. The *Revised EU Directive* was published in July 2024. The revised Directive does not mention the need for an EU-TRM. However, it does mention in Referral 18 that “Establishing formal referral mechanisms and appointing a national focal point for the cross-border referral of victims are essential measures to enhance cross-border cooperation” and in Article 11 as amended the obligation of states to “to appoint a focal point for the cross-border referral of victims”. These could be considered a starting point for the creation of an EU-TRM.

<sup>37</sup> Interview with Loredana Urzică-Mirea (eLiberare Association).

<sup>38</sup> Interview with Francisc Czismarik (Generație Tânăra Association).

<sup>39</sup> Interview with Mădălina Mocan (Centre for the Study of Democracy).



they would like to settle<sup>40</sup>. Ioana Bauer, president of eLiberare Association, also highlights that the likelihood of re-trafficking or revictimisation in Romania is significantly higher, particularly in cases where the traffickers are from the same community or when family members are involved in criminal activities as perpetrators<sup>41</sup>.

To address this problem, it is crucial, from Vassileva's perspective, to conduct **thorough risk assessments** before making any decisions regarding the victim's return. Sufficient effort should be invested in ensuring that the victim is returning to a safe environment. Establishing direct connections with non-governmental organisations (NGOs) or state-run shelters becomes essential as they can provide a secure and reliable referral system for victims, minimising the risk of further exploitation. Ioana Bauer and Loredana Urzică-Mirea, on the other hand, support a victim-centred approach with regard to repatriation and stress the importance of **allowing the victim not to be repatriated, if they choose so**, even if this entails additional responsibilities and costs for destination countries<sup>42</sup>.

As has been shown in the previous chapter, there is a small percentage of Romanian VOTs that appear to have been repatriated (see *Section 4.1.6*). According to Laurențiu Dincă, coordinator of the ANITP Regional Centre in Timișoara and ADPARE, this is not due to the fact that the rest of the victims do not return to Romania but because the majority of them are identified by the Romanian police once they have returned to Romania. They either self-identify by reporting the crime to the police, or they are identified by the police as a result of ongoing investigations of previous cases involving the same traffickers<sup>43</sup>. ADPARE further explains this aspect:

“It doesn't mean that the other [victims] stayed there [in the country of destination]. They all returned, but only 16% [i.e., repatriated victims in 2021] benefited from the assisted repatriation programme. The rest were *identified after they returned on their own*, or who knows by what other means. So, *they are not referred to through cross-border cooperation*. I can tell you this from the cases of the girls in our programme. They come to Romania, they manage to escape somehow or they are still under the traffickers' influence. And because an investigation file was opened in Romania some time ago for an internal trafficking offence, they are wanted by the police, and they give statements and talk about their

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<sup>40</sup> *Ibidem*.

<sup>41</sup> Interview with Ioana Bauer.

<sup>42</sup> Interview with Loredana Urzică-Mirea and Ioana Bauer.

<sup>43</sup> Information retrieved from *Interview with Laurențiu Dincă* and *Interview with ADPARE*.

experience in Germany, Italy and so on. *So, they are identified through the investigative work of Romanian law enforcement.* What happens is that they come back to Romania, and they don't talk to anybody about what happened."<sup>44</sup>

*iv) Issues concerning cooperation in transnational referrals*

To the lack of proactive identification of foreign victims in the country of destination, ADPARE adds the **lack of cooperation in transnational referrals**<sup>45</sup>:

“There are quite a lot of organisations and institutions in the destination countries that tell them not to talk to anyone when they return home about what happened to them, and this is a gross lack of trust and respect for professionals in Romania.”<sup>46</sup>

From ADPARE's statement, this lack of cooperation between destination countries and Romania as a source country seems to be based on a **lack of trust between counterpart institutions from EU countries**. This aspect is further confirmed by interventions from Antoaneta Vassileva, Mark Ebling (consultant for IOM Romania), Francisc Czismarik (GTR), and even more visibly highlighted by Laurențiu Dincă's contrasting example of best-practice where the swift communication channel and the trusted relationship previously established between ANITP and a Romanian practitioner in a German NGO secured the identification of the victim before the exploitation took place [see detailed situation described further in this chapter]<sup>47</sup>.

Regarding cases where repatriation from the country of destination occurs, Loredana Urzică-Mirea and Ștefan Coman both state that the majority of them are done somewhat coercively, with victims lacking a clear understanding of what awaits them upon returning home, which means that **their right to being informed of their rights as a VOT has not been complied with**. There are instances where they completely misunderstand the support they will receive, such as the location where they will be accommodated, who their case manager will be, etc.<sup>48</sup>, an aspect which is further confirmed by ADPARE<sup>49</sup>. Coman adds that through this process,

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<sup>44</sup> Interview with ADPARE.

<sup>45</sup> *Ibidem*.

<sup>46</sup> *Ibidem*.

<sup>47</sup> Interview with Laurențiu Dincă (ANITP).

<sup>48</sup> Interview with Loredana Urzică-Mirea (eLiberare Association); Interview with Ștefan Coman (IJM).

<sup>49</sup> Interview with ADPARE.

authorities and practitioners in Romania gradually discover which institutions were involved in the victims' assistance and what types of services were provided to them<sup>50</sup>.

All these things considered, it is apparent that there is a **significant deficiency in collaboration and communication between destination and source countries**, and sometimes even between agencies within the same country, which are responsible for providing pre-repatriation assistance to the victim and the subsequent monitoring or support after their repatriation. This assumption is confirmed by Mark Ebling from IOM and ADPARE. Mark Ebling further highlights that even in countries with a National Referral Mechanism (NRM), cooperation is hindered due to a lack of common references<sup>51</sup>. Hence, he recommends setting up official communication mechanisms, such as bilateral agreements and an EU common framework, focusing on personal interaction between practitioners with responsibility in the field<sup>52</sup>:

“Solutions to those problems would involve more interactions – personal interactions – but also official channels that have been set up to take care of those problems. In other words, whether it's bilateral agreements or some kind of standardised EU agreement between the destination countries and Romania, there needs to be better coordination and cooperation between the countries, and that right now it's not happening in many cases.”<sup>53</sup>

Laurențiu Dincă supports this idea, as well, pointing to the need to establish **trained practitioners as focal points** in a **European Transnational Referral Mechanism (EU-TRM)**. From all interviews, the EU-TRM emerges as the most stringent need at the EU level in enhancing cooperation between EU member states for the identification, protection and assistance of victims<sup>54</sup>. This aspect is also highlighted by Mădălina Mocan, who stresses that at the moment, EU Member States have differing National Referral Mechanisms (NRMs) and differing methods of implementing them<sup>55</sup>. This component will be reiterated several times in this chapter due to its all-encompassing nature, as it targets multiple issues in transnational cooperation on HT cases.

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<sup>50</sup> Interview with Ștefan Coman (IJM).

<sup>51</sup> Interview with Mark Ebling.

<sup>52</sup> *Ibidem*.

<sup>53</sup> *Ibidem*.

<sup>54</sup> All interviewees mentioned the need for an EU-TRM (A/N).

<sup>55</sup> Interview with Mădălina Mocan (Centre for the Study of Democracy).

## **B. Question 2. Creation of an EU-wide transnational database for victims of human trafficking**

Data collection<sup>56</sup> represents another concern with regard to transnational cooperation. This conclusion has emerged from answers to the question concerning the creation of an EU database for VOTs. The question was posed to all interviewees, and it was based on comparing statistics from ANITP reports throughout 2011-2021 regarding the number of repatriated Romanian victims. Interviewees were also asked to give their opinions on the feasibility of a transnational database or tracking system for VOTs at the EU level. The question is reproduced below:

### **Question 2**

According to data recorded in the annual reports of the Romanian National Agency against Trafficking in Persons, between 2011 and 2021, the rate of identified Romanian victims of trafficking exploited abroad (in another EU country) has been around 50% or higher, as compared to victims exploited within Romania. For example, in the year 2021, 49% of the total of 504 Romanian VOTs registered by ANITP were trafficked abroad, but only 16% of the number of VOTs trafficked at the international level were repatriated to Romania. Similarly, in 2018, the rate was 51% to 8%. Based on this information, in order to avoid the revictimisation of victims identified abroad and not repatriated to their country of origin:

- (a) we propose the creation of an EU-wide transnational database (similar to SIMEV) that would allow state authorities to track the victim's journey through its various stages, from identification, participation in criminal proceedings and their outcome, protection and assistance to the victim, as well as the institutions involved and the services offered at each of these stages? Do you consider that such a database would be necessary?
- b) If so, who should manage such a database?
- c) What could be the steps involved in setting up such a database?

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<sup>56</sup> Update: Regarding data collection and statistics, the *Revised EU Directive* only briefly mentions in article 19a 1(a) a set on information to be collected by all states, but does not touch on the idea of a transnational database: "the number of registered identified and presumed victims of offences referred to in Article 2, disaggregated by registering organisation, sex, age groups (child/adult), citizenship, and form of exploitation, in accordance with national law and practices".

Table 5.3 below provides a summary of the respondents' answers to Question 2, revealing both the challenges identified by the interviewees when considering the creation of an EU-wide transnational database for VOTs, as well as scenarios they foresee and recommendations they offer.

Table 5. 3. Summary of the respondents' answers to Question 2

<b>Question 2. Creation of an EU-wide transnational database for victims of human trafficking</b>	
<b>Issues identified by respondents</b>	<b>Solutions from respondents</b>
<p><i>i) Issues identified concerning current databases (national databases and EUROSTAT database)</i></p> <ul style="list-style-type: none"> <li>▪ the lack of a standardised case management for victims;</li> <li>▪ the lack of clear and time-sensitive data collection and reporting at the EU level;</li> <li>▪ the lack of engagement of victims with authorities, which leads to underreporting.</li> </ul> <p><i>ii) The need for a transnational database</i></p> <ul style="list-style-type: none"> <li>▪ the need for the monitoring of victims and perpetrators, especially in the context of the anticipated accession to the Schengen area;</li> <li>▪ the need for the monitoring of victims due to the victim' proneness to being re-trafficked.</li> </ul> <p><i>iii) Key challenges and solutions when considering the establishment of an EU transnational database</i></p> <p><b>Pre-existent challenges</b></p> <ul style="list-style-type: none"> <li>▪ differences in defining the status of a VOT across the EU;</li> <li>▪ differences between legal and institutional frameworks;</li> <li>▪ the lack of coordination and transparency among different institutions responsible for data collection;</li> <li>▪ the lack of political will and unified consent on behalf of EU Member States regarding legislative and methodological</li> </ul>	<p><i>Recommendation 1</i></p> <p><b>EU Transnational Database: necessary and feasible in the long term through an EU-TRM</b> (the majority of respondents).</p> <p>Strategy: Create an EU-TRM starting from setting up NRMs in all EU MS. The EU transnational database would then be an essential instrument and a logistical platform to support the EU-TRM as a type of accountability system between destination countries and origin countries at the EU level to track the status of repatriated victims and avoid the re-trafficking of victims.</p> <p><i>Recommendation 2</i></p> <p><b>EU Transnational Database: unnecessary and unfeasible</b> (minority of respondents)</p> <p>Strategy: Create an EU-TRM starting not from setting up NRMs in all EU MS but from standardising HT indicators and reaching an EU-wide clear definition of the status of a VOT, along with ensuring standardised access to services for both presumed and identified victims. The EU-TRM would be enough in this case, and an EU victims' database would not be needed anymore.</p> <p><i>Recommendation 3</i></p> <p><b>EU Transnational Database: necessary and feasible through bilateral and multilateral cooperation</b> (minority of respondents)</p>

<p>harmonisation, data sharing, developing a common database, and financing such a database</p> <p><b>Challenges posed by a common EU database</b></p> <ul style="list-style-type: none"> <li>▪ prevent the risk of data breaches;</li> <li>▪ establish the entity holding the end responsibility of hosting and managing the database;</li> <li>▪ ensure the balance between safeguarding personal data security and upholding human rights while ensuring the protection of crime victims;</li> <li>▪ overcome the language barrier;</li> <li>▪ minimise alternatives to official reporting mechanisms, such as social pathways, which may lead to underreporting in official statistics.</li> </ul>	<p>Strategy: Create a transnational database starting from cooperation agreements between two or more countries as the starting point, and then gradually expand them.</p> <p><i>Additional recommendations to increase the feasibility of an EU transnational victims' database:</i></p> <ul style="list-style-type: none"> <li>▪ establish a special task force at the EU level to generate, manage and secure the database;</li> <li>▪ enhance the Eurostat data collection system to include additional data;</li> <li>▪ establish transnational referral procedures to optimise case management for repatriated victims of trafficking;</li> <li>▪ standardise institutional framework for institutions with comparable structures across EU countries to promote communication between counterparts and optimise European collaboration across the entire EU;</li> <li>▪ research and scale up best practice models for data collection such as the SIMEV database (Romania) (e.g.: semi-anonymisation of data and partial access of practitioners depending on the region where they are located).</li> </ul>
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Source: Interviews conducted by the author

Question 2 was based on the conclusions emerging from data analysis in Chapters 3 and 4, namely the need for a better data collection and management process in the Romanian data collection system (SIMEV), the EU data collection mechanism (EUROSTAT), and subsequently, the national and EU reporting systems, as a basis for better anti-trafficking policymaking both at the national and EU levels.

After interviewing Laurențiu Dincă, coordinator of the ANITP Regional Centre in Timișoara, and ADPARE, it has been revealed that the small number of Romanian victims that appear to be repatriated, as per the ANITP reports, is due to the fact that victims return by themselves in Romania, and upon return, they report the crime to the police, as already mentioned above. However, the question is still valid, as a certain percentage of Romanian

victims (not known yet due to the lack of data on this aspect) remain in the country of destination. From this point, another concern appeared as to **what happens to those victims who stay in the country of destination**, whether the state of destination keeps track of these victims, whether they are provided with the assistance they are entitled to so as to avoid their re-trafficking, and whether the authorities of the country of destination notify Romanian authorities regarding the status of the victim.

*i) Issues identified concerning current databases*

As highlighted above by ADPARE, all the cases of victims registered in SIMEV and illustrated in the ANITP reports are handled by the Romanian authorities without exception. The Romanian victims that might be assisted by the country of destination do not appear in SIMEV, firstly because they are not reported to the Romanian authorities unless they are repatriated, and secondly, because SIMEV shows only victims whose case is managed on the territory of Romania<sup>57</sup>.

Ștefan Coman (IJM) expresses concern over the current challenges that Romania faces in data collection, even in our national reports, which stem from the lack of **standardised case management for victims**. In some cases, the designated case manager is a representative from ANITP; other times, it is a representative from DGASPC or an NGO. The victim receives services from multiple institutions and NGOs, albeit not simultaneously, and the person responsible for monitoring and communication between the various stakeholders becomes the *de facto* case manager. According to Coman, the vulnerability of this type of case management system is that information is not collected and reported in a standardised way<sup>58</sup>.

Issues with data collection and reporting can be found in the EUROSTAT statistics, as well. As highlighted by Vassileva, the **EUROSTAT data collection process is delayed**, and thus, the statistics EUROSTAT provides on trafficking do not reflect the current reality. Furthermore, according to the GRETA first vice-president, these statistics solely encompass officially recognised victims as identified by Romania or other destination countries, without information on potential instances of exploitation across multiple countries. It is also contended that these statistics represent only a fraction of the overall problem, serving as a mere glimpse into the larger issue. Furthermore, from Vassileva's insights gained from collaboration with NGOs, numerous victims choose not to engage with the police; thus, official statistics on the number of identified victims are far from accurate<sup>59</sup>.

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<sup>57</sup> Interview with ADPARE.

<sup>58</sup> Interview with Ștefan Coman (IJM).

<sup>59</sup> Interview with Antoaneta Vassileva (GRETA).

As an addition to Vassileva's observations, Laurențiu Dincă is of the opinion that EUROSTAT statistics are not quite relevant when it comes to analysing the difference between suspects and convicts of HT, either. The straightforward explanation for this, he states, is that suspects are registered in a particular year, while the case itself may span over several years. He adds that EUROSTAT statistics lack a connection between the initial registration of suspects and their eventual convictions. This means that it becomes difficult to determine the actual number of suspects who were ultimately convicted in a certain year. In some instances, suspects may appear in the statistics for a specific year, only to reappear in subsequent years as convicted individuals. As a solution, he proposes that there should be a different approach to calculating the statistics. Instead of aggregating the data, EU MS, and ultimately EUROSTAT, should focus on individual cases and analyse the number of suspects and convictions in each specific case. By doing so, a more accurate and comprehensive understanding of HT convictions could be obtained<sup>60</sup>.

*ii) The need for a transnational database*

Several interviewees considered that a transnational database containing essential information about VOTs and assistance granted to them is highly necessary but more challenging to implement. Mădălina Mocan stresses the need for transnational mechanisms specifically for the monitoring of victims and perpetrators, especially in the context of the anticipated accession to the Schengen area, and considers that national solutions to such an escalating transnational issue are becoming obsolete<sup>61</sup>.

Vassileva considers that in view of a victim's proneness to being re-trafficked due to their compound vulnerabilities, there is a need to create an accessible transnational information-sharing channel at the EU level to track the status of repatriated victims. She views this as a challenging but potentially achievable endeavour<sup>62</sup>:

“One thing that it's very difficult to do, but I think it's probably very possible when it comes to the EU, is to create an easy channel for the sharing of information on the status of the victim when the victim is repatriated to the country of origin. So, if a Romanian victim is repatriated to Romania, the country should be able to easily share information with the country of destination that the victim is safely taken care of and to monitor that she or he is really safe for at least one year because we know by experience that victims very often – if they're

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<sup>60</sup> Interview with Laurențiu Dincă (ANITP).

<sup>61</sup> Interview with Mădălina Mocan (Centre for the Study of Democracy).

<sup>62</sup> Interview with Antoaneta Vassileva (GRETA).



in a vulnerable situation in the country of origin – easily become re-trafficked.”<sup>63</sup>

According to Vassileva’s experience in the GRETA evaluation of EU countries, there is a **lack of monitoring** by destination countries regarding the well-being of victims once they are repatriated to their home country<sup>64</sup>. Loredana Urzică-Mirea also stresses the need for some type of **accountability system** to avoid the re-trafficking of victims<sup>65</sup>. Furthermore, Vassileva states that countries of origin lack mechanisms to track victims once they are identified in the destination country unless repatriation occurs<sup>66</sup>. However, there are instances where NGOs or shelter staff, building on a trusted relationship, maintain contact with the victim once they have left the shelter. This practice is done on a case-by-case basis, and considering the limited human resources available in the anti-trafficking assistance services, it might be considered insufficient to ensure the safety of victims on a large scale. Apart from these limited measures, there are no other instruments available to monitor the safety and well-being of victims<sup>67</sup>.

Furthermore, Vassileva also considers that there is a pressing necessity for **clear and time-sensitive data collection and reporting at the EU level**. She affirms that it is crucial to incentivise countries to collect data on various indicators beyond simple victim counts, gender differentiations, or types of trafficking. To gain a comprehensive understanding, additional data is needed, such as the specific region in the country of origin of the individual and their transnational journey, considering that victims often endure exploitation in multiple countries before identification in an EU nation<sup>68</sup>. Consequently, the issue of data quality is of utmost importance.

The main concern revolves around the absence of a formal mechanism to guarantee the continuity of support services, which significantly increases the risk of re-victimization. This risk is particularly pronounced as adult victims, despite their age, often find themselves in a highly vulnerable state, grappling with the lasting effects of trauma and facing challenges in rebuilding their lives from scratch. Compounding the issue, many victims return to the same family or social environment where the initial abuse took place<sup>69</sup>.

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<sup>63</sup> *Ibidem*.

<sup>64</sup> *Ibidem*.

<sup>65</sup> Interview with Loredana Urzică-Mirea (eLiberare Association).

<sup>66</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>67</sup> *Ibidem*.

<sup>68</sup> *Ibidem*.

<sup>69</sup> Information corroborated by interviews with Monica Boseff (Open Door), Cora Moțoc (Justice and Care), Ioana Bauer (eLiberare), Loredana Urzică-Mirea (eLiberare), ADPARE.

Monica Bosseff from Open Door Romania Foundation explains the lack of continuity of support services and the **need to create transnational referral procedures** to optimise case management for repatriated victims of trafficking<sup>70</sup>:

“I think a very important thing would be to establish a working protocol, namely a certain kind of form to be filled in, at least with victims from Romania. Why? Because when we ask foreign counterparts for a written case report or a case presentation, we actually get a simplified table like in sudoku. Well, I told them, ‘A second grader can do that, too’. The case presentation means that I want to know exactly the police part, how it was done, what happened and who the police contact person is, what was done on the social work side, who is the social worker who talked with her, what language they spoke, if they used a translator or cultural mediator and so on. We need to know all these details.”<sup>71</sup>

Laurențiu Dincă adds to Monica Boseff’s recommendation the need for national databases similar to SIMEV to be implemented in each EU Member State. This database would allow state authorities to track the victim’s journey, starting from identification and including information on the services provided to them and the progress of criminal proceedings. Dincă supports the establishment of an EU database but suggests that it should begin with the **creation of National Referral Mechanisms (NRMs) in all EU member states**. These NRMs would serve as a foundation for developing a centralised European Referral Mechanism (EU-TRM) later on. Dincă highlights the importance of having **similar institutions across EU countries to facilitate dialogue between counterparts**. Such uniformity would enable cohesive European cooperation throughout the entire EU<sup>72</sup>.

ADPARE endorses Laurențiu Dincă’s perspective, as well as eLiberare Association<sup>73</sup>, highlighting that the proposed database should serve as a **component and logistical platform for the EU-TRM**. However, ADPARE raises an important concern regarding the UK, a major destination country for Romanian victims, as the UK will not be included in the EU-TRM due to its preference for bilateral agreements and reluctance to participate in the EU mechanism. This situation presents additional obstacles to achieving comprehensive cooperation with all destination countries where Romanian victims are exploited<sup>74</sup>.

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<sup>70</sup> Interview with Monica Boseff (Open Door Romania Foundation).

<sup>71</sup> *Ibidem*.

<sup>72</sup> Interview with Laurențiu Dincă (ANITP).

<sup>73</sup> Interview with Loredana Urzică-Mirea (eLiberare Association).

<sup>74</sup> Interview with ADPARE.

Also, Dincă offers the SIMEV database as an example of good practice in data collection, which EU states could follow, including the **semi-anonymisation** of data and **partial access of practitioners** depending on the region where they are located. He also says that ANITP does not fulfil only the role of National Rapporteur but also has a role in the monitoring and evaluation of the assistance granted to victims by other various actors, as well as in supporting the victims in the National Programme for the Coordination of Victims in the Criminal Process. The only downside he sees in the Romanian anti-trafficking system is the lack of proper funding<sup>75</sup>.

Dincă<sup>76</sup>, as well as ADPARE<sup>77</sup>, also attribute the difference in the number of Romanian VOTs identified throughout the EU as compared to the number of VOTs registered by the Romanian authorities in SIMEV to the lack of communication between Romania and destination countries:

“In the majority of cases, neither institutions nor NGOs from other EU countries inform us about Romanian victims of human trafficking identified on their territory, and this accounts for approximately 90% of the cases. The only instances where we receive information are when victims are repatriated. As for other cases, we are not informed about the existence of human trafficking victims within those countries’ territories.”<sup>78</sup>

Laurențiu Dincă also believes that there is a need to **standardise the indicators** used for identifying victims within the EU, as currently, these indicators vary from one country to another<sup>79</sup>. Additionally, Ștefan Coman states that there are discrepancies in the disaggregation standards of data collected and reported to EUROSTAT, with some EU member states reporting only victims of trafficking, while others include cases of prostitution/procuring as well<sup>80</sup>.

*iii) Key challenges and solutions when considering the establishment of an EU transnational database*

GRETA’s monitoring of countries highlights genuine challenges that may arise from legal frameworks, **lack of coordination**, or **insufficient transparency among different data-gathering institutions**. Resolving these complexities requires concerted efforts to reach decisions that garner agreement from all European countries. The GRETA expert considers that the

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<sup>75</sup> Interview with Laurențiu Dincă (ANITP).

<sup>76</sup> *Ibidem*.

<sup>77</sup> Interview with ADPARE.

<sup>78</sup> Interview with Laurențiu Dincă (ANITP).

<sup>79</sup> *Ibidem*.

<sup>80</sup> Interview with Ștefan Coman (IJM).

inclusion of these aspects within the revised Directive could be a potential solution. However, she is aware that certain countries may be reluctant to gather highly detailed information due to the time and resources required for establishing an effective network<sup>81</sup>.

A similar proposal for the development of a European anti-trafficking observatory was made by the Portuguese Presidency of the European Council in 2021<sup>82</sup> but has not been enacted yet. Furthermore, an attempt to create a type of tracking system was also initiated several years ago by Antoaneta Vassileva for the anti-trafficking framework in Bulgaria: the idea was to develop an app to aid in tracking victims. However, this proposal clashed with the Data Protection Directive<sup>83</sup>.

Despite these failed attempts, she believes that such a tracking system could be established using new digital technologies, although numerous challenges would arise. The primary conflict, from Vassileva's perspective, stems from the balance between **safeguarding personal data security** and upholding human rights while ensuring the protection of crime victims, including not only VOTs but also victims of other crimes. Moreover, concerns about **potential data breaches** further complicate the matter. To these challenges, Loredana Urzică-Mirea further adds the **differences in defining the status of a VOT throughout the EU** due to the differing judicial systems, the discrepancies between various assistance systems of EU MS, the language barrier and the end responsibility of hosting and managing the database<sup>84</sup>.

As an alternative to an EU transnational database, Ioana Bauer from eLiberare proposes as a higher priority **the standardising of indicators** and an EU-wide clear definition of the status of a VOT, along with ensuring **standardised access to services** for both presumed and identified victims. She also highlights that some victims may opt for a social pathway to identification and service access, thus potentially leading to underreporting in official statistics<sup>85</sup>.

These considerations also shed light on the reasons why individuals are hesitant to share their data and participate in such initiatives. Victims of trafficking require substantial and prolonged support to cultivate the necessary trust to share their information and cooperate with investigations<sup>86</sup>.

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<sup>81</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>82</sup> *International Conference on Human Trafficking*, Portuguese Presidency of the Council of the European Union 2021, 25 May 2021, [Online] available at: <https://www.2021portugal.eu/en/news/international-conference-on-human-trafficking/>.

<sup>83</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>84</sup> Interview with Loredana Urzică-Mirea (eLiberare Association).

<sup>85</sup> Interview with Ioana Bauer (eLiberare Association).

<sup>86</sup> Conclusion reached as per interviews with representatives of the civil society.

Ștefan Coman from IJM considers that an EU transnational database would be needed but agrees with the other interviewees that its development and implementation throughout the EU would still be improbable at the moment, as it is highly dependent on a series of factors, such as “the political will for legislative and methodological harmonisation”, for data sharing, as well as for developing a similar framework. Ștefan Coman and Laurențiu Dincă consider that the primary condition for developing such an EU-wide database at the EU level would be to first have a National Identification and Referral Mechanism (NRM) in place in all EU countries (at the moment, not all EU member states have a formal and/or functional NRM developed), which would further enable the creation of an EU Transnational Referral Mechanism (EU-TRM). Only once an EU-TRM is set in place could a transnational database be considered, according to them<sup>87</sup>. ADPARE is in favour of such an initiative, considering that an EU-shared database tracing the victim’s journey would be an essential instrument to support the EU-TRM, but they also consider it to be potentially risky as regards data security<sup>88</sup>.

Coman also proposes **commencing with cooperation agreements** between two or more countries as the starting point and then gradually expanding them:

“It seems to me that we could start with a smaller number of countries in the European Union, not necessarily an EU-wide mechanism. And if you have a system that works and you get some relevant information out of it, maybe afterwards other countries would be willing to participate in this mechanism [...] To me, it seems feasible to have a kind of pilot project where you have three, four, five, or eight countries agreeing on examining their National Identification and Referral Mechanisms to see if they have at least most of the elements in common and then to develop a set of indicators, which they would need to follow in a standardised way, in their own countries, and see what happens [...]”<sup>89</sup>

In the context of a stark lack of consensus between the EU MS, which has hindered the creation of an EU-TRM in the last twelve years (since the adoption of the *EU Directive*), Ioana Bauer supports a reverse paradigm, namely starting from developing **common definitions** and a set of **standardised indicators** – not from creating NRMs in all EU MS – as the basis for establishing an EU-TRM<sup>90</sup>. This suggestion aligns with Mădălina Mocan’s

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<sup>87</sup> Interview with Ștefan Coman (IJM); Interview with Laurențiu Dincă (ANITP).

<sup>88</sup> Interview with ADPARE.

<sup>89</sup> Interview with Ștefan Coman (IJM).

<sup>90</sup> Interview with Ioana Bauer (eLiberare Association).

proposal, according to which, in the event of a transnational database proving unfeasible, a viable alternative would involve ensuring the interoperability of national databases using a standardised codification system<sup>91</sup>.

Mark Ebling considers the idea of a European database feasible, provided that a special **task force be established at the EU level** to generate, manage and secure it. However, he also highlights that a downside of such a recommendation might be the lack of unified consent on behalf of EU Member States regarding data sharing and financing such a database<sup>92</sup>.

### **C. Question 3. Implications of the legalisation model versus the Equality Model on human trafficking for sexual exploitation**

Another finding emerging from the interviews was that the legal model on prostitution adopted by EU member states has significant implications on the phenomenon of HT for sexual exploitation, with effects not only at the national level but also at the EU level, especially when considering transnational cases of HT. The following question was posed to all interviewees, with small variations depending on their experience and field of expertise:

#### **Question 3**

From your experience and your colleagues' experience, what differences have you noticed between the way a case of human trafficking is handled by the authorities of states where prostitution is legalised (e.g.: Germany, the Netherlands) versus states that have adopted the Nordic/Swedish model (e.g.: Sweden, France, Ireland)? Could you provide some examples?

Interviewees with experience in the investigation of cases, namely the law enforcement representatives and the CSO representatives who cooperate with police for the detection and identification of VOTs, were specifically asked about their experience in their area of expertise:

How do you think the proactive identification of human trafficking victims and the investigation of trafficking cases are influenced by the legislative model on prostitution in a particular country?

Parts of their answers will also be illustrated in the following section of this chapter, *Section D on Question 4 - Cooperation for the investigation of transnational human trafficking cases*. Section C will analyse the ways in which the legal model on prostitution in a certain country affects cooperation between countries at all levels, including the investigation of cases (see *Table 5.4* below).

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<sup>91</sup> Interview with Mădălina Mocan (Centre for the Study of Democracy).

<sup>92</sup> Interview with Mark Ebling (IOM).

Table 5. 4. Summary of the respondents' answers to Question 3

<b>Question 3. Implications of the legalisation model versus the Equality Model on human trafficking for sexual exploitation</b>	
<b>Aspects identified by respondents</b>	<b>Solutions from respondents</b>
<p><b>The majority of respondents considered that the legalisation model:</b></p> <ul style="list-style-type: none"> <li>▪ might influence the way in which evidence is collected;</li> <li>▪ restricts the proactive identification of VOTs among vulnerable categories such as people engaged in prostitution;</li> <li>▪ restricts the prerogatives and freedom of law enforcement to interrogate persons in prostitution away from their pimp's supervision;</li> <li>▪ yields a lower number of reported cases of HT and sexual exploitation due to the limited proactive identification of victims;</li> <li>▪ restricts investigation of cases: if a person withdraws their complaint in countries using the legalisation model, the investigation is halted;</li> <li>▪ has different ways of defining "forced prostitution" as opposed to "consented prostitution": the majority of Romanian persons (both male and female) in prostitution in countries with legalised prostitution were brought there by someone else, indicating elements of HT or procuring, as both involve facilitating another person's entry into prostitution. However, as long as a victim does not report the crime, she is not considered a potential victim.</li> </ul> <p><b>The majority of respondents considered that the Equality Model:</b></p> <ul style="list-style-type: none"> <li>▪ acknowledges that both prostitution and sex trafficking are manifestations of gender-based violence;</li> <li>▪ allocates resources to law enforcement agencies for enhanced outreach initiatives aimed at individuals engaged in prostitution, leading to higher rates of prosecution and convictions for offenders;</li> <li>▪ endows law enforcement with increased prerogatives to reach out to persons so as to screen their vulnerabilities and identify potential VOTs;</li> </ul>	<p><b>Preference for the Equality Model:</b></p> <p>The majority of interviewees agreed that the legalisation model has certain negative implications on the cooperation between countries of destination and countries of origin. The Equality Model was given as the optimal alternative to the legalisation model, with the majority of interviewees agreeing that results of this model are enhanced cooperation, decreased demand for sexual services, and more intensified proactive identification of victims.</p> <p><b>Recommendations for countries where prostitution is legalised:</b></p> <ul style="list-style-type: none"> <li>▪ a legal obligation to report cases of sexual exploitation be imposed on all brothel owners, as it happens in the Netherlands. Failure to comply with this obligation should result in criminal charges if proven;</li> <li>▪ the State should finance outreach activities in brothels and other places for prostitution; such activities are already initiated by NGO representatives and social assistants in such states, but they are not financed by the State.</li> </ul>

- yields a higher number of reported cases of HT and sexual exploitation primarily because of their strategy of actively identifying victims within the population engaged in prostitution and pursuing both clients and traffickers;
- results in a significant reduction in the demand for sexual services;
- places high importance on the *ex-officio* investigation of cases: even if a person withdraws their complaint in countries using the Equality Model, the investigation will still continue;
- highlights enhanced cooperation with other countries;
- could potentially make a significant difference in terms of data and the identification of more victims if adopted in other EU countries.

**There were a few neutral positions:**

- the screening of vulnerable populations and the proactive identification of victims are not necessarily determined by the legislative model on prostitution in a given state but rather by the existence of this prerogative in the law and its implementation in procedures by relevant institutions;
- proactive identification is contingent upon the locations targeted for search;
- the mere existence of a National Referral Mechanism (NRM) or the adoption of the Equality Model are not enough to guarantee the effective identification of victims: it is crucial to explicitly mention proactive identification in the NRM, and the NRM, in turn, should include provisions targeting proactive identification or outreach among vulnerable categories, which may include individuals in prostitution, persons working in adult entertainment, refugees, and people from specific ethnicities known to be more susceptible to trafficking due to compound vulnerabilities.

**Cross-cutting**

**recommendation:**

- the amendment of the EU Directive and national legislation so as to include a clear and unambiguous explanation of “the *loverboy* method” in the definition of HT, to prevent ongoing debates and jurisdictional uncertainties between trafficking and pimping cases.

Source: Interviews conducted by the author

Question 3 was based on the conclusions emerging from data analysis made in Chapters 3 and 4, namely the impact that legal models on prostitution may have on the scale of HT in a certain EU Member State and in the EU at



large. We wanted to further probe with the respondents whether they have noticed this correlation and inquire about recommendations they may have in this regard. The answers to this question focused on the positive aspects that the Equality Model may bring to the fight against HT, as opposed to the legalisation model, and a few recommendations to increase proactive identification of victims of trafficking in countries where prostitution is legalised.

*i) The impact of the legalisation model versus the Equality model on the proactive identification of victims of human trafficking*

The majority of interviewees agreed that the legalisation model, which was adopted by countries such as Germany, the Netherlands, Austria, Switzerland, Hungary, Greece, and the Czech Republic (see *Table 3.3 in Chapter 3*), has certain negative implications on the cooperation that these states, as countries of destination, have with countries of origin. On the other hand, when it comes to countries which have adopted the Equality Model, such as Sweden, France, and Ireland, the majority of interviewees have stated that the effects involved are **enhanced cooperation, decreased demand for sexual services, and more intensified proactive identification of victims**.

Ştefan Coman (IJM) acknowledges that, when it comes to investigating transnational HT cases, Romania cooperates better with France, a country which has adopted the Equality Model, than with Germany, which has legalised prostitution. Moreover, he is highlighting the risks that legalising prostitution can bring to counter-trafficking efforts<sup>93</sup>:

*“If you want to fight human trafficking, it is clear that legalising prostitution is the worst thing you can do. On the other side, criminalising the purchase of sex [the Equality Model] gives you a much wider investigative framework because, legally, you can fight it. The question is, ‘What are the priorities of the state or of the governing bodies within that state?’”<sup>94</sup>*

Another highlight Coman brings is that the legislative system of a country, specifically countries which have legalised prostitution, might influence the way in which evidence is collected. Moreover, their stance on what “forced prostitution” is, as opposed to “consented prostitution”, might differ drastically from other countries. From his interactions with the police in Germany, Coman was informed that the German police are restricted from taking a person in prostitution to a safe place where they can question her away from the pimp’s watch<sup>95</sup>:

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<sup>93</sup> Interview with Ştefan Coman (IJM).

<sup>94</sup> *Ibidem* (Emphasis added).

<sup>95</sup> *Ibidem*.

“I asked the police in Berlin almost two years ago<sup>96</sup> ‘If someone is working in prostitution, can you, as a policeman, go and ask that person to talk to you *somewhere where their pimp is not present?*’ *And they said, ‘No, we cannot do that.’* There is a vulnerability here, in my view, in the way Germany investigates human trafficking cases, especially for sexual exploitation, because the police cannot pick up a victim off the street, take her to a safe location away from her pimp, and ask her questions like, ‘Are you being forced to do this?’, ‘Is he using violence against you?’ etc. They cannot do this there since prostitution is considered legal business, and then you can’t pull that person aside and ask those questions.”<sup>97</sup>

Ștefan Coman also exposes certain vulnerabilities in the cooperation between Romania and the Netherlands. He recounts that IJM had an HT prosecution case involving a Romanian victim trafficked in the Netherlands, which, despite the presence of incriminating factors, did not materialise due to its complexity and the passage of time<sup>98</sup>. The ability to find sufficient evidence in cases where the situation occurred several years before is still limited. The IJM representative agrees that the investigation of an HT case is indeed influenced by the legal model of prostitution that a country has adopted, which is reflected by variations in the number of convictions provided by EUROSTAT. He explains that France stands out with a high number of convictions, as compared to Germany, precisely due to their approach of proactive identification of victims among persons who practice prostitution, while Germany does not report a high number of cases of exploitation, which, according to the IJM representative, is implausible and contrary to what NGOs working in Germany report<sup>99</sup>:

“In Germany, I would say, but also in the Netherlands, there are clearly *major limitations in terms of identifying cases of exploitation*. I mean, the premise you start from is a little bit different from a country that has adopted the Equality model. In the Equality model, you start from the premise that *the person is a victim*, while in a country where prostitution is legalised, you start from the premise that *the person does it out of their own free will*. And then it’s clear that initiating an

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<sup>96</sup> On the occasion of the Round Table “Cross-border cooperation to combat sexual exploitation of minors in Berlin” (Germany), organised by IJM in cooperation with state authorities from Romania and Germany. This information is mentioned in the *Response of the General Inspectorate of the Romanian Police on the topics in the interview guide* (see Annexes).

<sup>97</sup> *Ibidem* (Emphasis added).

<sup>98</sup> *Ibidem*.

<sup>99</sup> *Ibidem*.

investigation is going to be different; the way you collect evidence will be different [...]"<sup>100</sup>

Vassileva, on the other hand, after four years of doing country monitoring within GRETA, considers that neither the legalisation model nor the Equality Model significantly reduces the number of victims of sexual exploitation compared to the other since traffickers will persistently find ways to exploit legal loopholes in any country where they may find themselves. Since they are profit-driven, their actions will target the maximisation of the business by surpassing the limitations of a given legal model and exploiting its opportunities to their advantage<sup>101</sup>.

Nonetheless, Vassileva admits that even if the Equality Model cannot reduce the number of victims, it still helps identify a larger number due to its **proactive identification** approach in pursuing both clients and traffickers. She highlights that even if a person may withdraw their complaint in Sweden, Norway or other countries using the Equality Model, the investigation will still continue, which is not the case in most countries, where the investigation is halted once a complaint is withdrawn. This practice applies not only to prostitution but also to cases involving trafficking or domestic violence. Vassileva considers that if this approach were implemented in other countries, it could potentially make a significant difference in terms of data and the identification of more victims<sup>102</sup>.

Ioana Bauer has a more neutral perspective, highlighting other variables to be considered in stepping up the fight against HT at the EU level<sup>103</sup>. She considers that proactive identification is not necessarily influenced by the legislative model on prostitution adopted by a certain state but rather by the existence of this prerogative in the law and by its declination into procedures at the level of the different institutions with such prerogatives. Additionally, she states that the effectiveness of proactive identification is contingent upon the locations targeted for search and acknowledges that in cases where a country embraces “models that normalise violence against women through prostitution” (i.e., the legalisation model), proactive identification may not occur in areas where individuals engage in such activities voluntarily. Therefore, while there is a connection between legislative measures, such as the existence of an NRM or the adoption of the Equality Model, Ioana Bauer highlights that these alone are not sufficient to ensure the successful

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<sup>100</sup> *Ibidem* (Emphasis added).

<sup>101</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>102</sup> *Ibidem*.

<sup>103</sup> Interview with Ioana Bauer (eLiberare Association).

identification of victims. For proactive identification to be effective, it is crucial to explicitly mention it in the NRM, and the NRM, in turn, should include provisions targeting **proactive identification or outreach among vulnerable categories**, which may include individuals in prostitution, persons working in adult entertainment, refugees, and people from specific ethnicities known to be more susceptible to trafficking due to compound vulnerabilities. She also stresses the importance that the national legislation of EU Member States should guarantee **clear powers and procedures** for entities responsible for screening vulnerable populations<sup>104</sup>.

Ștefan Coman confirms Ioana Bauer's perspective by stating that NGOs in Germany are well-informed about the high number of potential VOTs in brothels. However, his perspective is that these individuals are left by themselves to **self-identify** as victims by the legal system in Germany<sup>105</sup>:

“[...] if they don't identify themselves as victims, then you've got your hands tied. And when you don't have many cases reported, neither will you allocate many resources to people who are a bit more specialised and have some different approaches [to proactively identify victims].”<sup>106</sup>

Vassileva also highlights that women in prostitution in countries such as Germany, the Netherlands and other EU countries are mainly citizens of Eastern European countries and third-country nationals; this might infer that their complex vulnerabilities as persons with less opportunities compared to citizens of destination countries are the underlying factors which determine them to engage in prostitution. This idea is also brought up by Dincă, Iftodi, ADPARE and Monica Boseff, who all highlight the fact that the majority of Romanian women in prostitution in countries abroad were brought there by somebody else, which is an indicator of HT or procuring, as in both cases there is the element of facilitation of another person's entry into prostitution<sup>107</sup>. Vassileva recounts that, particularly during the period from 2007 to 2012, approximately half of the Bulgarian victims identified in cases of sexual exploitation were individuals who knowingly engaged in prostitution in the country of destination, based on a shared-profit arrangement with their procurer. However, despite their initial understanding, they ultimately received nothing in return but ended up being exploited by the procurer/trafficker<sup>108</sup>.

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<sup>104</sup> *Ibidem*.

<sup>105</sup> Interview with Ștefan Coman (IJM).

<sup>106</sup> *Ibidem*.

<sup>107</sup> See interviews with Laurențiu Dincă (ANITP), Iulian Iftodi (DIICOT), ADPARE, Monica Boseff (Open Door).

<sup>108</sup> Interview with Antoaneta Vassileva (GRETA).

Vassileva mentions a specific case of a woman officially licensed as a sex worker in the Netherlands who was identified as a victim of trafficking after eight years of exploitation<sup>109</sup>:

“In the Netherlands, many victims, not only Romanian and Bulgarian victims, are officially licensed. I had a case of a Bulgarian woman exploited for eight years in the Netherlands. As she was officially licensed, she was seen every week by a policeman, and *for eight years, they didn't realise she was a victim of trafficking because she was hiding it.* And of course, *if you are threatened by the trafficker, you will hide it.*”<sup>110</sup>

Vassileva's perspective is confirmed by Ruth Breslin<sup>111</sup>, an Irish researcher in the Sexual Exploitation Research Programme (SERP) at University College Dublin. At an international conference<sup>112</sup> held in Bucharest on May 17<sup>th</sup>, 2023, Breslin explained the founding reasons and principles why Ireland adopted the Equality Model in 2017, namely that extensive research conducted in 2009<sup>113</sup> on the Irish sex trade had shown that 87% - 97% of individuals involved in prostitution were migrant women<sup>114</sup>, and the primary driving factors behind their engagement in this trade were poverty, coercion, or a combination of both<sup>115</sup>. These findings were later supported by a 2021 study<sup>116</sup>, which revealed that 94% of those involved in the sex trade were migrant women, primarily young and vulnerable<sup>117</sup>, out of which 31.9% were Romanian, ranking second after Brazilian women, who accounted for 37.5%

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<sup>109</sup> *Ibidem.*

<sup>110</sup> *Ibidem (Emphasis added).*

<sup>111</sup> Ruth Breslin, LinkedIn Profile, [Online] available at: <https://ie.linkedin.com/in/ruth-breslin-49224a5> (accessed 07 July 2023).

<sup>112</sup> Conference “Effective Strategies to Combat Human Trafficking for the Purpose of Sexual Exploitation”.

<sup>113</sup> Kelleher Associates, Monica O'Connor and Jane Pillinger, *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*, Immigrant Council of Ireland, Dublin, 2009, [Online] available at: <https://www.immigrantcouncil.ie/sites/default/files/2017-09/AT%202009%20Globalisation%2C%20Sex%20trafficking%20%26%20Prostitution%20Report%20SUMMARY.pdf> (accessed 07 July 2023).

<sup>114</sup> *Ibidem*, p. 8.

<sup>115</sup> *Ibidem*, p. 6.

<sup>116</sup> Ruth Breslin, Linda Latham and Monica O'Connor, *Confronting the Harm: Documenting the Prostitution Experiences and Impacts on Health and Wellbeing of Women Accessing the Health Service Executive Women's Health Service*, SERP, Dublin, 2021, [Online] available at: <https://serp.ie/wp-content/uploads/2023/02/Confronting-the-Harm-FINAL.pdf> and a summary available at: [https://serp.ie/wp-content/uploads/2023/02/Confronting\\_the\\_Harm\\_Briefing.pdf](https://serp.ie/wp-content/uploads/2023/02/Confronting_the_Harm_Briefing.pdf) (accessed 07 July 2023).

<sup>117</sup> *Ibidem*, p. 14.

of the total<sup>118</sup>. On the other hand, the buyers were predominantly men, mostly from the middle class, with incomes above average<sup>119</sup>.

These studies indicated that prostitution was attributed to power imbalances between men and women. In response, the new legislation in Ireland acknowledged that both prostitution and sex trafficking are manifestations of gender-based violence. Consequently, efforts were made to allocate resources to the police for increased outreach activities targeting individuals involved in prostitution, resulting in improved prosecution and conviction rates for offenders<sup>120</sup>. Another effect of criminalising the purchase of sex, pertaining to the Equality Model, was a significant reduction in the demand for sexual services. According to studies<sup>121</sup>, in Sweden, where the purchase of sex has been criminalised since 1999, 9% of Swedish men have bought sex once or more times, and mainly abroad, compared to other EU countries, where the rates are close to 50%<sup>122</sup>.

When speaking of countries that have adopted the Equality Model, DIICOT prosecutor Iulian Iftodi mentions that Scandinavian countries have little experience investigating HT cases. This might endorse the assumption that the phenomenon of HT is more infrequent in such countries, as traffickers and clients might be discouraged by such a model, thus leading to fewer cases<sup>123</sup>.

Iftodi mentions the good collaboration with Dutch law enforcement on solving HT cases, even if it is a country where prostitution is legalised. However, upon raids made with the local police in brothels in Germany, Austria and the Netherlands, he says he has noticed that **the majority of women in prostitution there were women from Romania or other countries rather than nationals of the countries of the destination**. This observation led him to conclude that a third party must have been involved in the recruitment and transportation of these girls to these countries and the facilitation of their entry into the brothels<sup>124</sup>:

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<sup>118</sup> *Ibidem*, p. 15.

<sup>119</sup> Nusha Yonkova and Edward Keegan, "Tackling Demand for Sexual Services of Trafficked Women and Girls", in: *Social Work and Social Sciences Review*, Vol. 19, No. 3, Immigrant Council of Ireland, Stop Traffick! EU Project, Dublin, 2014, pp. 42-60, [Online] available at: <https://doi.org/10.1921/swssr.v19i3.1190> (accessed 07 July 2023).

<sup>120</sup> Ruth Breslin, Conference "Effective Strategies to Combat Human Trafficking for the Purpose of Sexual Exploitation".

<sup>121</sup> According to a survey conducted in 2017 by the Public Health Agency of Sweden, [Online] available at: <https://swedishgenderequalityagency.se/men-s-violence-against-women/prostitution-and-human-trafficking/prostitution-policy-in-sweden-targeting-demand/> (accessed 07 July 2023).

<sup>122</sup> *Ibidem*.

<sup>123</sup> Interview with Iulian Iftodi (DIICOT).

<sup>124</sup> *Ibidem*.

“When you see that most of the girls working there are from Romania, from your own country, you start wondering, and you ask them: ‘What did you use to do back at home?’

How did these girls get here? Because they didn’t come on their own. You can’t tell me, you can’t convince me that you left on your own, with no education, with nothing. *You don’t even know two words in the language of this country, and you end up working in the centre of Vienna or in Amsterdam.* No. Personally, I don’t believe that. So, *something’s behind it.*”<sup>125</sup>

During discussions with the manager of a brothel, Iftodi was told that girls from Romania, upon leaving the brothel at the end of the day, are met by their pimps, who park their cars outside, wait for the girls and collect the money from them. The manager claimed to report such incidents to the police, although Iftodi doubts the credibility of his statement. His belief is that even if girls are introduced to a regulated prostitution system, they continue to experience exploitation<sup>126</sup>.

During an international outreach mission in Switzerland, ADPARE participated in multiple club raids consecutively for several nights. According to ADPARE, in one particular operation, there were 80 Romanian girls accommodated in a multi-story building. The representative from ADPARE visited the rooms where the girls were staying and personally talked with them and found out that the majority of them were students who had accumulated significant debts from various cosmetic surgeries. The girls were trapped in **debt bondage** and were **constantly under surveillance**. According to ADPARE, the police were aware of this, but they did not notify the Romanian authorities about this situation. ADPARE further states that the girls had a deep mistrust of everyone, and their greatest fear was that their parents back in Romania would discover their situation. It’s worth mentioning that these girls came from various universities in Bucharest and other cities in Romania<sup>127</sup>.

In addition to the predominant victimisation of migrant women and girls in cases of trafficking in Western EU countries, Ștefan Coman draws attention to a relatively new phenomenon which has been taking place in Germany in recent years, namely **the sexual exploitation of underage boys**, especially in the area of Berlin<sup>128</sup>. He recounts that despite several such cases

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<sup>125</sup> *Ibidem* (Emphasis added).

<sup>126</sup> *Ibidem*.

<sup>127</sup> Interview with ADPARE.

<sup>128</sup> This fact is supported by the Second Evaluation Round GRETA Report on Germany, para 156. – GRETA, *Report concerning the implementation of the Council of Europe Convention on*

being reported, only one minor male victim was repatriated to Romania in 2019. This is further confirmed by ANITP reports for the years 2020 and 2021<sup>129</sup>, and can be observed in *Figure 4.7* and *Table 4.8* in the previous chapter. As an aftermath of this case, the German police initiated a prevention campaign to decrease the demand for sexual services by spreading flyers with the message: “Choose Ball Games Over Blow Jobs” instead of initiating proactive investigation campaigns. The IJM representative highlights that this is a highly sensitive subject in Germany, and as a consequence, there is uncertainty and confusion regarding the appropriate course of action.

*ii) Recommendations for countries where prostitution is legalised*

Vassileva recommends that in all countries where prostitution is legalised, **a legal obligation to report cases** of sexual exploitation be imposed on all brothel owners, as it happens in the Netherlands. Failure to comply with this obligation could result in criminal charges if proven. A similar law was adopted in Romania in 2021. Article 266 para. 1<sup>1</sup> of the Romanian New Criminal Code stipulates that: “The act of a person who, having become aware of the commission of an act provided for by criminal law, of *trafficking and exploitation of vulnerable persons, or against sexual freedom and integrity committed against a minor*, does not *immediately notify the authorities* shall be punished by *imprisonment* from 6 months to 2 years.”<sup>130</sup> Vassileva also highlights that **the State should finance outreach activities in brothels** and other places for prostitution; such activities are already initiated by NGO representatives and social assistants in such states, but they are not financed by the State. They are rather project-based and, therefore, resource-limited and time-limited<sup>131</sup>.

Another recommendation, made by organised crime prosecutor Iftodi, targets the amendment of the *EU Directive* and national legislation as well so as to include a clear and unambiguous explanation of “the loverboy method” in the definition of HT in order to avoid the current debates and uncertainties regarding jurisdiction between trafficking and pimping cases. He says this would help resolve “doctrinal arguments in court with lawyers, whether we have trafficking or pimping on subject matter jurisdiction”<sup>132</sup>. This matter is

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*Action against Trafficking in Human Beings by Germany*, Second Evaluation Round, 20 June 2019, [Online] available at: <https://rm.coe.int/greta-2019-07-fgr-deu-en/1680950011> (accessed 07 July 2023).

<sup>129</sup> 2020 ANITP Report, p. 20; 2020 ANITP Report, p. 17.

<sup>130</sup> Romanian New Criminal Code, Art. 266 para. 1<sup>1</sup> (*Emphasis added*).

<sup>131</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>132</sup> Interview with Iulian Iftodi (DIICOT).



further supported by organised crime (BCCO) police officer Andrei Vasile, who highlights that once law enforcement officers are aware of “the *loverboy* method” and its indicators, their tendency to initiate *ex-officio* investigations increases, and so do convictions<sup>133</sup>:

“Every time we learn, by whatever means, that a victim has been recruited, transported, or exploited in another state, we have the right, as well as the obligation, to report it *ex-officio*, which I do very often. I mean, as we investigators say, we are offensive when we find out about these issues, and we choose to make an *ex-officio* notification and not wait for the victim to come to the police to file a complaint or a report. A very large number of investigations are initiated by *ex-officio* referral.”<sup>134</sup>

This aspect is further detailed in the following section.

#### **D. Question 4. Cooperation in the investigation of transnational human trafficking cases**

From statistics, reports and the case studies analysed in this paper, the investigation of cases emerged as another area of concern in transnational cooperation. All the interviewees who had experience in the investigation of cases or have gained any insight as practitioners in coordinating victims in criminal proceedings were asked the following question, which stemmed from conclusions to *Case Study 2* (see Chapter 4 and *Appendix 4*), where the defendant was acquitted for lack of evidence.

##### **Question 4**

From your perspective, in what ways could transnational cooperation between states be improved, including in the framework of joint investigation teams and other international judicial cooperation instruments, so as to ensure that sufficient evidence is gathered in each transnational trafficking case and discourage the culture of impunity?

*Table 5.5* below provides a summary of the respondents’ answers to Question 4, revealing both the challenges identified by the interviewees in the investigation of transnational HT cases, as well as the recommendations they offer.

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<sup>133</sup> Interview with Andrei Vasile (BCCO).

<sup>134</sup> *Ibidem*.

Table 5. 5. Summary of the respondents' answers to Question 4

<b>Question 4. Cooperation in the investigation of transnational human trafficking cases</b>	
<b>Positive and negative aspects identified by respondents</b>	<b>Solutions from respondents</b>
<p><i>i) Positive and negative aspects of joint investigation teams (JITs)</i></p> <p><b>Positive aspects:</b></p> <ul style="list-style-type: none"> <li>▪ Several interviewees highlighted that JITs, facilitated by Eurojust in collaboration with Europol, are the most efficient and widely used tools at EU level for the investigation of transnational HT cases;</li> <li>▪ Once a JIT is operational, communication between institutions becomes notably smoother and less restricted.</li> </ul> <p><b>Negative aspects:</b></p> <ul style="list-style-type: none"> <li>▪ Certain respondents drew attention to the limitations of JITs, specifically that they are time-consuming (it generally takes around 12 months to set up a JIT) and require substantial effort;</li> <li>▪ Some respondents affirmed it is not easy to achieve cooperation through JITs, particularly due to funding and the exchange of information and evidence;</li> <li>▪ Due to these negative aspects of cooperation through JITs, there have been instances where counterparts from different countries prioritised resolving the case within their own jurisdiction, rendering it unnecessary for them to share data and information with Romania due to the principle of <i>res judicata</i>.</li> </ul> <p><i>ii) Bilateral cooperation. The example of the cooperation between Romania and the UK, a non-EU country</i></p> <p><b>Positive aspects:</b></p> <ul style="list-style-type: none"> <li>▪ The bilateral cooperation Romania has with the UK is considered to be the best in the</li> </ul>	<p><b>Establish and improve bilateral cooperation</b></p> <p>Several respondents considered that the bilateral cooperation between Romania and the UK should be replicated at EU level between destination countries and origin countries.</p> <p><b>Enhance cooperation between state authorities and anti-trafficking experts (civil society)</b></p> <p>One respondent recommended a higher level of engagement of anti-trafficking experts with policy-makers and decision-makers, which would trigger a higher level of motivation from behalf of state authorities to enhance cooperation.</p> <p><b>Create an EU monitoring mechanism with powers to impose legal obligations on States</b></p> <p>One respondent proposed the creation of an EU monitoring mechanism similar to the US Department of State's Tier System, which would help incentivise states, by means of positive pressure, to fulfil their international obligations in conducting <i>ex-officio</i> investigations of HT cases and cooperate with other countries.</p> <p><b>Training and engagement of consular and embassy personnel</b></p> <p>Another respondent proposed the training of consular services and embassy personnel on trauma-informed care, and enable them to</p>

<p>area of transnational cooperation for HT cases;</p> <ul style="list-style-type: none"> <li>▪ The highest number of JITs in the EU was concluded by Romania with the UK;</li> <li>▪ Specialised anti-trafficking representatives of British NGOs are embedded with the police, leading to successful cases (the Victim Navigator Program).</li> </ul> <p><b>Negative aspects:</b></p> <ul style="list-style-type: none"> <li>▪ Questionable treatment of Romanian victims by the UK police, leading to retraumatisation caused by discrimination and offensive behaviour;</li> <li>▪ Lack of trust on behalf of the UK authorities concerning the Romanian police since they prefer to come to Romania themselves to hear the victims.</li> </ul> <p><b>Cross-cutting issues:</b></p> <ul style="list-style-type: none"> <li>▪ One respondent emphasised that the difficulty does not stem from a lack of transnational cooperation tools but rather from their implementation and, more precisely, from the willingness of specific institutions within a country to actively participate in collaborative efforts.</li> </ul>	<p>connect victims with service providers in Romania and/or destination countries who can provide further assistance.</p>
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*Source:* Interviews conducted by the author

Question 4 was based on the conclusions emerging from the data analysis in Chapter 4 and, more specifically, from the Case Studies. It was apparent that investigation is significantly dependent on the victim's witness (while not sufficient) and that additional evidence to support the victim's witness in transnational cases is highly dependent on the efficient use of cooperation tools.

The majority of the respondents highlighted the positive aspects of the joint investigation teams (JITs) as the most efficient cooperation tool for the investigation of transnational cases, as well as bilateral cooperation between destination countries and origin countries, where reference was made to the example of the UK-Romania cooperation. They also drew attention to certain drawbacks of this cooperation tool as a possible starting point for solutions

towards their enhancement. Respondents have also offered recommendations towards improving EU-wide cooperation in the investigation of transnational cases, which could involve some deep-rooted reforms of the EU legislative and institutional framework.

*i) Positive and negative aspects of joint investigation teams (JITs)*

Concerning cooperation tools for the investigation of transnational cases, several interviewees highlighted that JITs, facilitated by Eurojust in collaboration with Europol, are the most efficient and widely used tools at EU level<sup>135</sup>.

The written response provided by police commissioner Raluca Erdiņ, representative of the Directorate for General European Affairs, Schengen and International Relations within Romania's Ministry of Internal Affairs, provides further details on Romania's cooperation in JITs for the year 2022, enumerating the number of eleven countries with which Romania concluded JITs in 2022<sup>136</sup>:

“The intense cooperation and investigation activity carried out by the DCCO and the territorial structures is reflected in the significant number of Joint Investigation Teams - JITs in progress each year. In 2022 there were 23 *active JITs in progress* at the level of the DCCO's anti-trafficking structures concluded with the authorities of the *United Kingdom, the Czech Republic, Spain, Belgium, the Netherlands, Switzerland, Italy, France, Sweden, Finland and Norway*. Of these, 4 were newly registered, 7 were completed, and 7 joint/simultaneous disruption operations took place (UK, Germany, Hungary and France), with results appreciated by external counterparts and widely publicised at the European level, with offers to set up joint investigation teams from several external partners.”<sup>137</sup>

The document further mentions secondary transnational investigation tools used by Romania in cooperation with countries of destination<sup>138</sup>:

“Thus, in cases of human trafficking, cooperation takes place in the form of *requests for assistance* through the specialised structures of the IGPR (International Police Cooperation Centre), through concrete exchanges of data and information through Romanian internal affairs attachés accredited abroad, but also with foreign liaison officers

<sup>135</sup> As confirmed by interviews with Iulian Iftodi (DIICOT), Andrei Vasile (BCCO), Mihai Cazacu (former DIICOT officer), Ștefan Coman (IJM).

<sup>136</sup> *Response of the General Inspectorate of the Romanian Police on the topics in the interview guide.*

<sup>137</sup> *Ibidem (Emphasis added).*

<sup>138</sup> *Ibidem.*

accredited in Bucharest, through participation in *bilateral operational meetings* as well as through *rogatory commissions* or *European investigation orders* (through DIICOT).<sup>139</sup>

Concerning **joint investigation teams (JITs)**, some respondents draw attention to the drawbacks of this cooperation tool, namely that they involve a time-consuming process (to set up a JIT takes approximately six months, according to Ștefan Coman, and approximately 12 months, according to Andrei Vasile)<sup>140</sup>, and requires considerable effort. The advantage, on the other hand, is that once a JIT is operational, communication between institutions becomes significantly smoother and more unrestricted<sup>141</sup>.

Iulian Iftodi, who has concluded up to date ten JITs, and has two more in progress (as of June 2023, A/N), says that it is not quite easy to achieve cooperation through JITs, particularly due to funding and the exchange of information and evidence<sup>142</sup>. Nevertheless, he agrees that JITs are the best transnational cooperation tool for investigating HT cases, highlighting the streamlined communication between counterparts from different countries<sup>143</sup>:

“I simply pick up the phone and contact the prosecutor in the respective country. We have dealt with cases involving the Czech Republic and Germany, where we managed to find a common language so that we could understand each other and asked them exactly what they wanted and how I could help.”<sup>144</sup>

Vassileva considers that the challenge lies not in the fact that there are not enough instruments for transnational cooperation, as institutions like Eurojust and Interpol enable the exchange of information and support investigations, but rather in their implementation, and more specifically in the willingness of certain institutions within a state to actively engage in cooperation efforts. The GRETA expert illustrates her position with the case of Estonia, which revealed during the monitoring process that they had requested information from another country through Interpol or Europol but had received no response for three consecutive years. This situation highlights that despite countries ratifying conventions and directives and being part of the cooperative framework, they may fail to fulfil their obligations in practice<sup>145</sup>.

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<sup>139</sup> *Ibidem* (Emphasis added).

<sup>140</sup> Interview with Ștefan Coman (IJM), Interview with Andrei Vasile (BCCO).

<sup>141</sup> Interview with Ștefan Coman (IJM).

<sup>142</sup> Interview with Iulian Iftodi (DIICOT).

<sup>143</sup> *Ibidem*.

<sup>144</sup> *Ibidem*.

<sup>145</sup> Interview with Antoaneta Vassileva (GRETA).

A solution Vassileva foresees in this regard is more efforts to motivate countries to use these instruments, which should originate from a higher political authority within the European Union. However, she considers that the catalysts of such efforts should be anti-trafficking experts, who usually get caught up in addressing the issues faced by victims and working on prevention and assistance, neglecting the importance of **regularly engaging with politicians**. The GRETA expert emphasises the need for a constant dialogue with decision-makers, so as to keep them updated on the subject of HT. She ultimately envisions an **EU mechanism** or **Council of Europe mechanism** similar to the US Department of State's Tier System, which helps incentivise states to fulfil their international obligations in the area of preventing and combatting HT by imposing restrictions on certain types of foreign assistance for countries downgraded to Tier 3<sup>146</sup>.

“This is something that we are also discussing in GRETA. And we are going to really be more communicative in exchanging information with the Committee of the Parties. This is the mechanism which is basically above GRETA. This is the political body of GRETA, which has 48 ambassadors of all the State Parties that are party to the Convention, and then, when they understand the problem, they can really motivate their governments [...].

So, I think, for the EU level, the European Commission should be the same. I think that after the new [Anti-trafficking] Directive is uploaded and officially adopted, Diane Schmitt's team should really do targeted work with the politicians in the EU and in the countries. Because I don't know what is your experience and what you see in Romania, but I really see a rise of the political will and attention to the topic when you have this ‘nice pressure,’ I would say, from outside, from the EU-level or the Council of Europe, or even the TIP Report. There are different opinions about the TIP Report and the pressure that comes from the United States, but still, my experience is that *this pressure brings only positive aspects* when it comes to fighting human trafficking.”<sup>147</sup>

The ANITP Regional Coordinator, Laurențiu Dincă, revealed that there have been instances where counterparts from different countries prioritised resolving the case within their own jurisdiction, rendering it unnecessary for them to share data and information with Romania due to the principle of *res judicata*<sup>148</sup>.

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<sup>146</sup> *Ibidem*.

<sup>147</sup> *Ibidem* (Emphasis added).

<sup>148</sup> Interview with Laurențiu Dincă (ANITP).

ADPARE considers that situations similar to *Case Study 2*, where the defendant was acquitted, may happen when the case is judged in the country of origin rather than the country of destination, where the exploitation occurred and where the evidence may be found. From their perspective, even with a joint investigation team, it takes a considerable amount of time before a thorough investigation can be conducted<sup>149</sup>.

However, according to several interviewees, the countries of destination have no interest in initiating criminal proceedings on their territory for a foreign VOT since it entails responsibilities and costs, which may simply be transferred to the country of origin by repatriating the victim. ADPARE raises another concern: they state that Romanian victims lack trust in the state authorities of the destination countries, and they prefer to return to Romania in order to file charges. According to ADPARE's experience with victims trafficked abroad, and based on victims' statements, this lack of trust is also based on discrimination on the part of state authorities, who treat them as prostitutes rather than victims and often disregard their complaints<sup>150</sup>:

*“What happens in these cases of cooperation is that you can lose many other victims from exactly the same place. If identification and investigation were done in the destination country, maybe more victims would be found, trafficked not necessarily by the same trafficker but by others, as well. But this is not quite the case. There are very big issues, but, once again, it is not Romania that has these issues.”*<sup>151</sup>

*ii) Bilateral cooperation. The example of the cooperation between Romania and the UK, a non-EU country*

Another way to improve transnational cooperation between states in the area of investigating transnational HT cases is considered by many interviewees<sup>152</sup> to be the example of the bilateral cooperation between Romania and the UK, as a best-practice example which should be replicated at the EU level between destination countries and origin countries. They deem this bilateral agreement to be the most favourable scenario since the UK is the country (non-EU at the moment) with whom Romania enjoys excellent international collaboration<sup>153</sup>.

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<sup>149</sup> Interview with ADPARE.

<sup>150</sup> *Ibidem*.

<sup>151</sup> *Ibidem (Emphasis added)*.

<sup>152</sup> DIICOT prosecutor Iulian Iftodi, BCCO police officer Andrei Vasile, former DIICOT Officer Mihai Cazacu, Ștefan Coman (IJM).

<sup>153</sup> Interviews with Iulian Iftodi (DIICOT), Andrei Vasile (BCCO), Mihai Cazacu (former DIICOT Officer), Ștefan Coman (IJM).

This aspect is confirmed by a press release<sup>154</sup> by the Romanian police, mentioning that out of the 71 joint investigation teams (JITs) on organised criminal groups specialising in HT and child trafficking, which Romania was part of from 2010 up to December 2021, 39 JITs had been concluded with counterparts in the UK<sup>155</sup>.

Moreover, the General Inspectorate of the Romanian Police, in its written response to the interview guide<sup>156</sup>, highlights the constant cooperation between Romanian and British authorities as an example of good practice which needs to be replicated with each country of destination where Romanian citizens are prone to being exploited:

“[W]e reiterate that the exchange of data with the UK authorities is permanent and constant. Collaboration occurs both at strategic and operational levels through joint investigations. For the fight against human trafficking to be effective, efforts are needed not only from the authorities of the countries of origin but especially from the authorities of the countries of destination where exploitation takes place. The phenomenon of trafficking in human beings is a social and criminal phenomenon with a strong international character, operating within a supply-demand equation, and it must be tackled in a way in which Romania’s efforts must be matched by the efforts of the destination countries in a joint attempt to limit the effects of this phenomenon.

Given that exploitation takes place outside Romania, the authorities in the destination country must react firmly, and if the elements of a crime are present, cooperation with the country of origin is essential in order to hold the perpetrators accountable and protect the victims.”<sup>157</sup>

ADPARE, on the other hand, while recognising that there may be positive police and judicial cooperation between Romania and the UK, states that there are also significant issues concerning the treatment of Romanian victims by the UK police<sup>158</sup>. Retraumatisation caused by discrimination and offensive behaviour are prevalent in their cases. From ADPARE’s experience

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<sup>154</sup> IGPR, *Combaterea traficului de persoane, prioritate a autorităților române*, Press release, January 25th, 2022, [Online] available at: <https://www.politiaromana.ro/ro/stiri-si-media/stiri/combaterea-trafficului-de-persoane-prioritate-a-autoritatilor-romane> (accessed 22 June 2023).

<sup>155</sup> *Ibidem*.

<sup>156</sup> *Response of the General Inspectorate of the Romanian Police on the topics in the interview guide* (see Annexes).

<sup>157</sup> *Ibidem*.

<sup>158</sup> Interview with ADPARE.



in dealing with numerous cases of victims trafficked to the UK, the victims are treated poorly by UK police detectives. ADPARE also implies that UK authorities do not trust the Romanian police since they prefer to come to Romania themselves to hear the victims<sup>159</sup>.

Regarding cooperation with EU member states, Ștefan Coman considers that the situation has become increasingly challenging, particularly with countries where prostitution is legalised or countries whose legal framework differs from Romania's<sup>160</sup>. Ironically, these are among the primary countries in the EU where Romanian nationals are most frequently subjected to trafficking for sexual exploitation, according to the ANITP reports<sup>161</sup>.

Solutions recommended by Ștefan Coman (IJM) for ensuring the safety of Romanian victims identified on the territory of other states would be to **train consular services and embassy personnel** on trauma-informed care to be provided to VOTs and enable them to connect victims with service providers in Romania who can provide further assistance. Alternatively, consular or embassy attachés can establish a network of service providers in the countries of destination in case the victim prefers not to be repatriated<sup>162</sup>.

The following section elaborates on the responses provided to Question 5, designed as a continuation of Question 4, to assess the idea we have considered, specifically, establishing a standardised EU-wide standard of evidence for transnational HT cases.

#### **E. Question 5. Feasibility of an EU-wide standard of evidence for cross-border human trafficking cases**

From statistics, reports and case studies analysed in this paper, the evidence required for prosecuting transnational HT cases emerged as another problematic area in transnational cooperation. All the interviewees who had experience in the investigation of cases or have gained any insight as practitioners in coordinating victims in criminal proceedings were asked the following question, which was based on *Case Study 2*, analysed in the previous chapter. As the author had no access to the indictment of this case, the interviewees were not asked to comment on it. Rather, a summary of the case was given as a matter of example to highlight the idea that there is no uniform judicial practice in the area of prosecuting HT cases and to ask the interviewees for their opinions on how the investigation of transnational cases can be improved at the EU level. The question is reproduced below:

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<sup>159</sup> *Ibidem*.

<sup>160</sup> Interview with Ștefan Coman (IJM).

<sup>161</sup> ANITP reports for 2011-2021.

<sup>162</sup> Interview with Ștefan Coman (IJM).

### Question 5

A case of transnational trafficking in human beings in 2021, tried by the Argeş Court<sup>163</sup>, ended with the acquittal of the defendant for lack of evidence (in the context where the only evidence was the complaint/testimony of the victim, the testimony of the defendant and witnesses, without a joint investigation team having been set up). The victim had been trafficked by her boyfriend to Germany through deception and abuse of vulnerability, but insufficient evidence was found to validate these testimonies. It is worth noting that the trial took place during the period of restrictions imposed by the Covid-19 pandemic.

- a) Given the difference in Criminal Codes and Codes of Criminal Procedure between EU countries, do you think it would be useful to develop a standard of evidence (minimum standards for investigation) imposed by the EU in a uniform way on Member States in cases of cross-border trafficking in human beings (e.g. obligation to use investigative tools used in organised crime cases or in cases concerning other serious crimes: interception of communications, discreet surveillance, including electronic surveillance, monitoring of bank accounts and other financial investigations)?
- b) If not, what would be the reasons? If yes, what do you think the positive and/or negative implications might be?

*Table 5.6* below provides a summary of the respondents' answers to Question 5, revealing both the challenges identified by the interviewees when considering the creation of a standard of evidence at the EU level for domestic or transnational HT cases, as well as scenarios they foresee and solutions they provide.

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<sup>163</sup> Case Study 2, analysed in the previous chapter (A/N).

Table 5. 6. Summary of the respondents' answers to Question 5

<b>Question 5. Feasibility of an EU-wide standard of evidence for cross-border human trafficking cases</b>	
<b>Issues and aspects considered by respondents</b>	<b>Solutions from respondents</b>
<p><i>i) Issues concerning transnational cooperation for the investigation of HT cases</i></p> <ul style="list-style-type: none"> <li>▪ The differing Criminal Codes and Criminal Procedure Codes (including differing standards of evidence) across the EU;</li> <li>▪ The principle of <i>in dubio pro reo</i> (“beyond a reasonable doubt”) is widely applied, which means that some offenders escape sentencing due to the difficulty of providing evidence;</li> <li>▪ Variations in the legal treatment and definition of HT;</li> <li>▪ The lack of uniformity among states in terms of the available evidentiary tools (e.g.: interception of communications cannot be used in the UK; financial investigation units (FIUs) started to be used in Romania only in 2021);</li> <li>▪ The language barrier: English is not spoken fluently in many EU countries;</li> <li>▪ In certain instances, initial interviews and interactions between law enforcement and suspected victims of trafficking (VOTs) are conducted using Google Translate, resulting in communication gaps and an inadequate understanding of the trafficking situation;</li> <li>▪ The difficulty of obtaining the victim's cooperation in testifying against her trafficker, especially in cases where “the <i>loverboy</i> method” is employed;</li> <li>▪ The over-reliance on the victim's testimony, despite international and EU legislation advising that investigations should not be dependent on the victim's collaboration with judicial authorities;</li> <li>▪ Many countries prioritise quick results. Therefore, in cases when prosecutors do not</li> </ul>	<p><b>Soft obligation language over hard obligation language</b></p> <p>One respondent stated that they prefer the current soft language of the Directive, which only recommends, but does not impose a certain standard of evidence (i.e., the use of investigative tools utilised in organised crime or other serious crime cases).</p> <p><b>Thorough revision of EU legislation and procedures</b></p> <p>Another respondent considered that a thorough revision would be necessary not only at legislative level but also at procedural level in all EU countries, which might be achieved through the adoption of a Regulation rather than a revised Directive.</p> <p><b>Specialised training for law enforcement and judicial authorities</b></p> <p>Specialised training should be provided to prosecutors and police officers in the area of victim psychology and forensic psychology at EU level.</p> <p><b>Ensuring sufficient human resources</b></p> <p>One respondent is in favour of imposing minimum standards</p>

have enough evidence for HT charges, they frequently choose to convict perpetrators for procuring instead. The consequences are that VOTs will not be granted the rights they are legally entitled to as victims, and thus will be deprived of the necessary support.

*ii) Feasibility of a standard of evidence for the investigation of transnational HT cases*

Many respondents expressed doubts about the feasibility of this proposal, given the existing legal framework of the EU and the varying legal systems among EU Member States. Nonetheless, they acknowledged the potential value and necessity of establishing minimum standards. The detailed arguments both in favour of and against such a standard of evidence are provided below.

*iii) Arguments against a standard of evidence*

- The standard of evidence differs significantly from country to country within the EU;
- The lack of political will and willingness of states to allocate funds for such an endeavour;
- The different legal and procedural frameworks of countries which would take a long time to harmonise;
- It would restrict the prosecutor's imagination in the process of investigation, which is highly essential since trends in trafficking are constantly changing;
- Ambiguous trafficking definitions in the *EU Directive* result in HT cases being treated as procuring due to difficulty proving non-coercive means.

*iv) Arguments in favour of a standard of evidence*

- The divergent interpretations given to the conditions of sexual exploitation across European countries underscore the necessity for enhanced EU-level standardisation, particularly in defining the "means" of exploitation (e.g.: in the Netherlands,

of investigation on the condition that there are enough human resources to do the investigations timely and properly.

**Establishment and funding of a task force**

Another respondent supports an EU-wide standard of evidence and suggests the establishment of a task force similar to SELEC to harmonise Criminal Codes and ensure minimum standards are met. He proposes funding the task force through seized assets, incentivising law enforcement efficiency and cooperation.

<p>investigation teams can opt not to initiate an investigation if the expenses outweigh potential recoverable damages);</p> <ul style="list-style-type: none"><li>▪ Each country has different priorities when it comes to interpreting and implementing legislation, which inevitably impacts transnational cooperation in this field;</li><li>▪ The prosecutor's discretion plays a pivotal role in deciding whether there is adequate evidence to proceed with a case. This aspect triggers considerable variability and dependence on one individual's perspective in the evaluation of evidence.</li></ul>	
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Source: Interviews conducted by the author

Question 5 was based on the conclusions emerging from data analysis made in Chapter 4, and particularly from the Case Studies, from where we deduced that HT cases, specifically those where “the *loverboy* method” was used, are judged differently from case to case, depending on the judicial authorities' awareness of this method used by human traffickers, on their interpretation of legislation and concepts thereof, and on the amount and type of evidence provided by prosecutors. By Question 5, we intended to further validate with the respondents whether they have encountered these issues in their experience of working with HT cases, especially transnational cases, and test the feasibility and necessity of a standard of evidence or minimum standards for the investigation of HT cases at the EU level.

*i) Issues concerning transnational cooperation for the investigation of HT cases*

In the European Union, the legal systems and procedures vary among member states, including the standards of evidence required to judge a case<sup>164</sup>. While testimonies can be an important form of evidence, the specific requirements for proving a case differ across countries. Generally, testimonies alone may not be sufficient to judge a case in most EU countries. Additional evidence, such as documents, forensic evidence,

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<sup>164</sup> EUROPOL, *Situation Report Trafficking in human beings in the EU*, Document Ref No: 765175, The Hague, February 2016, p. 12, [Online] available at: [https://www.europol.europa.eu/cms/sites/default/files/documents/thb\\_situational\\_report\\_-\\_europol.pdf](https://www.europol.europa.eu/cms/sites/default/files/documents/thb_situational_report_-_europol.pdf); *National Justice Systems*, European Justice, [Online] available at: [https://e-justice.europa.eu/16/EN/national\\_justice\\_systems](https://e-justice.europa.eu/16/EN/national_justice_systems) (accessed 08 July 2023).

expert opinions, or corroborating witnesses, is often necessary to establish guilt or liability<sup>165</sup>.

In criminal cases, the principle of *in dubio pro reo* (“beyond a reasonable doubt”) is widely applied, which means that the evidence must be strong enough to leave no reasonable doubt in the mind of the judge or jury about the guilt of the defendant. Testimonies are typically evaluated in conjunction with other types of evidence to establish the truth or credibility of the statements made<sup>166</sup>.

Ștefan Coman also mentions that this legal principle of establishing the guilt of a person “beyond any reasonable doubt” might sometimes be in favour of the accused person since it requires presenting a substantial body of evidence to support the allegations made, and in case evidence is hard to obtain and is insufficient, the perpetrator will be acquitted<sup>167</sup>.

Iulian Iftodi, an organised crime prosecutor in Iași, considers that the main challenges of investigating transnational HT cases arise from the **differences in legislation among countries**. As a prosecutor with experience working with several European Union countries, he has observed variations in the legal treatment and definition of HT. However, he emphasises that despite these differences, they have always managed to identify a common ground for agreement through close one-on-one cooperation with the law enforcement of other countries<sup>168</sup>:

“It is a question of judicial practice in each State, concerning the application of the penalty system, of the concurrence of offences, what other offences could be included in the concurrence, what other offences were absorbed by the offence of trafficking. In these aspects, we have had difficulties.”<sup>169</sup>

Another challenge Iftodi mentions is the **lack of uniformity among states in terms of the available evidentiary tools**. He gives the example of the technique of interception of communications, which cannot be used in the UK<sup>170</sup>, but he was able to employ in a JIT with Italy, which eventually served as

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<sup>165</sup> International Centre for Migration Policy Development (ICMPD), *Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States*, 2009, [Online] available at: [https://www.icmpd.org/file/download/48679/file/Evaluation\\_EU\\_MS\\_THB\\_legislation.pdf](https://www.icmpd.org/file/download/48679/file/Evaluation_EU_MS_THB_legislation.pdf) (accessed 08 July 2023).

<sup>166</sup> OSCE, *Doubt in Favour of the Defendant, Guilty Beyond Reasonable Doubt. Comparative study*, 2016, p. 59, [Online] available at: <https://atlas-of-torture.org/api/files/1596200461375/uswbgi658ys.pdf> (accessed 22 June 2023).

<sup>167</sup> Interview with Ștefan Coman (IJM).

<sup>168</sup> Interview with Iulian Iftodi (DIICOT).

<sup>169</sup> *Ibidem*.

<sup>170</sup> This fact is also mentioned by Cora Moțoc (Justice and Care Foundation Romania).

evidence in the case. In most EU countries, however, this investigative tool recommended by the *EU Directive* in the investigation of HT cases is used in accordance with strict legal requirements and oversight to balance the needs of law enforcement with the protection of individual privacy rights<sup>171</sup>.

Iftodi also mentions the financial investigation units (FIUs), which in Italy were used long before they started to be used in Romania three years ago [in 2021 A/N]. He highlights that a large-range utilisation of such a technique would require extensive time and logistic resources since financial investigations cannot be done only online but require the physical presence of law enforcement personnel to verify goods, real estate, luxury cars, etc., and sometimes in the destination country, as well<sup>172</sup>.

Additionally, Iftodi recognises the **language barrier** as a further challenge, as English is not spoken fluently in many EU countries. He recounts that in cases where he had to collaborate with Italian counterparts, he was speaking English while they were speaking Italian, and he managed to understand them since Italian is similar to Romanian<sup>173</sup>. This aspect is further confirmed by Monica Boseff, coordinator of Open Door Foundation in Bucharest, who states that the initial interviews and, in some cases, all interviews and communication that foreign law enforcement does with Romanian presumed victims of trafficking are translated with Google Translate, thus leading to communication disparities and a lack of clear understanding of the trafficking situation<sup>174</sup>.

Another drawback in investigating transnational HT is **the difficulty of obtaining the victim's cooperation in testifying against her trafficker**, especially in cases where "the *loverboy* method" is employed. This aspect is mentioned not only by Iulian Iftodi but also by BCCO police officer Andrei Vasile, Rebecca Streit<sup>175</sup>, outreach coordinator at Kainos, an anti-trafficking NGO in Stuttgart, as well as Monica Boseff<sup>176</sup>. Iftodi is sceptical that a case lacking this important piece of evidence would end in the conviction of the trafficker in Romania<sup>177</sup>, even if the *EU Directive* allows prosecutors to press charges independently of the victim's testimony<sup>178</sup>.

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<sup>171</sup> Interview with Iulian Iftodi (DIICOT).

<sup>172</sup> *Ibidem*.

<sup>173</sup> *Ibidem*.

<sup>174</sup> Interview with Monica Boseff (Fundatia Ușă Deschisă).

<sup>175</sup> Interview with Rebecca Streit (Kainos Stuttgart).

<sup>176</sup> Interview with Monica Boseff (Fundatia Ușă Deschisă).

<sup>177</sup> Interview with Iulian Iftodi (DIICOT).

<sup>178</sup> EU Directive, Recital 15: "To ensure the success of investigations and prosecutions of human trafficking offences, their initiation should not depend, in principle, on reporting or accusation by the victim."

This aspect is also highlighted by Vassileva, namely that even if international and European legislation and guidelines<sup>179</sup> recommend that investigation should not depend on the victim's cooperation with the judicial authorities, in practice, this is hard to achieve and, therefore, not implemented<sup>180</sup>.

“I think that in many countries, the fact that the whole investigation lies on the shoulders of the victim, whether she witnessed or not, is a huge burden. Huge burden.”<sup>181</sup>

Vassileva agrees that investigating HT is extremely complex and that this fact might be an impediment, as well as a motivation for the **creation of a consistent standard of evidence** that applies across all European Union countries. A significant challenge, according to the GRETA expert, arises from the investigative motivation of many countries, which prioritises quick results<sup>182</sup>.

Vassileva emphasises that HT is a multifaceted crime that often demands substantial efforts, time, and financial resources to investigate thoroughly and, in many countries, prosecution agencies prioritise achieving higher numbers of resolved cases. For instance, if they invest one to three years investigating an HT case, they may have only one case to show compared to ten procuring cases. Consequently, in situations where prosecutors lack sufficient evidence for trafficking charges, they **often opt for convicting perpetrators for procuring instead of HT**. The implications thereof are that victims of trafficking will not be entitled to the rights legally ascribed to the status of a victim, and consequently, they will be deprived of the support they need as victims<sup>183</sup>.

*ii) Feasibility of a standard of evidence for the investigation of transnational HT cases*

In view of these challenges concerning cooperation in transnational cases of HT – most of which stem from the variations in the Criminal Codes and Criminal Procedure Codes of EU Member States, as well as from the significant costs required for the implementation of transnational cooperation

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<sup>179</sup> UNODC, *Anti-human trafficking manual for criminal justice practitioners. Module 11*, New York, 2009, p. 1, 9, [Online] available at: [https://www.unodc.org/documents/human-trafficking/TIP\\_module11\\_Ebook.pdf](https://www.unodc.org/documents/human-trafficking/TIP_module11_Ebook.pdf) (accessed 23 June 2023) [hereinafter, UNODC, *Anti-human trafficking manual for criminal justice practitioners. Module 11*].

<sup>180</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>181</sup> *Ibidem* (Emphasis added).

<sup>182</sup> *Ibidem*.

<sup>183</sup> *Ibidem*.



tools – we verified the feasibility of a potential standard of evidence to be uniformly imposed at EU level for all EU member states dealing with transnational HT cases. In this regard, Question 5 of the interview was posed to the majority of interviewees<sup>184</sup>. A significant number of them expressed scepticism about the feasibility of this proposal within the current legal framework of the EU, as well as the divergent legal frameworks among EU Member States. However, they acknowledged that if minimum standards could be established, it would be highly valuable and necessary. The detailed arguments in favour and against such a standard of evidence are presented below.

*iii) Arguments against a standard of evidence*

Vassileva acknowledges that it would be quite difficult to implement such a measure at the EU level since Member States currently encounter significant difficulties in reaching consensus even on relatively more simple matters<sup>185</sup>. This perspective corroborates prosecutor Iftodi's statement that the standard of evidence differs significantly from country to country within the EU<sup>186</sup>. The challenges Vassileva sees are, first, the political will of states and their willingness to allocate funds for such an endeavour and, second, the different legal and procedural frameworks of countries which would take a long time to harmonise<sup>187</sup>. Mădălina Mocan suggests that undertaking such an initiative would involve aligning various other criminal policy matters since criminal policy is not a common EU policy at the moment<sup>188</sup>.

When asked about the feasibility of adopting a hard-obligation language regarding the means of investigation that should be used for HT cases, Iftodi prefers the current soft language of the Directive, which only recommends, but does not impose, the use of investigative tools utilised in organised crime or other serious crime cases, "such as interception of communications, covert surveillance including electronic surveillance, the monitoring of bank accounts and other financial investigations"<sup>189</sup>. The DIICOT prosecutor is a supporter of a rather organic development of cooperation between countries in this regard, which he believes – from his participation in several

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<sup>184</sup> Antoaneta Vassileva (GRETA), Iulian Iftodi (DIICOT), Laurențiu Dincă (ANITP), Andrei Vasile (BCCO), Ioana Bauer and Loredana Urzică-Mirea (eLiberare), Ștefan Coman (IJM), Silviu Pîtran (IJM), Mihai Cazacu (former JIT police officer), Mădălina Mocan (CSD), ADPARE, Mark Ebling (IOM).

<sup>185</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>186</sup> Interview with Iulian Iftodi (DIICOT).

<sup>187</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>188</sup> Interview with Mădălina Mocan (Centre for the Study of Democracy).

<sup>189</sup> *EU Directive*, Recital 15.

international law enforcement conferences – is becoming more ample as years pass by<sup>190</sup>.

Laurențiu Dincă also considers that a common standard of evidence at the EU level would restrict the prosecutor's imagination in the process of investigation, which he deems as highly essential since trends in trafficking are constantly changing<sup>191</sup>.

Ștefan Coman from IJM is also sceptical towards this idea, given the current EU anti-trafficking framework, even if he considers it necessary and possible in the longer term. He brings to attention the significant current discrepancies in the investigation of cross-border trafficking cases, even in situations involving provable violence and clear evidence. When it comes to trafficking cases involving “the *loverboy* method”, and more specifically to the means of crime such as *deception* and *abuse of a position of vulnerability*, the IJM representative is even more sceptical as to the possibility of establishing a common standard of evidence<sup>192</sup>.

“At the moment, the standard of evidence is set very high and is built on an intersection of factors, which are very visible, such as for hard crimes involving violence, where you've got all the elements of crime. Your suggestion is to lower the standard to include more questionable cases. Right now, I don't think this is possible.”

However, this aspect presents a potential positive argument to consider. It raises concerns about cases of HT where physical coercion is absent, and instead, psychological coercion tactics such as threats, manipulation, deception, or exploitation of vulnerability are employed. To add to these, from all interviews and data analysis, these cases appear to be far more frequent in recent years than cases where hard violence is involved. Therefore, the following questions arise: Should victims only be recognised as such if they have suffered physical harm or are at immediate risk of death? Or should “less evident” HT cases run the risk of being overlooked or disregarded due to the extensive resources in terms of time, finances, and human resources required for their investigation?

The lack of a standard of evidence, stemming from a lack of clear definitions of the means of trafficking in the *EU Directive*, leads to another risk: cases of HT are prosecuted as procuring due to the difficulty of proving the means of the crime, which does not involve violence or physical coercion. The General Inspectorate of the Romanian Police emphasises this consequence in

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<sup>190</sup> Interview with Iulian Ifodi (DIICOT).

<sup>191</sup> Interview with Laurențiu Dincă (ANITP).

<sup>192</sup> Interview with Ștefan Coman (IJM).

its response to the interview guide<sup>193</sup>, stating that the criminal behaviour of emerging groups involved in HT exhibits a shift in their tactics to avoid the conventional methods associated with the crime. Instead of employing threats, extreme violence, kidnapping, and complete deprivation of liberty, these groups have evolved towards engaging in the offence of procuring. As a consequence, the proportion of cases prosecuted in recent years primarily focuses on procuring rather than the explicit crime of HT, accounting for more than 20% of the total<sup>194</sup>.

The obvious conclusion from this situation is that legislative processes, both at EU and national levels, must be flexible enough to adapt to the rapid evolution of criminal trends. The current EU Directive risks becoming obsolete if clearer definitions of the concepts comprised in the crime of HT are not adopted and properly implemented in the Criminal Codes and procedural laws throughout the EU.

*iv) Arguments in favour of a standard of evidence*

The General Inspectorate of the Romanian Police (IGPR) affirms that “in the field of HT for the purpose of sexual exploitation, although the legislation of the European countries is the same, the interpretation differs as regards the conditions of exploitation of a victim of human trafficking”<sup>195</sup>. This statement alone highlights the need for a higher degree of standardisation at the EU level, especially the concept of “means” of exploitation in the definition of HT.

This opinion is supported by Silviu Pîtran (IJM), who also considers that the main challenge in combating HT is that each country has different priorities when it comes to interpreting and applying the legislation in the field, which ultimately affects transnational cooperation in the field<sup>196</sup>. He adds that a thorough revision would be necessary not only at the legislative level but also at the procedural level in all EU countries, possibly introduced by the adoption of a Regulation, not a revised Directive<sup>197</sup>:

“[I]mposing these minimum standards of investigation would not be a very bad idea, but it would certainly involve some quite profound changes at the legislative level, and I am referring here not only to the legislation on trafficking. I think it would require some important changes to criminal procedural legislation in general, namely how the

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<sup>193</sup> *Response of the General Inspectorate of the Romanian Police on the topics in the interview guide (see Annexes).*

<sup>194</sup> *Ibidem.*

<sup>195</sup> *Response of the General Inspectorate of the Romanian Police on the topics in the interview guide (see Annexes).*

<sup>196</sup> Interview with Silviu Pîtran (IJM).

<sup>197</sup> Interview with Silviu Pîtran (IJM).

criminal process is carried out, how it starts, how and under what conditions the authorities can be notified, and what type of obligations the *ex-officio* teams are bound by. Because, according to Romanian legislation, I think you know, if we find out that a crime has been committed, we are obliged *ex-officio* to carry out investigations.”<sup>198</sup>

Pitran highlights this need for minimum standards of investigation with the example of the Netherlands, where “[investigation teams] have more freedom, if they report the crime or if they investigate it or not. For instance, they first make a financial analysis, and *if they realise that there are more resources spent on that investigation than the damage that they could recover following the investigation, they don’t even initiate it*, whereas we, in Romania, cannot say, ‘No, wait, *it wouldn’t be profitable*. I can’t get the damage out of this crime, so let’s leave it aside”<sup>199</sup>.

The GRETA expert Antoaneta Vassileva also commends the idea of a standard of evidence at the EU level as highly needed, highlighting another similar issue, namely that, at the moment, the decision on whether there is sufficient evidence to proceed with a case is left to the discretion of the prosecutor. The GRETA expert considers this process as highly subjective, as it depends on the prosecutors’ and judges’ experience in the field, their interpretation of evidence and their decision as to whether the evidence is sufficient or not to proceed with the case. This subjectivity creates a problem, as the **evaluation of evidence becomes highly variable and dependent on individual perspectives**<sup>200</sup>.

Iftodi emphasises that Romanian prosecutors, in comparison with law enforcement from other countries, have more experience in conducting effective victim interviews and displaying empathy towards victims, which is fundamental in obtaining the victim’s cooperation in criminal proceedings. Iftodi highlights the need for more trained prosecutors and police officers in the area of victim psychology and forensic psychology at EU level<sup>201</sup>.

ADPARE supports the idea of imposing minimum standards of investigation on condition that there are enough human resources to do the investigations timely and properly. Meanwhile, they reiterate **the acute difference between Romania and other EU countries in the number of policemen and prosecutors handling HT cases**<sup>202</sup>:

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<sup>198</sup> *Ibidem*.

<sup>199</sup> *Ibidem (Emphasis added)*.

<sup>200</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>201</sup> Interview with Iulian Iftodi (DIICOT).

<sup>202</sup> Interview with ADPARE.

“We can’t compare, in terms of the number of prosecutors and police working on a trafficking case, with any of the EU countries. We and the Bulgarians are lagging behind. In Sweden, for example, *they are not allowed to work on more than two cases at the same time, and they have a full team of police and prosecutors*. They are not allowed to have more than two cases under investigation! Well, come to Romania, where you have *300 or so cases under investigation*. With what resources? When *one prosecutor has two policemen working on all cases?* [...] But yes, I’m very much in favour of common standards, provided that there are sufficient human resources.”<sup>203</sup>

Mark Ebling also supports the idea of an EU-wide standard of evidence and further adds the necessity of establishing a **task force or a “clearing house” similar to SELEC**, which would help with the harmonisation of Criminal Codes and Criminal Procedure Codes across the EU, and also fulfil a monitoring and evaluation role to ensure that minimum standards are met. He further proposes that such a task force should be funded from proceeds from seized assets, which would also incentivise law enforcement agencies to solve cases more rapidly and efficiently and improve cooperation and coordination. As a former US law enforcement officer, Ebling highlights that most of the evidence in HT cases is financial. Hence, working to seize assets from traffickers and dispose of them efficiently would serve a multiple purpose: not only incentivise and financially support law enforcement agencies but also obtain valuable evidence that can substantially support the victim’s testimony in court<sup>204</sup>.

“There will be costs involved. And that is where the *political will and the financial will* to make it happen would eventually long-term pay off. If you increase the standards of everybody up to a certain minimum, some will exceed them, while some will meet the minimum barely, but if you ensure that everyone is on the same page, *doing the same type of work at the same level of competency and ability*, you actually improve the chances for *better investigations, better cooperation, better coordination, and hopefully better prosecutions, and better outcomes for the criminal justice system, and then also for the victims in the long run*.”<sup>205</sup>

After analysing all the opinions of interviewees on the feasibility of a standard of evidence, it emerges that it would not be very feasible at the moment, even if it would be needed. In case an endeavour was made to create

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<sup>203</sup> *Ibidem* (Emphasis added).

<sup>204</sup> Interview with Mark Ebling (IOM).

<sup>205</sup> *Ibidem* (Emphasis added).

such minimum standards, a strong political will would be needed, as well as significant resources for the creation of a mechanism to institutionalise the monitoring and evaluation of how EU MS implement the standard of evidence.

### **F. Question 6. Proactive identification of victims of human trafficking**

Considering the significant issues in the identification and investigation of transnational HT cases, apparent from international reports, Case Studies and interviews conducted, the author aimed to verify with the interviewees what type of solutions they foresee for the proactive identification of victims in transnational HT cases. The following question was based on *Case Study 3*, analysed in the previous chapter (see also *Appendix 5*), with an emphasis on the receptionist's failure to report the case to the police as soon as he witnessed the Romanian victim being aggressed by her trafficker:

#### **Question 6**

Another case of human trafficking, prosecuted by the Romanian authorities in 2023<sup>206</sup>, in which the Romanian victim was trafficked to Germany by her Romanian boyfriend, ended with the conviction of the defendant based on the evidence obtained through police and judicial cooperation. However, an interesting aspect of this case is that the victim was registered in several brothels in Germany by the trafficker, who regularly visited her at the brothel to pick up the money she earned at the end of the day. On a certain day, the defendant even resorted to physical violence when the victim declared that she no longer wanted to practice prostitution but wanted to return to Romania. However, no one from the staff of the brothel notified the police, not even when the victim told the receptionist that she was being forced into prostitution by her boyfriend. The victim managed to escape the trafficking situation with the help of a friend and filed a complaint once she arrived in Romania.

What solutions would you recommend (at the national but also at the European level) to *proactively identify potential victims of trafficking among people working in prostitution* (given that many people working in brothels in countries where prostitution is legalised are Romanian nationals)?

*Table 5.7* below provides a summary of the respondents' answers to Question 6, revealing the pre-existent issues to consider in the scenario of institutionalising proactive identification and collaborative outreach at the EU level, as well as recommendations they propose, both from a centralised and a decentralised point of view.

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<sup>206</sup> *Case Study 3*, analysed in the previous chapter (A/N).

Table 5. 7. Summary of the respondents' answers to Question 6

<b>Question 6. Proactive identification and collaborative outreach</b>	
<b>Issues identified by respondents</b>	<b>Solutions from respondents</b>
<p>The absence of a clear definition of “vulnerability” in the <i>EU Directive</i> obstructs the proactive identification of HT cases, especially those involving the use of “abuse of a position of vulnerability”.</p> <p>The shortage of human resources, a notable issue within Romanian law enforcement, directly affects the capacity of the police to initiate proactive investigations.</p> <p>The lack of an infringement system ascribed to the main anti-trafficking instruments, namely the CoE Convention and the <i>EU Directive</i>, determines the non-compliance with the positive obligation of states regarding the <i>ex-officio</i> investigation of cases and proactive identification of victims.</p> <p>Limitations posed by the principle of subsidiarity, proportionality, and “opt-outs” restrict the possibility of establishing collaborative outreach at the EU level.</p>	<p><i>Centralised solutions</i></p> <p><b>Adopt the Equality Model at the EU level</b> The Equality Model of legislation is to be adopted in all EU Member States, which would bring about a common course of action in the proactive identification of victims and investigation of cases.</p> <p><b>Monitor implementation of obligations</b> A strong mechanism is essential to enforce countries' obligations, supported by a powerful entity capable of enforcing tangible consequences – essentially “an international police” to ensure compliance.</p> <p><b>Adopt the British Victim Navigator program at the EU level</b> Adopt at the EU level the victim navigator program initiated by the UK, which develops collaboration between UK law enforcement, NGOs, and victim support personnel to identify and assist potential VOTs in the context of prostitution.</p> <p><i>Decentralised solutions</i></p> <p>States to address problems internally by amending their legislation, as well as improving their investigative and reporting practices.</p> <p>Employ soft power, such as advocacy and diplomacy, to educate the public so they can exert sufficient pressure on the state's decision-makers to initiate change.</p>

Source: Interviews conducted by the author

Question 6 was based on the findings emerging from Chapter 4 and precisely from the Case Studies. These findings highlighted the absence of proactive identification among vulnerable individuals involved in legalised prostitution in certain countries and the fact that the only opportunity for these persons to exit prostitution might be to self-identify, which in many cases can pose serious threats to victims. The interviewees touched on different aspects that could be improved so as to make proactive identification of victims the rule, not the exception, in HT cases at the EU level.

Vassileva considers that **the lack of a clear definition of the concept of vulnerability in the EU Directive** hinders proactive identification of all cases of HT, specifically where the means of “abuse of a position of vulnerability” has been used<sup>207</sup>:

“The concept of vulnerability is something that is missing in the *EU Directive*, and it’s something that *may really change the whole perspective of the law enforcement if they understand it*”.<sup>208</sup>

Considering Romanian law enforcement, Mădălina Mocan from CSD and the IJM representative Ștefan Coman agree with ADPARE’s statement above that a significant problem in Romanian law enforcement is the **lack of human resources**, which has a **direct impact on the availability of police to initiate proactive investigation**<sup>209</sup>. He highlights that in 2020, almost 8,000 employees of the Ministry of Interior retired early, twice as much as in 2018-2019 cumulatively, an aspect which is evidenced in a news article released in April 2021<sup>210</sup>. The trend continued in the following year. As a result of this massive early retirement, Coman considers that the remaining law enforcement does not have the extra time to initiate proactive identification<sup>211</sup>:

“It seems to me that *we have a relatively small number of police officers investigating human trafficking, and they do it very well*. Ideally, we should have a large number of police officers who do it very well, and not only police officers but also prosecutors and judges that are not *overwhelmed by the amount of work*.”<sup>212</sup>

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<sup>207</sup> Interview with Antoaneta Vassileva (GRETA).

<sup>208</sup> *Ibidem* (Emphasis added).

<sup>209</sup> Interview with Ștefan Coman (IJM).

<sup>210</sup> Giorgiana Marina, “Mii de polițiști ies la pensie de teamă că vor primi bani mai puțini. Legea le permite pensionarea la 47 de ani dacă au vechime”, *Digi24*, 21 April 2021, [Online] available at: <https://www.digi24.ro/stiri/actualitate/mii-de-politisti-ies-la-pensie-de-teama-ca-vor-primi-bani-mai-putini-legea-le-permite-pensionarea-la-47-de-ani-daca-au-vechime-1503311> (accessed 08 July 2023).

<sup>211</sup> Interview with Ștefan Coman (IJM).

<sup>212</sup> *Ibidem* (Emphasis added).



Iftodi also mentions the lack of sufficient human resources in Romanian law enforcement. He illustrates this from his own experience, mentioning that for many years he was the only prosecutor specialised in cases of HT for the area of Iași and Vaslui, which comprise together a population of more than one million. He also attributes this lack of specialised human resources to the significant waves of retirement among law enforcement personnel in the last few years<sup>213</sup>:

“You can see very clearly that even in the judiciary, there is an impasse in this respect, with all the *departures, retirements, the impossibility of filling vacancies*. You can now join the DIICOT with only ten years of seniority as a prosecutor. I mean, yes, this is also one of the vulnerabilities.”<sup>214</sup>

In addition, ADPARE highlights that in some counties in Romania, where there is no Court of Appeal, there is only one prosecutor responsible for handling all cases related to organised crime, drugs, and more. Similarly, there might be only one police officer assigned to HT cases, supplemented by drug prosecutors. ADPARE mentions that the Public Ministry has been consistently requesting additional personnel and that the primary issue is not the lack of finances but the lack of human resources<sup>215</sup>.

Ștefan Coman links the possibility of creating mechanisms of proactive identification with the political will of countries, a perspective which has been reiterated by several interviewees concerning several aspects of this study. His opinion is that a robust mechanism is necessary to compel countries to fulfil their obligations backed by a powerful entity capable of imposing real consequences. He concludes that international legal instruments are of little use as long as there are no international “police” to enforce them. Theoretically speaking, states are obliged to investigate a case when State authorities are aware of “circumstances giving rise to a credible suspicion” that a person is or has been at risk of being trafficked, as stated in the ECtHR judgment in *Rantsev v. Cyprus and Russia*<sup>216</sup>. However, Coman considers this obligation is not actively fulfilled due to the fact that **neither the CoE Convention nor the EU Anti-trafficking Directive have any infringement systems** elements ascribed to them<sup>217</sup>.

Moreover, the IJM representative considers that since the EU’s authority to interfere in the member states decisions is restricted by the principle of subsidiarity and proportionality and by “opt-outs”, the perspective of creating

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<sup>213</sup> Interview with Iulian Iftodi (DIICOT).

<sup>214</sup> *Ibidem* (Emphasis added).

<sup>215</sup> Interview with ADPARE.

<sup>216</sup> *Case of Rantsev v. Cyprus and Russia*.

<sup>217</sup> Interview with Ștefan Coman (IJM).

a mechanism to proactively identify victims of trafficking across the EU is far-fetched<sup>218</sup>:

“The point is this: it’s no use having a law if it’s not enforced. You can even put very heavy penalties in the law; as long as nobody enforces it, nothing will happen. There is no point in having ECtHR decisions, and there is no point in having the Council of Europe Convention if it is something that nobody looks at and nobody cares about because nothing is going to happen to them anyway, and they know that nothing is going to happen to them. You need *a mechanism strong enough to force that country to fulfil its obligations, with real consequences that need to be imposed by someone who has enough power to impose them.*”<sup>219</sup>

However, Coman argues that in the European Union, there is a lack of clarity regarding the enforcement of obligations on member states, as a state has the possibility to opt out of a specific field of EU policies or legislation. He also raises the question of the authority of the Court of Justice of the European Union (CJEU), which is based on an amendment in the constitution of the member state, which grants it authority<sup>220</sup>.

One solution he foresees under the current EU structure in order to oblige states to adopt strategies and measures for the proactive identification of victims of trafficking, especially where prostitution is legalised, is to use **soft power** such as **advocacy** and **diplomacy** in cultivating an informed electorate that will exert enough pressure on the state’s decision-makers in order to adopt any change of action<sup>221</sup>.

Ultimately, Ștefan Coman states that the issue under discussion is essentially a law enforcement problem of another state and the simple solution would be for that state to address the problem internally by amending its legislation, as well as improving its investigative and reporting practices<sup>222</sup>. This perspective is supported by Ioana Bauer and Loredana Urzică-Mirea (eLiberare Association), who are in favour of **the Equality Model of legislation being adopted in all EU Member States**, which would bring about a common course of action in the proactive identification of victims and investigation of cases, as well<sup>223</sup>. The interviewees agreed that if the current

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<sup>218</sup> *Ibidem.*

<sup>219</sup> *Ibidem (Emphasis added).*

<sup>220</sup> *Ibidem.*

<sup>221</sup> *Ibidem.*

<sup>222</sup> *Ibidem.*

<sup>223</sup> Interview with Ioana Bauer (eLiberare Association), Interview with Loredana Urzică-Mirea (eLiberare Association).

system is ineffective, the state should take the initiative to find ways to make it work more efficiently.

Mark Ebling highlights the example of the UK law enforcement teams who partner with NGO-based social assistants and victim navigators to detect and assist potential victims of trafficking among persons in prostitution, as well as to do welfare checks and provide counselling to those who are trying to receive help. Furthermore, the British police have established secure communication channels for at-risk girls and women to seek assistance when in danger through a network of businesses which serve as discreet points of contact for the girls to relay messages to the police without drawing attention. Based on the example of the UK, Ebling recommends a similar collaboration between law enforcement and NGOs throughout the EU, where NGOs would act as a supportive and anonymous extension of the police, enabling proactive identification of victims<sup>224</sup>.

Cora Moțoc from Justice and Care Romania further elaborates on how the victim navigator system works in the UK and how it supports both proactive identification and criminal proceedings<sup>225</sup>. Victim navigators in the UK are granted all the necessary clearances to access the respective police force's database. They operate in a dual capacity, managing cases within the system while also accompanying police officers during raids. The role of the navigators in the UK begins from the first moment the police engage in an operation, discovering victims and promptly handing them over to the navigators for further assistance. British counterparts acknowledge that police officers may not always possess the requisite skills to effectively communicate with extremely vulnerable individuals due to their primary focus on apprehending criminals and executing operations. This model is being piloted in Romania by the Justice and Care Foundation, but in Romania, victim navigators are not embedded with the police yet<sup>226</sup>. Silviu Pîtran also supports this model as a valuable tool which could enable police to more properly focus on the prosecution of perpetrators, while external professionals could focus on establishing trust, providing reassurance, conducting thorough interviews with the victims to assess needs, and subsequently develop comprehensive support systems required for the victims' journey to recovery<sup>227</sup>.

Concerning Romania, a recommendation brought by Iftodi was to include ANITP more extensively in cooperation with the police for the proactive identification of victims of trafficking. He suggested the amendment

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<sup>224</sup> Interview with Mark Ebling (IOM).

<sup>225</sup> Interview with Cora Moțoc (Justice and Care Romania).

<sup>226</sup> *Ibidem*.

<sup>227</sup> Interview with Silviu Pîtran (IJM).

of the law governing the ANITP to include a procedural obligation at the prosecutor's disposal, according to which every HT case must include an assessment of the victim made by ANITP as additional evidence to the file. This would require expanding the responsibilities of ANITP and allowing them to engage in more fieldwork for prevention purposes and to more actively contribute to the implementation of the MNIR (National Mechanism for the Identification and Referral of Victims)<sup>228</sup>.

In conclusion, respondents were split into two categories: either for a centralised or decentralised strategy at the EU level. However, the majority of recommendations involved a centralised strategy involving EU institutions, EU Member States, NGOs and other experts and social workers. Some respondents brought up the idea of collaboration between law enforcement and NGOs for international outreach, which is further developed in Question 7.

#### **G. Question 7. Collaboration between law enforcement, judicial bodies and NGOs for transnational human trafficking cases**

Some interviews included an additional question on the interviewees' opinion regarding the involvement of NGO representatives and other anti-trafficking experts in the joint investigation teams (JITs) or other outreach teams.

##### **Question 7**

- a) What is your opinion about cooperation between law enforcement agencies and specialised NGOs to create joint teams in which a representative of specialised anti-trafficking NGOs takes part in field investigations and assists the victim from the moment of identification by law enforcement agencies (including in joint investigation teams at European level)? Would such cooperation be feasible and sustainable?
- b) If such cooperation were feasible, how could it be achieved?

*Table 5.8* below provides a summary of the respondents' answers to Question 7, revealing their perspectives on the current state of collaboration between these anti-trafficking actors and their recommendations to enhance such cooperation.

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<sup>228</sup> Interview with Iulian Iftodi (DIICOT).

Table 5. 8. Summary of the respondents' answers to Question 7

<b>Question 7. Collaboration between law enforcement, judicial bodies and NGOs for transnational human trafficking cases</b>	
<b>Issues identified by respondents</b>	<b>Solutions from respondents</b>
<p><i>i) Cooperation between law enforcement and NGOs for the identification of victims</i></p> <p><b>Positive aspects:</b></p> <ul style="list-style-type: none"> <li>▪ A few respondents stated that there is effective collaboration at the national level between law enforcement and Romanian NGOs specialised in assisting trafficking victims, although at a low scale.</li> <li>▪ Despite a shortage of specialised law enforcement personnel, the police and prosecutors who work with NGOs are competent and willing to cooperate in various aspects, including victim detection, on-site investigations, forensic examinations, coordinating victims in legal proceedings, and cooperating with relevant authorities.</li> <li>▪ Prosecuting bodies deem indispensable the contribution brought by NGOs in the repatriation and social reintegration of victims, as well as in accelerating the process of liberating the victim from the influence of the traffickers and their entourage.</li> <li>▪ VOTs usually hesitate to cooperate with law enforcement officers, but NGOs can play a pivotal role in building trust, securing their testimonies, considered the most crucial evidence in a case, and securing their access to assistance.</li> </ul> <p><b>Negative aspects:</b></p> <ul style="list-style-type: none"> <li>▪ All respondents recognise the lack of trained human resources on both sides (law enforcement and specialised</li> </ul>	<p><i>i) Cooperation between law enforcement and NGOs for the identification of victims</i></p> <p><b>Scale up the British victim navigator programme at the EU level</b> Prosecuting bodies support the scaling up at the EU level of the victim navigator programme, which was pioneered in Romania by Justice and Care.</p> <p><b>An official list of specialised NGOs</b> Some respondents recommended a wider collaboration of NGOs with law enforcement and judicial bodies to potentially establish a broader practice through legislation. This could involve recommending that prosecutors collaborate with reputable NGOs from an official list, similar to the lists of interpreters and experts currently available, ensuring dependable assistance and support.</p> <p><i>ii) Cooperation between judicial bodies and NGOs for court proceedings</i></p> <ul style="list-style-type: none"> <li>- safeguard victims against revictimisation, both during and after the hearings;</li> <li>- financially compensate victims for their contribution to the criminal proceedings;</li> <li>- train law enforcement, prosecutors and judges on trauma-informed care.</li> </ul> <p><i>iii) A network of focal points as a cooperation tool</i></p> <p><b>Mechanisms to Screen Vulnerable Populations</b> One respondent recommends the German screening mechanism through interviews as a best-practice model to be</p>

<p>NGOs), which is considered one of the reasons why cooperation between NGOs and law enforcement is not a practice at the moment.</p> <ul style="list-style-type: none"> <li>▪ The investigation agencies' concern over potential information leaks that could harm cases. Well-trained practitioners who understand the necessity of maintaining confidentiality in such cases are still few in number;</li> <li>▪ One respondent considers that Romanian society is not fully ready for such collaboration at a wide scale, as it requires training, personal development, and a commitment to avoid sensationalism.</li> </ul> <p><i>ii) Cooperation between judicial bodies and NGOs for court proceedings</i></p> <ul style="list-style-type: none"> <li>▪ Cases where a file is opened, and court proceedings take place in the country of destination are rare where a Romanian VOT is involved.</li> <li>▪ Cases where law enforcement and judicial authorities from Germany are trauma-informed are still the exception.</li> <li>▪ Cases where victims are financially compensated for collaborating in criminal proceedings are still rare.</li> </ul> <p><i>iii) A network of focal points as a cooperation tool</i></p> <p>One positive aspect of the German system is the screening mechanism based on which individuals are interviewed prior to their registration as "sex workers". However, these interviews would not effectively enable proactive identification unless the interviewer is adequately trained to recognise HT indicators.</p>	<p>adopted in all countries with legalised prostitution. As part of this model, individuals conducting these interviews need to be properly trained, connections need to be established between agencies from different countries, and case management should be victim-centred so as to prevent retraumatisation and ensure the victim's safe return and proper assistance.</p> <p><b>Establish a network of focal points as part of the EU-TRM</b></p> <p>The EU-TRM is offered again as a comprehensive solution, with a network of focal points as an essential component. Several respondents consider that establishing a system based on direct connections and trust between practitioners and counterparts across EU Member States is not only essential but also the most effective approach for streamlining processes related to identifying, protecting, and assisting VOTs.</p> <p><b>Include NGO experts in JITs</b></p> <p>Include NGO representatives and other CSO anti-trafficking practitioners and counsellors in the JITs or create some other type of international outreach teams for the proactive identification of victims.</p> <p><b>Centralise international outreach</b></p> <p>Centralise international outreach under a European Transnational Referral Mechanism (EU-TRM) along with a designated authority to manage and fund such outreach activities. Outreach teams should be created as an exchange of experience and should be specifically targeted by location, time-limited, and constant.</p>
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Source: Interviews conducted by the author

Question 7 is a continuation of Question 6 and was asked separately to allow respondents to first provide their perspectives on methods to enhance cooperation in the area of proactive victim identification (Question 6) and then give their opinion on our recommendation of including NGO representatives and anti-trafficking experts in collaborative outreach with law enforcement at EU level for the same purpose (Question 7).

Answers to Question 7 revealed additional aspects, namely that Romanian NGOs cooperate for transnational HT cases not only with law enforcement but also with judicial bodies, both at national and EU levels, though it is limited in scope. We will analyse these two aspects in two separate sections below.

*i) Cooperation between law enforcement and NGOs for the identification of victims*

Concerning the situation at the national level, ADPARE's representative highlighted the good cooperation between law enforcement forces and Romanian NGOs specialised in assisting victims. They mention that even if there is an acute shortage of law enforcement personnel specialised in handling HT cases, the police forces and prosecutors who regularly work with ADPARE are competent and ready to cooperate with CSO representatives, not only in raids for the detection of victims, but also in on-site investigations, forensic examination, and in the coordination of victims in criminal proceedings, along with ANITP. ADPARE also mentions cases where they have been authorised by the parents, through a notarised power of attorney, to accompany a minor victim to hearings in Germany<sup>229</sup>.

The same perspective on the fruitful cooperation between law enforcement and CSOs in Romania is held by Iulian Ifodi, Ștefan Coman, and Mark Ebling. All of them recognise, in turn, the lack of trained human resources on both sides<sup>230</sup>.

ADPARE has been active in assisting VOTs for more than 20 years; therefore, a trusted cooperation has been established with law enforcement. They constantly receive invitations from judicial authorities to accompany victims in court proceedings, where they are granted permission to interrupt the trial as necessary. This enables them to provide emotional support to the victim and protect them from re-traumatization. However, one deficiency of the system that ADPARE highlights is that this collaboration is at a low scale, primarily due to the aforementioned lack of human resources<sup>231</sup>:

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<sup>229</sup> Interview with ADPARE.

<sup>230</sup> Interviews with Iulian Ifodi (DIICOT), Ștefan Coman (IJM), Mark Ebling (IOM).

<sup>231</sup> Interview with ADPARE.

“I would very much like this collaboration to develop, because I don’t know how much more ANITP will be able to support. Coordinating victims in criminal procedures that we are doing here seems to me something so necessary, like the air we breathe, and it is just a drop in the ocean. *There are so many victims being heard in all places who don’t get the opportunity to receive this type of assistance. And not because there is a lack of willingness. The willingness is there, but there are no people, and especially no specialised people.*”<sup>232</sup>

Another interviewee who highly recommends a closer collaboration between NGOs and law enforcement for the purpose of outreach activities, including international outreach, is DIICOT prosecutor Iulian Iftodi. He views the contribution brought by NGOs as indispensable in the repatriation and social reintegration of victims, as well as in accelerating the process of liberating the victim from the influence of the traffickers and their entourage<sup>233</sup>.

Iftodi sustains the spread of this practice, which was pioneered in Romania by Justice and Care through the Victim Navigator program<sup>234</sup> in a collaboration between Romania and the UK, and promotes the scaling up of this model at the EU level<sup>235</sup>:

“In my opinion, by involving NGOs and leveraging their support in such cases, *a wider-scale practice may be eventually formalised through legislation.* This could entail a recommendation that prosecutors consult recognised NGOs in similar cases based on *a recognised list of NGOs with proven integrity and practical support capabilities.* This list would serve as a resource, similar to the existing lists of interpreters, translators, and experts, ensuring that *prosecutors can access reliable NGOs for assistance and support.*”<sup>236</sup>

When inquired about the practical contribution that NGO representatives can bring in collaboration with the police, Iftodi highlights that VOTs are often sceptical about talking to a policeman, but NGOs can play a crucial role in establishing trust, obtaining their testimony (which Iftodi says is the most important piece of evidence in a file), and gradually guiding them towards receiving assistance. When immediate action is required to rescue an exploited victim, trained NGO representatives can intervene, especially

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<sup>232</sup> *Ibidem.*

<sup>233</sup> Interview with Iulian Iftodi (DIICOT).

<sup>234</sup> See Interview with Cora Moțoc (Justice and Care Romania).

<sup>235</sup> *Ibidem.*

<sup>236</sup> *Ibidem.*



through a victim-centred and trauma-informed approach. This is all the more important as the majority of victims exploited through “the *loverboy* method”, according to the experience of the DIICOT prosecutor and NGO representatives, tend to deny their situation, claiming that the trafficker is their lover and that they are not being exploited. In such situations, trained social assistance and psychologists from NGOs can step in and help the victims understand and acknowledge the situation of abuse they are in<sup>237</sup>.

ADPARE illustrates this in a vivid description of on-site investigations, drawing attention again that this practice is limited in scope<sup>238</sup>:

“No, [investigation teams including NGO representatives] are not done anymore so extensively because there are probably a lot of cases, but even now, we accompany the police in on-site investigation and forensic examination. And I don’t mean examining the photographic evidence only, because that is the simplest form. For some victims who have been in exploitation for a long time, it is extremely traumatic to cooperate in criminal proceedings.

In some cases, there are more than 100 pictures from which to identify the suspects and other evidence. This means hours of reviewing evidence, and they need emotional support because, at some point, as they say, ‘I don’t even recognise my mother after all the pictures I’ve seen’. So, they need a break to relax, and then we start over. We talk about flowers, about everything, and only return refreshed afterwards. This would be tiring for anyone, but we still get involved in on-site investigations.

There have been situations where a victim identified the apartment where she used to be kept. The police asked us to accompany the victim because it was not easy for her to do this. So, this cooperation already happens; it’s part of the victims’ coordination in criminal proceedings, *but it’s not a practice*. You’re right in this, it’s not a practice.”<sup>239</sup>

ADPARE highlights another reason why this practice is still not widespread, namely that investigation bodies fear the possibility of information leaks, which can be highly detrimental to the case. Therefore, she adds, ensuring that individuals involved in such collaborative actions are well-prepared and understand the need for secrecy is crucial. However, the thirst for sensationalism, fuelled by the media, determines law enforcement to be highly selective in their collaboration with NGOs and other types of

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<sup>237</sup> *Ibidem*.

<sup>238</sup> Interview with ADPARE.

<sup>239</sup> *Ibidem* (*Emphasis added*).

practitioners in the anti-trafficking field. This aspect is true also for foreign law enforcement. While it would be beneficial to have professionals who can handle these situations, ADPARE considers that the Romanian society is not fully ready for it, as it requires training, personal development, and a commitment to avoid sensationalism<sup>240</sup>.

Regarding the proposal of **including NGO representatives and other CSO anti-trafficking practitioners and counsellors in the JITs** or creating some other type of **international outreach teams** for the proactive identification of victims, Laurențiu Dincă<sup>241</sup> stated that such initiatives have already been taken by ANITP in collaboration with the NGO *Generație Tânără* from Timișoara<sup>242</sup> and police officers from Switzerland, where prostitution is legalised. However, he admits that it would require substantial human resources and funds, which, from all the other interviews, appear to be some of the greatest downsides in the anti-trafficking system throughout the EU<sup>243</sup>.

Despite this, he considers that this proposal might be a solution to consider since it has already been proven that successful investigation and prosecution of transnational HT cases through the JITs has been made possible under a common EU framework, namely EUROJUST and Europol. A centralisation of such international outreach would, in his perspective, be possible under a **European Transnational Referral Mechanism (EU-TRM)** in place, along with a designated authority to manage such outreach activities and funds to be allocated for this specific purpose. Dincă further suggests that a certain EU country could invite a group of experts from a different EU country for a specific period to participate in these activities, with the funding coming from this mechanism<sup>244</sup>.

Additionally, Dincă proposes that such outreach teams should be created as an exchange of experience, should be specifically targeted by location, especially to those countries and locations where it is believed that VOTs might exist, and time-limited, but constant<sup>245</sup>:

*“I think these actions would be very useful. Joint actions involving, for example, representatives from institutions, law enforcement and NGOs with responsibilities in the area of assistance and victim identification. It would be useful to have this exchange of experience and carry out*

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<sup>240</sup> Interview with ADPARE.

<sup>241</sup> Interview with Laurențiu Dincă (ANITP).

<sup>242</sup> See also Interview with Francisc Czismarik (*Generație Tânără*, anti-trafficking NGO based in Timișoara).

<sup>243</sup> Interview with Laurențiu Dincă (ANITP).

<sup>244</sup> *Ibidem*.

<sup>245</sup> *Ibidem*.

outreach activities in a country where they [counterparts from other EU MS] know, for example, that there are Romanian victims and call us [Romanian counterparts] specifically for that area. Because a *potential victim would connect and open up more easily to someone in Romania*. Otherwise, as they may not know the language, and because they are afraid, it is more improbable that they would open up to police officers in that country. It is also clear that in many cases, the trafficker manipulates his victims by insinuating that they have connections with the authorities and they have nowhere else to go. That's why an exchange of experience and expertise would be necessary by involving a team from Romania in these joint outreach activities.”<sup>246</sup>

*ii) Cooperation between judicial bodies and NGOs for court proceedings*

ADPARE recounts a best practice example of a child trafficking case where they were invited to support the child victim. The case was based on a transnational collaboration between Germany and Romania, and it used both a JIT and a rogatory commission. In this case, as an exception, the criminal proceeding took place in Germany upon the insistence of the German authorities. The victim was 15 years old at the time of the hearings; however, the exploitation took place when she was 13 to 14 years old<sup>247</sup>.

“Both of us [the minor victim and the ADPARE representative] were adequately prepared by the German investigating authorities. There were a lot of requests for the victim to attend hearings in Germany. Upon our arrival in Germany, I was informed right away that someone would be waiting for us at the border police, that during the five nights in Germany, we would be accommodated under different names in various centres and relocated daily, that on the first day, we would meet with a translator to establish trust, after which we would go to the police warehouse where the victim was to identify and retrieve her belongings. I was also told that we would visit the courtroom to familiarise ourselves with its layout and seating arrangement. The instructions were clear that if at any point I sensed the victim – who was the only person in the closed-door trial, as it was a child trafficking case – was distressed or experiencing emotional discomfort, I could raise my hand and address the Trial Committee to take the victim away from the courtroom. All these things were explained beforehand, and after that, we had another day to relax in the same location before returning home.”<sup>248</sup>

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<sup>246</sup> *Ibidem* (Emphasis added).

<sup>247</sup> *Ibidem*.

<sup>248</sup> *Ibidem*.

ADPARE notes that this specific case provides valuable insights into the importance of safeguarding the victim against revictimisation, both during and after the hearings. In this particular case, the child victim had to be taken out of the court twice. First, it was required because she began shaking and crying upon remembering the traumatic experience of having been illegally taken abroad. The second time, the judge advised ADPARE's representative to remove the child from the courtroom to protect her from hearing the negotiations between the traffickers, which had been retrieved through interception of communication, regarding the pricing of her sexual exploitation as a virgin. ADPARE's intervention aimed to alleviate the child's distress and ensure her well-being. The extra details she provides are worth mentioning, especially the fact that the victim was financially compensated for her contribution to the criminal proceedings<sup>249</sup>:

"I have also seen interventions where it simply seemed extraordinary to me to see someone bring a scale and a meter measuring tape when the defence lawyers were claiming that the traffickers did not realise the victim was a minor. They were saying that she was wearing makeup, that she was wearing I don't know what type of shoes. The judges said she had a very normal development for her age, and that could not be considered an argument. So, somehow, all these things happened to give her more confidence. It was extraordinary. *That is an example of how you support the victim every step of the way.* We weren't left alone at any point. Well, at one point, we were left alone, and they wanted to give me a pepper gun, but I refused it since I don't like guns. We managed without it, about four hours or so, in a park. Otherwise, we felt safe the whole time, and not to mention that *the victim was paid for every second she spent on German soil because it was her contribution to the act of justice, a criminal trial.* It is the state against the defendant. The victim is only helping the state. Very, very special."<sup>250</sup>

*iii) A network of focal points as a cooperation tool*

Laurențiu Dincă recounts a best practice case that ANITP Timișoara recently had (2021-2023, A/N), involving a Romanian victim who was trafficked in Germany through "the *loverboy* method". In this particular case, the victim was identified by a Romanian social worker, who interviewed the victim for her registration as a "sex worker" and identified indicators of trafficking from her initial conversation with the victim. At the time of the

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<sup>249</sup> *Ibidem.*

<sup>250</sup> *Ibidem (Emphasis added).*

interview, she was a social worker in the counselling centre *Jadwiga*<sup>251</sup>, but had also previously collaborated with ANITP Timișoara from her position of representative of Pro Prietenia Foundation<sup>252</sup> in Arad when she was still based in Romania. Due to the personal connection that had already been cemented between the social worker and ANITP Timișoara, she was able to immediately refer the victim to the Romanian authorities, arranging for her repatriation and safety. This was a case of attempt to trafficking, which was prosecuted and sanctioned the same way as a trafficking case<sup>253</sup>.

A positive aspect of the German system in this regard is the mechanism of interviewing persons before they register as “sex workers”. However, unless the person who does the interview is trained and capacitated to recognize the signs of HT, these interviews will not facilitate proactive identification. Also, in case the destination country has a policy of repatriating the victim upon identification to their country of origin – which most EU countries do to reduce costs incurred from complying with all the rights of the status of a VOT<sup>254</sup> – practitioners who identify the victim must have some type of **connection or collaboration with counterparts in the country of origin**, to avoid retraumatization and ensure the safe return of the victim and proper assistance<sup>255</sup>.

“Regarding identification, it is crucial that the individuals conducting these interviews are *properly trained*. [...]

Secondly, *connections need to be established between agencies from different countries*. Perhaps if she [the social worker] didn’t know me, this case might not have reached me, and it might not have been solved. And third, *case management is also essential*, as you said earlier. The fact that we [ANITP] were the focal point for this case, who managed each situation and talked to each of these institutions or NGOs in Romania [who eventually granted her all the support she needed to have a successful reintegration], was essential. Because there’s no point in giving the victim a list of NGOs with services they can offer her. She won’t know what to do. It’s only natural that we do these things at this point.”<sup>256</sup>

Therefore, a **network of focal points** should be a constituent part of the EU-TRM, an aspect which both Mark Ebling from IOM, Laurențiu Dincă, and NGO representatives from Romania like Monica Boseff (Open Door

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<sup>251</sup> *Jadwiga*, [Online] available at: <https://www.jadwiga-online.de/en/> (accessed 15 July 2023).

<sup>252</sup> *Fundația Pro Prietenia Arad*, [Online] available at: <https://proprietenia.ro/> (accessed 08 July 2023).

<sup>253</sup> Interview with Laurențiu Dincă (ANITP).

<sup>254</sup> Information retrieved from interviews with Antoaneta Vassileva, Ioana Bauer, Loredana Urzică-Mirea and Mark Ebling (A/N).

<sup>255</sup> *Ibidem*.

<sup>256</sup> *Ibidem* (*Emphasis added*).

Foundation) and ADPARE agree upon. A system based on one-on-one connections between practitioners and counterparts of EU Member States would not only be necessary but also the most efficient way of action to streamline all processes connected to the identification, protection, and assistance of VOTs. This constructivist approach to enhancing EU cooperation in the field emphasises the importance of addressing the issue individually as the starting point for making a systemic change. All supporters of this perspective suggested that efforts should begin with building one-on-one trust-based relationships at all levels.

#### **H. Question 8. Other recommendations concerning transnational cooperation**

Interviewees were asked a final question, so as to cover any other aspects which were been covered by previous questions in the interview. Therefore, some other aspects have emerged as recommendations from answers to Question 8, which we reiterate below:

Do you think there are other aspects to mention that could improve transnational and European cooperation in cases of cross-border human trafficking, including in terms of the legislative, political or institutional framework?

*Table 5.9* below provides a summary of the respondents' answers to Question 8, revealing additional recommendations for enhancing cooperation in transnational HT cases.

*Table 5.9. Summary of the respondents' answers to Question 8*

<b>Question 8. Other solutions concerning transnational cooperation</b>
<p><b>Include provisions on standardised practices in the revised <i>EU Directive</i></b> The revision of the <i>EU Directive</i> presents an opportunity to establish standardised practices in areas such as referral pathways, indicators, access to victims, and lower thresholds.</p> <p><b>Trusted relationships</b> Establish trust at all levels of collaboration in the anti-trafficking field.</p> <p><b>Build capacity through specialised training</b> Build capacity and training anti-trafficking practitioners, both state actors and civil society, for bilateral and multilateral cooperation in the area of preventing and combating HT. Competent individuals need to be appointed, as cooperation in the area of anti-trafficking is a human resource-intensive endeavour.</p>

Source: Interviews conducted by the author (see *also chapter 5*)

Ioana Bauer considers that the revision of the Directive presents a valuable chance to establish **standardised practices and indicators** in areas such as **referral pathways**<sup>257</sup>, **access to victims**<sup>258</sup>, and **lowering thresholds**<sup>259</sup>.

Another cross-cutting issue highlighted by Vassileva, which impacts not only the data collection and reporting but the overall aspects of prosecution, protection and assistance, is the need for trust between all stakeholders in the anti-trafficking field, especially on behalf of the victims<sup>260</sup>:

“The fact that nobody keeps track [of the victims] is an issue even when the victim is in the country of origin. I mean, if the NGOs, or specifically the shelter staff, do not follow up with and do not create a trusted relationship with the victim when she’s out of the shelter, basically, *we don’t have any other instruments to monitor if the victim is okay and not in trouble*. So, for now, I’ve seen from my experience not only in Bulgaria but in other countries also. I think I’ve seen this in the Netherlands, that when the staff in the shelter creates a trusted relationship with the victim when the victim leaves the shelter, they agree to talk to each other for a certain length of time, like ten days, once a week, or once a month, depending on the situation. And also, the victim feels kind of safe and free to call anytime if some problem appears. For now, this is what it is, and *it works on a case-by-case basis*.”<sup>261</sup>

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<sup>257</sup> A *referral pathway* refers to a coordinated system or process through which individuals identified as victims of trafficking are referred to appropriate services and support. It involves a structured and collaborative approach among various stakeholders, including law enforcement agencies, NGOs, social service providers, healthcare professionals, and other relevant organizations (A/N).

<sup>258</sup> *Access to victims* refers to the ability of organizations, law enforcement agencies, and service providers to reach and establish contact with individuals who have been trafficked or are at risk of being trafficked. It encompasses efforts to identify, engage, and assist victims of trafficking, ensuring that they have access to necessary support services, such as shelter, healthcare, legal aid, counselling, and reintegration assistance (A/N).

<sup>259</sup> *Lowering the threshold* typically refers to reducing the requirements or criteria for identifying individuals as victims of trafficking. It involves expanding the definition or broadening the interpretation of trafficking indicators in order to identify and assist a wider range of potential victims. This approach aims to ensure that individuals who may not meet the strict legal definition of trafficking but are still exploited or vulnerable to exploitation receive appropriate support and protection. Lowering the threshold is often pursued to address gaps in the existing legal framework and to provide comprehensive assistance to those affected by different forms of exploitation (A/N).

<sup>260</sup> Interview with Antoaneta Vassileva (GRETA) (*Emphasis added*).

<sup>261</sup> *Ibidem*.

Similar to Vassileva's example, eLiberare Association developed a **tracking model** called *Kompass*<sup>262</sup>, as a tool to prevent the risks of HT and exploitation to which the Ukrainian refugees on the territory of Romania were exposed after the mass migration in the aftermath of the Ukraine crisis in February 2022. Following this model, **information sessions and individual safety plans have been conducted on a case-by-case basis** with Ukrainian refugees in Bucharest and other key cities in Romania so as to screen their vulnerability level, raise awareness of the risks of trafficking, provide them with the necessary information and contacts for anti-trafficking institutions, focal points and organisations in Romania or in other EU countries according to their intended destination. Moreover, social assistants from eLiberare are Ukrainians employed as cultural mediators who have continued to keep in touch with all the beneficiaries of the *Kompass* model through weekly check-ins so as to monitor their situation and ensure their safety<sup>263</sup>.

Mădălina Mocan adds the need for building capacity and training anti-trafficking practitioners, both for bilateral and multilateral cooperation in the area of preventing and combating HT. She considers that both the civil society and state actors should share the duty of capacitating their staff, and to achieve this, competent individuals need to be appointed, as it is a human resource-intensive endeavour<sup>264</sup>.

## Conclusions

Considering that so many of the recommendations provided by respondents started from the necessity to create a European Transnational Referral Mechanism, we believe that this long-awaited objective set out in the EU anti-trafficking Strategies and Operational Plans should be treated as a priority in the anti-trafficking field throughout the EU.

We started with two hypotheses for this chapter, for which we provide the conclusions below.

The hypothesis that the author started from before targeting objective O5 was the following:

**H6.** Cooperation between Romania and other EU member states regarding transnational cases of human trafficking is deficient and mainly formal.

This hypothesis has been proven to be true to a certain extent. While it is true that substantial progress has been made to increase cooperation at this

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<sup>262</sup> *Kompass. Response Model of Intervention in the Ukrainian Crisis*, model developed by eLiberare Association, [Online] available at: [https://kompass.world/wp-content/uploads/2022/05/Kompass-Intervention-Model\\_c.pdf](https://kompass.world/wp-content/uploads/2022/05/Kompass-Intervention-Model_c.pdf) (accessed 1 July 2023).

<sup>263</sup> *Ibidem*.

<sup>264</sup> Interview with Mădălina Mocan (Centre for the Study of Democracy).



level, we have concluded from interview results that there is still much to do, especially concerning the establishment of an EU-TRM, which has been delayed since 2012, and which has been identified by the majority of respondents as the main cross-cutting priority.

The hypothesis that the author started from before targeting objective O5 was the following:

**H7.** Transnational human trafficking cases, especially cases where “the *loverboy* method” (sexual exploitation) has been used, are difficult to prove because of differing legal models for prostitution adopted across the EU.

This hypothesis has been proven to be true to a certain extent. Interview results show that perspectives vary in this area, with many respondents considering this is true, while others adopting a more neutral stance, considering that investigation and prosecution of cases do not necessarily depend on the legal model of prostitution but rather on specific legal stipulations and their implementations in practice. However, we rather agree with the first category of respondents, after corroborating data analysed, case studies, as well as interview results, concluding that both the proactive identification of victims and the investigation of transnational cases of HT for the purpose of sexual exploitation are influenced by the legal model on prostitution.



## Final Conclusions and Recommendations

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In this concluding chapter, we will highlight the main findings that have emerged from our study of transnational cooperation in the context of preventing and combating human trafficking. Additionally, we will delineate the limitations of our study and offer policy recommendations that might serve as topics for future research in this area. The final aim of these recommendations is to increase the capacity of frontliners to identify a higher number of victims, as well as increase access to rights for victims wherever they are identified in the EU, and finally, establish streamlined, time-effective, cost-effective cooperation methods between EU Member States to fulfil these purposes systemically.

### Main Findings

Throughout this book, we have explored the legislative, policy, and institutional frameworks, as well as the law enforcement practices in the anti-trafficking field in the EU and Romania. As our research unfolded, two specific areas of concern have arisen: the **proactive identification** of victims of human trafficking and the **investigation** of transnational cases at national and EU levels, especially as regards cases of sexual exploitation where non-coercive means have been used (such as “the *loverboy* method”).

Concerning the legislative framework, **hypothesis H1** (*EU legislation is not adequately tailored to international human rights requirements*) has proven to be mainly false, as the EU legislation is, to a large extent, in line with the highest requirements of the international legislation on human rights, namely the *Palermo Protocol* and the *CoE Convention*, except a discriminatory article implying that third-country nationals are not entitled to assistance and residence permits unless they agree to cooperate in the criminal proceedings.

Concerning the policy framework, **hypothesis H2** (*EU policy is not adequately implemented*) has proved to be true to a certain extent, meaning that many objectives set out by the EU policy have been achieved, but also important objectives have been delayed, such as the creation of a European Transnational Referral Mechanism (EU-TRM), due to the lack of National

Referral Mechanisms (NRMs) in some Member States, and also to the political diversity of NRMs where they do exist. Another reason for this is that HT trends evolve from year to year, making it highly challenging to implement a policy in constant need of adaptation. The participants' answers to the interviews have highlighted the creation of the EU-TRM as an all-encompassing solution and foundation from which other best practices and reforms could be implemented.

Concerning the institutional framework, **hypothesis H3** (*EU Mechanisms are not properly defined and implemented*) has proven to be mainly true due to the very diverse political spectrum of the EU Member States and their National Rapporteurs and equivalent Mechanisms (NREMs), the lack of coordination and proper collaboration between them, and the impossibility of creating the EU-TRM.

These conclusions have emerged as a result of **objective O2** (*Describe and analyse the EU anti-trafficking framework and its implications on the Member States*).

Concerning the phenomenon of HT in Romania, **hypothesis H4** (*Romania has been the main source country for victims of human trafficking, mainly for sexual exploitation and also for labour exploitation in the European Union, in the last 10 years*) has proven to be true. We have shown this through the analysis of statistics for the period 2011-2021. This conclusion has emerged as a result of **objective O3** (*Describe and analyse the phenomenon of HT in Romania, with the aim of proving that Romania is still the top source country in Europe for victims of HT*).

Regarding the alignment of the Romanian anti-trafficking framework with the EU anti-trafficking framework, **hypothesis H5** (*The Romanian anti-trafficking system [legislative, policy and institutional framework] is not adequately tailored to the EU requirements and the main consequence of this is the inadequate assistance offered to victims of human trafficking*) has proven to be false to a certain extent, as the Romanian legislation, policy and mechanisms are in line with the *EU Directive* and the *EU Anti-Trafficking Strategies*. However, the major issue discovered from the research, specifically from the interview results, has been the lack of proper funding and the lack of specialised human resources, as well as the need for a better implementation of legislation, mechanisms, and instruments set in place. Added to these is the lack of the EU-TRM, which negatively affects Romania in proactively identifying and assisting Romanian VOTs exploited abroad. This conclusion has emerged as a result of **objective O4** (*Describe and analyse the Romanian anti-trafficking framework as compared to the EU anti-trafficking framework*).

Concerning the **Romanian legislative framework** in the area of preventing and combatting human trafficking, our conclusions can be considered more accurate, as document analysis was used to verify whether Romanian legislation covers all requirements of international and EU legislation in the anti-trafficking field, as well as three case studies to evaluate at a glance how legislation is applied in court.

Concerning the Case-Study analysis, a number of conclusions can be drawn concerning judicial practice for HT offences in Romania. We aimed to identify the issues encountered in judicial practice for transnational HT cases where “the *loverboy* method” was employed by the trafficker. We discovered that:

- Judges decide on a case-by-case basis; therefore, verdicts can vary from case to case;
- Countries that legalise prostitution have a higher number of people involved in prostitution, as the legal climate is favourable to such a culture, demand for sexual services goes rampant, and police are lenient towards it;
- In some cases, the Court, as well as the prosecution bodies, appear to be lacking in professional training regarding the constitutive elements of HT;
- In some cases, the Court appears to be ignorant of the obligation to conduct due diligence or to investigate a case when the state authorities are aware of “circumstances giving rise to a credible suspicion” that an individual is or was at risk of being trafficked;
- There is a need for a standard of evidence in HT cases (including child trafficking), both general and specific, which both the prosecution and the judiciary can use as guidelines; as of now, the standard of evidence is decided on a case-by-case basis, following the principle of “in dubio pro reo”.
- There is a need for a unitary and binding standardised methodology (i.e., minimum standards) regarding the judicial practice in cases of HT and procuring. As for now, there is no methodology or guidelines providing minimum standards for investigating and judging HT cases in Romania;
- There is a need for a new or existing judicial mechanism to evaluate and monitor the sentences and decisions given by courts in cases of HT, procuring/prostitution, and other related offences so as to investigate whether the validation or invalidation of evidence decided by the Court was in accordance with the legislation and the methodology in place and whether the offence was correctly classified;
- Only in rare cases do victims benefit from their right to financial compensation from the state and moral damages;

- The legalisation of prostitution not only facilitates but also promotes and contributes to the exploitation and abuse of vulnerable persons, especially immigrants;
- The demand for sexual services sky-rockets in a country that has legalised prostitution.

Given the escalating number of VOTs and the challenges faced in cross-border cases, especially concerning “the *loverboy* method”, we emphasise the need to consider the influence which legal models on prostitution have on the phenomenon of HT in a certain country and the EU at large. We highlight this as one of the main areas of concern and future research. We believe that if uniform solutions can be established across the EU, individuals like Romanian victims in countries such as Germany, where prostitution is legal, would no longer be automatically classified as “sex workers” or “prostitutes” but as potential VOTs, which would intensify proactive identification in at-risk areas, such as brothels, as well as access to assistance and exit programmes for such vulnerable groups.

Regarding the **Romanian institutional framework** in the area of preventing and combatting HT, we aimed to outline the organisational structure of institutional entities tasked with combating HT in Romania, as compared to international and EU recommendations in this area. From our analysis, we concluded that:

- The anti-trafficking three-pillar structure recommended by OSCE is still weak in Romania, namely, the **Interinstitutional Anti-Trafficking Committee, the Anti-Trafficking Coordinator, and the National Rapporteur**;
- The position of National Coordinator should not be dependent on a political mandate since the progress made by a political representative in the anti-trafficking field in Romania **must be taken over by another one as soon as their mandate is terminated**;
- Regarding the National Rapporteur, which is ANITP in Romania, we agree with GRETA’s recommendation that Romanian authorities should consider creating an independent National Rapporteur or enabling an existing mechanism as an independent entity<sup>1</sup>, which would enhance the monitoring of state institutions’ anti-trafficking efforts and provide recommendations to relevant individuals and entities.

Regarding **transnational cooperation** in the area of proactive identification of victims and investigation of cases, **hypothesis H6** (*Cooperation between Romania and other EU member states regarding transnational human trafficking cases is deficient and mainly formal*) has proven to be true to a certain

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<sup>1</sup> GRETA, *Third Round Evaluation Report Romania...*, para. 19.

extent. This conclusion has emerged as a result of **objective O5** (*Identify the main issues and potential solutions concerning cross-border/transnational cooperation between Romania and other EU member states as regards proactive identification of VOTs*). While it is true that substantial progress has been made to increase cooperation at this level, we have concluded from the interview results that there is still much to do, especially concerning the establishment of an EU-TRM, which has been delayed since 2012.

Concerning **hypothesis H7** (*Transnational human trafficking cases, especially cases where “the loverboy method” (sexual exploitation) has been used, are difficult to prove because of differing legal models for prostitution adopted across the EU*), it has proven to be true to a certain extent. This conclusion has emerged as a result of **objective O6** (*Identify the main issues and potential solutions concerning cross-border/transnational cooperation between Romania and other EU member states as regards the investigation of transnational cases of HT*). Interview results indicate that perspectives vary in this area, with many respondents considering this is true, while others adopting a more neutral stance, considering that investigation and prosecution of cases do not necessarily depend on the legal model of prostitution but rather on specific legal stipulations and their implementations in practice. However, we rather agree with the first category of respondents, after corroborating data analysed, case studies, as well as interview results, concluding that both the proactive identification of victims and the investigation of transnational cases of HT for the purpose of sexual exploitation are influenced by the legal model on prostitution.

Concerning objective **O7** (*Elaborate policy recommendations to enhance EU transnational cooperation in the context of preventing and combating human trafficking, especially targeting proactive identification of victims and investigation of cases*), it is reached in Chapter 4, Chapter 5, and under the *Policy Recommendations* section within *Final Conclusions and recommendations*, having emerged from conclusions to previous chapters, solutions offered by interview respondents, as well as our observation in the field and personal recommendations.

## **Policy Recommendations**

As mentioned before, a cross-cutting recommendation offered by the majority of respondents to many of the issues identified was to establish and implement Transnational Referral Mechanisms (TRMs), as well as the European Transnational Referral Mechanism (EU-TRM) to enhance cooperation between EU Member States for the identification, protection, and assistance of victims.

*Table 5.10* below provides a quick view of the main recommendations, which will further be expanded below, both at the EU and national level, according to the three pillars analysed in this paper: legislation, institutions,

and mechanisms. Each pillar targets all or some of the main areas of concern identified by respondents, as follows:

- a) The creation of an EU-TRM;
- b) The proactive identification of victims;
- c) Cooperation in the investigation of transnational HT cases.

Table 5. 10. Main recommendations

Domain	Sub-domain	EU level	National level
legislation	cross-cutting	Revision of EU legislation and procedural laws for a minimum uniformity, which might be achieved through the adoption of a Regulation rather than a revised Directive;	
		EU-TRM	EU-wide clear definition of the status of a VOT
		ensure standardised case management for victims	integrate EU standards on case management in all related legislation
	proactive identification of victims	recognise both prostitution and sex trafficking as manifestations of a power imbalance between men and women and of gender-based violence, and consider any person in prostitution a potential victim	
		increase prerogatives for law enforcement to screen vulnerable populations such as people engaged in prostitution and migrants	
		hard obligation language for <i>ex-officio</i> investigation of cases, including through transnational cooperation between states	
		hard obligation language to fund exit programs for persons in prostitution who are willing to exit prostitution	
		hard obligation language to participate in transnational cooperation for all transnational human trafficking cases	
		impose a legal obligation to report any suspicion of an HT case on all EU citizens	adjust legislation with EU provisions and minimum penalties



		establish standardised HT indicators	transpose HT indicators in the NRM and all related legislation
	<b>cooperation in the investigation of transnational HT cases</b>	include “the <i>loverboy</i> method” in the Directive’s (or regulation’s) definition of HT	transpose the HT definition in national legislation and adjust it according to regional and cultural particularities
		hard obligation language for the use of at least one of the available cooperation tools in any transnational HT case	
		impose minimum standards of investigation for transnational HT cases, including for online investigations, accompanied by a guide with best practice cases for professionals	transpose minimum standards in national legislation and create guides specific to the HT trends in each EU MS.
		hard obligation language for states to provide ongoing training to law enforcement and judicial authorities on minimum standards of investigation	hard obligation language for relevant state institutions to provide training to law enforcement and judicial authorities on minimum standards of investigation
		include binding provisions to safeguard victims against revictimisation, both during and after the hearings	
<b>institutions</b>	<b>EU-TRM</b>	ensure standardised access to services for both presumed and identified victims	
		standardise institutional framework for institutions with comparable structures across EU countries	
		create a Platform to connect national focal points and boost cooperation	designate and train focal points in charge of transnational cases to properly establish and boost transnational cooperation and conduct case management across borders
		establish an EU task force to manage and fund international screening of vulnerable groups	empower the National Rapporteur of each EU MS with the prerogative to train focal points to

			take part in international outreach teams
	<b>cooperation in the investigation of transnational HT cases</b>	promote and fund dialogue, training, and cooperation through an EU network of specialised prosecutors (i.e., EJN)	specialised unit of prosecutors for the investigation of HT cases in all EU MS, similar to DIICOT.
		establish and improve bilateral cooperation and communication channels between destination countries and origin countries, following the example of the bilateral cooperation between Romania and the UK	establish cooperation channels set alongside the busiest flight routes between Romanian cities and foreign cities
		a special Counselling Unit within Europol and Eurojust for providing guidance for law enforcement and judicial focal points on how to implement minimum standards and solve more problematic cases	Counselling Units within national law enforcement and judicial systems on the implementation of minimum standards
		create an EU monitoring mechanism to harmonise Criminal Codes and Criminal Procedure Codes and ensure minimum standards are met	create expert groups to analyse national Criminal Codes and Criminal Procedure Codes and properly harmonise them with EU standards
		enhance cooperation between CSO anti-trafficking experts and policy-makers;	
		create an EU task force to enable cooperation between national focal points for conducting risk assessments prior to repatriation	national focal points to cooperate with EU counterparts to conduct risk assessment prior to repatriating victims
<b>mechanisms</b>	<b>EU-TRM</b>	create an EU referral pathway and a service-mapping database including all state institutions, CSOs, and IOs from all EU Member States	create national referral pathways and a service-mapping database including all state institutions, CSOs, and IOs

		establish transnational referral procedures to optimise case management for repatriated VOTs	the state where the VOT is identified is obliged to contact and cooperate with relevant authorities from the country of origin
		create a victims' EU database by uniting national databases	create a national victims' database in all EU MS, or adjust it to EU requirements where it already exists
		encourage personal interactions between focal points and other stakeholders by organising and funding international roundtables, training sessions, and conferences	obligation for all anti-trafficking professionals to participate in a given number of international and EU events every year
		pilot the Victim Navigator Program initiated by the UK, starting with regional application	pilot the Victim Navigator Program initiated by the UK first in EU Member States where cooperation with the UK is strong
	<b>proactive identification of victims</b>	provide and fund opportunities for cooperation between law enforcement and specialised NGOs across the EU	provide and fund opportunities for cooperation between law enforcement and specialised NGOs at the national level
	<b>cooperation in the investigation of transnational HT cases</b>	financially compensate victims for collaborating in criminal proceedings, based on a human-rights approach and as an incentive to increase victims' cooperation with authorities. Funds may be obtained from seized assets;	
		include NGO representatives and other CSO anti-trafficking practitioners and counsellors in JITs or create some other type of international outreach teams for the proactive identification of victims.	obligation to contribute with experts and professionals in all JITs or international outreach teams initiated at the EU level

Source: Responses to interviews and the author's contributions

We are going to further expand on these recommendations according to the three main areas of concern identified by respondents.

### **Regarding the establishment of an EU-TRM**

Based on their recommendations, we propose a series of components that the EU-TRM should consist of, targeting identification, repatriation, and assistance of victims, such as:

- develop **bilateral and multilateral agreements** between countries of destination and countries of origin;
- **standardise institutional framework** for institutions with comparable structures across EU countries;
- establish trained practitioners as focal points in the EU-TRM;
- encourage personal interactions between **focal points** and other stakeholders by organising international roundtables, training sessions, and conferences;
- establish an **EU-wide clear definition of the status of a VOT**;
- establish **standardised HT indicators**;
- conduct risk assessments before repatriating victims;
- create **EU referral pathways and a service-mapping database** including all state institutions, CSOs, and IOs from all EU Member States that offer any type of assistance to VOTs, their contact information, details about types of assistance provided, and conditions to serve as a tool in the EU-TRM. These tools should be widely accessible to anyone, not only to professionals working with VOTs, as a way to encourage a **whole-of-society approach** regarding victim identification, reporting, and assistance, as well as accelerate the process of referral;
- establish **transnational referral procedures to optimise case management for repatriated VOTs**;
- ensure **standardised access to services** for both presumed and identified victims;
- ensure **standardised case management** for victims;
- create a **victims' EU database** compiling the essential information regarding victims that can enhance case management and prevent re-trafficking and revictimisation as a way to enhance centralised and time-sensitive data collection and reporting at the EU level. This database could be created following research of best practice models for data collection, which focus on essential principles such as the semi-anonymisation of data (i.e., codification of victims' names, addresses, and other sensitive information) and the limited access of practitioners depending on the region where they are located. Moreover, the database would allow, for example, a Romanian social worker in charge of

receiving a repatriated VOT and performing case management to know specifically how the victim was identified, the type of services she received in the country of exploitation, and the institutions or individuals who offered assistance. Such a tool would enable better coordination of activities, interactions, and referrals within the EU-TRM and would minimise the need for asking the victim the same questions;

- **centralise international outreach under the EU-TRM** along with a designated authority to manage and fund such outreach activities. Outreach teams should be created as an exchange of experience and should be specifically targeted by location, time-limited, and constant.

In case the creation of an EU-TRM and an adjacent victims' database proves to be an overwhelming endeavour, an option would be to start building up bilateral and multilateral agreements as a pilot project, which would gradually increase based on best-practice results in the field. Starting from this lower level, establishing a special task force at the EU level to generate, manage, and secure the database would also be more feasible.

#### **Regarding the proactive identification of victims of human trafficking**

Based on the respondents' answers, we identified the absence of proactive identification among vulnerable individuals involved in legalised prostitution in certain countries and the fact that the only opportunity for these persons to exit prostitution might be to self-identify, which in many cases can pose serious threats to victims. Our recommendations aim to make proactive identification of victims the rule, not the exception, in HT cases for sexual exploitation at the EU level.

Given the various legal models on prostitution adopted by the EU Member States and their inevitable implications on the phenomenon of HT for sexual exploitation, we consider, based on the majority of the respondents' opinions, that the basic principles of the Equality Model should be adopted in all EU countries, and that a revised version of the *EU Anti-Trafficking Directive* should enshrine these principles, as follows:

- introduce a provision recognising that both prostitution and sex trafficking are manifestations of a power imbalance between men and women and of gender-based violence, and consider any person in prostitution a **potential victim** (thus leading to the next principle);
- increase prerogatives for law enforcement and other relevant state authorities, including with the cooperation of specialised NGOs, to **screen vulnerable populations** such as people engaged in prostitution and migrants, to identify potential victims;
- introduce a binding provision for states to **fund exit programs** for persons in prostitution who are willing to renounce prostitution and

integrate them as a fundamental component in all outreach and screening programs;

- introduce a binding provision for the ***ex-officio* investigation of cases** as soon as there is any suspicion of an HT case, including without the victim's testimony, and the obligation to engage all investigative procedures necessary to secure evidence in court, including through transnational cooperation between states;
- introduce a binding provision for states to **participate in transnational cooperation** for all transnational human trafficking cases, irrespective of whether the victim provides testimony in the destination country or the country of origin;
- develop and strengthen **transnational networks of focal points** as part of the EU-TRM;
- pilot the **Victim Navigator Program** initiated by the UK in more EU Member States, thus accelerating collaboration between law enforcement, NGOs, and victim support personnel to identify and assist potential VOTs in the context of prostitution.
- impose a **legal obligation to report** any suspicion of an HT case on citizens in all EU Member States, and failure to report to lead to criminal sanctions.

As an option to this recommendation, in case some EU countries are not willing to adhere to the principles of the Equality Model, alternative binding provisions should be imposed, especially in states where prostitution is legalised, such as:

- impose the **interview system** used in Germany in all countries where prostitution is legalised or regulated, and train individuals conducting these interviews to recognise potential victims and conduct victim-centred case management;
- impose a legal obligation on all owners of locations and venues for prostitution, such as brothels, massage parlours, night clubs, etc., to **display awareness posters** about human trafficking and sexual exploitation, as well as the helpline number where such cases can be reported, or a number for counselling. This information should be provided in all the languages spoken by persons involved in prostitution in such locations, especially in brothels;
- **fund outreach activities** in brothels and other places for prostitution, based on cooperation between law enforcement and specialised NGOs;
- **fund exit programs** for persons in prostitution who are willing to renounce prostitution and integrate these exit programs as a fundamental component in all outreach endeavours.

### Regarding cooperation in the investigation of transnational HT cases

Based on the respondents' answers, our findings indicate that even though the EU has a comprehensive range of tools available for transnational cooperation, particularly in the context of criminal investigations, cooperation remains limited. This originates from the lack of implementation of such tools and, more precisely, from the willingness of certain EU countries to engage in collaborative efforts. Cooperation in transnational HT cases is only recommended to EU Member States and is not imposed; therefore, it is not applied in all cases.

Our recommendations might entail significant reforms of the EU's legislative and institutional framework, such as follows:

- **legislation and procedural laws in EU member states should be thoroughly revised** for a minimum uniformity, which might be achieved through the adoption of a Regulation rather than a revised Directive;
- include an unambiguous **explanation of “the loverboy method” in the Directive’s** (or regulation’s) definition of HT to prevent current debates and jurisdictional uncertainties between trafficking and pimping cases;
- include a binding provision in the Directive obliging states to **use at least one of the available cooperation tools in any transnational HT case**, even if it does not involve an organised crime group, to obtain additional evidence from the territory of the other state(s);
- ensure that each Member State has a **specialised unit of prosecutors for investigating HT cases**, similar to DIICOT (Directorate for the Investigation of Organised Crime and Terrorism) in Romania. This would enable smoother cooperation between EU countries through a network of specialised prosecutors as focal points for investigating HT cases. For example, the European Judicial Network (EJN)<sup>2</sup> functions as a network of contact points to promote cooperation and foster direct communication among the judicial authorities within the EU Member States. However, not all EU member states have a unit of prosecutors specialised in investigating HT cases, which hinders widespread and timely cooperation in the EU<sup>3</sup>;
- establish and improve **bilateral cooperation and communication channels** between destination countries and origin countries,

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<sup>2</sup> *European Judicial Network*, [Online] available at: <https://www.ejn-crimjust.europa.eu/ejn2021/Home/EN> (accessed 10 October 2023).

<sup>3</sup> See Interview with Silviu Pitran (IJM), Question 3.

following the example of the bilateral cooperation between Romania and the UK. The cooperation channels should follow the busiest flight routes between Romanian and foreign cities as a preventive tool to identify potential victims, including through airport verifications. Bilateral cooperation and communication channels between local authorities in these cities should also be pre-arranged and set in place so that in case a suspicion of HT arises, swift action be made possible, eliminating the necessity of bureaucratic arrangements;

- impose **minimum standards of investigation** for transnational HT cases, including for online investigations, accompanied by a guide with best practice cases for professionals;
- create a **special Counselling Unit** within Europol and Eurojust to provide guidance for professionals on how to implement minimum standards and solve more problematic cases;
- create an **EU monitoring mechanism** (which may be part of Eurojust or may be a separate institution) with powers to harmonise Criminal Codes and ensure minimum standards are met, specifically concerning the *ex-officio* investigation of cases and the proactive identification of cases; this monitoring mechanism should be funded through seized assets, incentivising law enforcement efficiency and cooperation;
- make **specialised training binding** for all law enforcement and judicial authorities regarding these minimum standards, as well as in the area of victim psychology and forensic psychology (including trauma-informed training) at EU level;
- facilitate **cooperation between state authorities and civil society** by a higher level of engagement of anti-trafficking experts from the civil society with policy-makers;
- **train and engage consular and embassy personnel** to enhance their collaboration with service providers from destination countries as well as origin countries;
- **standardise indicators** of human trafficking and train all actors that might come in contact with a victim of human trafficking to check, search, and **retain supporting evidence** that could be used in court (e.g. for the element of *transport* – transportation tickets, CCTV recordings of vehicles and routes, etc.);
- provide opportunities for **cooperation between law enforcement and specialised NGOs** and train practitioners on the obligation of maintaining confidentiality in such cooperation;
- include binding provisions to **safeguard victims against revictimisation**, both during and after the hearings;



- **financially compensate victims for collaborating in criminal proceedings**, based on a human-rights approach and as an incentive to increase victims' cooperation with authorities. Funds may be obtained from seized assets;
- include NGO representatives and other **CSO anti-trafficking practitioners and experts in the JITs** or create some other type of international outreach teams for the proactive identification of victims.

In light of these considerations, it becomes evident that creating optimal anti-trafficking policies and fostering cooperation across different levels and among various actors necessitates extensive reforms at multiple levels, and an inclusive approach. The multifaceted issue of human trafficking requires a comprehensive approach that takes into account a combination of realist, liberalist, feminist, and constructivist approaches, as well as various other perspectives and aspects.

The proposition of an EU-TRM, designed to harmonise efforts, share intelligence, and coordinate actions across member states, stands as the most pressing priority in the field. Moreover, the adoption of the foundational principles of the Equality Model promises a paradigm shift in addressing trafficking not merely as a criminal issue but as a fundamental breach of human rights and dignity.

However, the implementation of these innovative solutions hinges upon a vital element: political willingness. Radical reforms, including at legislative, institutional, and law enforcement levels, must be pursued with unwavering determination.

In the years to come, as policymakers and practitioners consider the insights gleaned from this study, let us remain resolute in our commitment to proactively identify victims and investigate cases so that the EU becomes a place known for its resoluteness to track down criminals and protect the most vulnerable. With a shared vision and a steadfast dedication to radical reforms, we can pave the way for a future where trafficking knows no refuge within our borders and where justice prevails.

## **Limitations**

Without intending to reiterate the limitations mentioned in the Introduction and Chapter 5, we highlight the main limitation of this study, namely the limited range of EU countries (i.e., Romania and Germany) from which anti-trafficking experts were interviewed. We consider that our study would have been more comprehensive and yielded more insights if we had the opportunity to interview anti-trafficking experts from more destination

countries, such as the Netherlands, Spain, Italy, France, the UK, and others. A more diverse spectrum of opinions could have contributed to valuable recommendations for the creation of an EU-TRM, which has emerged as the most pressing priority for preventing and combating HT in the EU at large. We propose this topic as an area for future research.

In conclusion, we consider that the purpose of this paper has been reached, namely to analyse the anti-trafficking legislative, policy and institutional frameworks, as well as law enforcement practices in the EU and Romania, and propose recommendations that may enhance EU transnational cooperation in the context of preventing and combating human trafficking. We consider that these recommendations should be first tested in bilateral cooperation and at a regional level before scaling them up at the EU level. This would enable the actors involved to evaluate and build upon the experience emerging from the implementation of these recommendations.

## Bibliography

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### Books

1. Barnett, Michael (Ed.), *Paternalism beyond Borders*, Cambridge: Cambridge University Press, 2016, doi:10.1017/9781316799956.
2. Carr, E. H., and Michael Cox, *The Twenty Years' Crisis, 1919-1939: An Introduction to the Study of International Relations*, Houndmills, Basingstoke, Hampshire: Palgrave, 2001.
3. Donnelly, Jack, *Realism and International Relations*, Cambridge University Press, 2000.
4. Elliott, Jessica, "The Role of Consent in Human Trafficking", Routledge, 2015.
5. Francis Fukuyama, *The End of History and the Last Man*, Free Press, London, 1992.
6. Hegel, Georg Wilhelm Friedrich and Dyde, S. W., *Hegel's philosophy of right*, London: George Bell and Sons, 1896.
7. Hegel, Georg Wilhelm Friedrich and Sibree, J., *The Philosophy of History*, New York: Dover Publications, 1956.
8. Hegel, Georg Wilhelm Friedrich, Miller, Arnold V.; Findlay, J. N. and Hoffmeister, Johannes, *Phenomenology of Spirit*, Oxford, Clarendon Press, 1979.
9. Hernández-Truyol, Berta E., and Powell, Stephen J., *A New Covenant Linking Trade and Human Rights*, New York University Press, 2009, <https://doi.org/10.18574/9780814790861>.
10. Ikenberry, John G, *After Victory: Institutions, Strategic Restraint, and the Rebuilding of Order after Major Wars*, Princeton University Press, 2001.
11. Kant, Immanuel, *Perpetual Peace; A Philosophical Essay*, 1795. London: S. Sonnenschein, 1903.
12. Kempadoo, Kamala; Sanghera, Jyoti and Pattanaik, Bandana, *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, Boulder, Colo: Paradigm Publishers, 2005.
13. Keohane, Robert O., *Neorealism and Its Critics*, New York: Columbia University Press, 1986.
14. Kissinger, Henry, *Diplomacy*, Simon and Schuster Rockefeller Center, 1994.
15. Legro, Jeffrey W., *Rethinking the World: Great Power Strategies and International Order*, Cornell University Press, Ithaca, 2005, DOI:10.7591/9781501707322, <https://www.semanticscholar.org/paper/Rethinking-the-World%3A-Great-Power-Strategies-and-Legro/fe43ee4261503967f57e13f41d1572e31ea7c68f>.

16. Locke, John, and Laslett, Peter, *Two Treatises of Government*, Cambridge [England]: Cambridge University Press, 1988.
17. Locke, John, and Nidditch, P. H., *An Essay Concerning Human Understanding*, Oxford: Clarendon Press, 1979.
18. Locke, John, and Yolton, John, *An Essay Concerning Human Understanding*, London: Dent, 1993.
19. Machiavelli, Niccolò, and Bondanella, Peter, *The Prince*, Oxford: Oxford University Press, 2005.
20. Mearsheimer, John J, *The tragedy of great power politics*, WW Norton, 2014.
21. Mill, John Stuart, *On Liberty*, London: John W. Parker and Son, West Strand, 1859.
22. Mill, John Stuart, *Principles of Political Economy and Chapters on Socialism*, Oxford University Press, 2008.
23. Mill, John Stuart, *Utilitarianism*, London: Parker, Son and Bourn, 1863.
24. Morgenthau, H. J., *In Defense of the National Interest: A Critical Examination of American Foreign Policy*, New York: Alfred A. Knopf, 1951.
25. Rawls, John, *A Theory of Justice*, Cambridge, Massachusetts: The Belknap Press of Harvard University Press, 1971.
26. Rawls, John, *Political Liberalism*, New York: Columbia University Press, 2005;
27. Rousseau, Jean-Jacques, and Charles Frankel, *The Social Contract*, New York: Hafner Publishing Co, 1947.
28. Smith, Linda, and Cindy Coloma, *Renting Lacy: A Story of America's Prostituted Children*, Cork: BookBaby, 2013.
29. Strauss, Leo, *Natural Right and History*, Chicago: University of Chicago Press, 1953.
30. Strauss, Leo, *On Tyranny: Revised and Expanded Edition*, Victor Gourevitch & Michael S. Roth, Eds. Chicago: University of Chicago Press, 2000.
31. Strauss, Leo, *The City and Man*, Chicago: University of Chicago Press, 1964.
32. Strauss, Leo, *The Political Philosophy of Hobbes: Its Basis and its Genesis*, Chicago: University of Chicago Press, 1952.
33. Strauss, Leo, *Thoughts on Machiavelli*, Chicago: University of Chicago Press, 1958.
34. W. Julian Korab-Karpowicz, *On the History of Political Philosophy: Great Political Thinkers from Thucydides to Locke*, New York: Routledge, 2012.
35. Waltz, Kenneth N., *Theory of International Politics*, Addison-Wesley Publishing Company Reading, 1979.
36. Waltz, Kenneth N., *Man, the State, and War: A Theoretical Analysis*, New York: Columbia University Press, 1959.
37. Waltz, Kenneth N., *The Spread of Nuclear Weapons: More May Be Better*, London: International Institute for Strategic Studies, 1981.
38. Waltz, Kenneth N., *Theory of International Politics*. Reading, Mass: Addison-Wesley Pub. Co, 1979.
39. Wendt, Alexander, *Social Theory of International Politics*, Cambridge University Press, 1999.

## International and EU legislation, protocols, conventions and case law

40. *Consolidated Version of the Treaty on European Union, Official Journal of the European Communities C 326/13*, 26 October 2012, [Online] available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2012:326:FULL:EN:PDF>.
41. Council of Europe, *Additional Protocol to the Convention on Human Rights and Biomedicine concerning transplantation of organs and tissues of human origin*, Strasbourg, 24 January 2002, <https://rm.coe.int/1680081562>.
42. Council of Europe, *Convention on Cybercrime. Council of Europe Treaty Series – No. 185, 2001*, [Online] available at: <https://www.europarl.europa.eu/cmsdata/179163/20090225ATT50418EN.pdf>.
43. Council of Europe, *Council of Europe Convention on Action Against Trafficking in Human Beings*, Warsaw, 16 May 2005, CETS 197, [Online] available at: <https://rm.coe.int/168008371d>.
44. Council of Europe, *Council of Europe Convention on preventing and combating violence against women and domestic violence*, CETS No. 210, Istanbul, 11 May 2011, [Online] available at: <https://rm.coe.int/168008482e>.
45. Council of Europe, *Council of Europe's action to combat trafficking in human beings, Ministers' Deputies Information documents, CM/Inf(2008)28*, 9 June 2008, [Online] available at: <https://documentation.lastradainternational.org/lisidocs/2.pdf>.
46. Council of Europe, *Recommendation 1450 (2000) Violence against women in Europe*, 3 April 2000, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16783&lang=en>.
47. Council of Europe, *Recommendation 1523 (2001) Domestic slavery*, 26 June 2001, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16924&lang=en>.
48. Council of Europe, *Recommendation 1526 (2001) A campaign against trafficking in minors to put a stop to the east European route: the example of Moldova*, 27 June 2001, [Online] available at: <https://pace.coe.int/en/files/16928>.
49. Council of Europe, *Recommendation 1545 (2002) Campaign against trafficking in women*, 21 January 2002, [Online] available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=16965&lang=en>.
50. Council of Europe, *Recommendation 1610 (2003) Migration connected with trafficking in women and prostitution*, 25 June 2003, [Online] available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17123&lang=en>.
51. Council of Europe, *Recommendation 1611 (2003) Trafficking in organs in Europe*, 25 June 2003, [Online] available at: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17125&lang=en>.
52. Council of Europe, *Recommendation 1663 (2004) Domestic slavery: servitude, au pairs and "mail-order brides"*, 22 June 2004, [Online] available at: <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=17229&lang=en>.

53. Council of Europe, *Recommendation No. R (2000) 11 of the Committee of Ministers to member states on action against trafficking in human beings for the purpose of sexual exploitation*, Strasbourg, 19 May 2000, [Online] available at: <https://rm.coe.int/16804fda79>.
54. Council of Europe, *Recommendation Rec (2001) 16 of the Committee of Ministers to member states on the protection of children against sexual exploitation*, 31 October 2001, [Online] available at: <https://childhub.org/en/child-protection-online-library/recommendation-rec200116-committee-ministers-member-states>.
55. Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, available at: [https://www.echr.coe.int/documents/convention\\_eng.pdf](https://www.echr.coe.int/documents/convention_eng.pdf).
56. Council of the European Union, *Council conclusions on establishing an informal EU Network of National Rapporteurs or Equivalent Mechanisms on Trafficking in Human Beings*, 2946th Justice and Home Affairs Council meeting, Luxembourg, 4 June 2009, [Online] available at: [https://www.osservatoriointerventitratta.it/wp-content/uploads/2018/03/Council\\_Conclusion\\_National\\_Rapporteur.pdf](https://www.osservatoriointerventitratta.it/wp-content/uploads/2018/03/Council_Conclusion_National_Rapporteur.pdf).
57. European Commission, *Commission Staff Working Document Accompanying the Second report on the progress made in the fight against trafficking in human beings (2018)*, Brussels, 3 December 2018, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018SC0473&from=EN>.
58. European Commission, *Commission Staff Working Document Accompanying the Third Report on the Progress Made in the Fight Against Trafficking in Human Beings (2020)*, Brussels, 20 October 2020, [Online] available at: [https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings_en).
59. European Commission, *Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, Brussels, 1 December 2022, [Online] available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732\\_](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0732_).
60. European Council, *Joint Action 97/154/JHA of 24 February 1997 adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children*, Official Journal L 63, 4 March 1997, [Online] available at: [http://europa.eu/legislation\\_summaries/employment\\_and\\_social\\_policy/equality\\_between\\_men\\_and\\_women/l33072\\_en.htm](http://europa.eu/legislation_summaries/employment_and_social_policy/equality_between_men_and_women/l33072_en.htm).
61. European Council, *Tampere European Council 15 and 16 October 1999 Presidency Conclusions*, Tampere, 1999, [Online] available at: [http://www.europarl.europa.eu/summits/tam\\_en.htm](http://www.europarl.europa.eu/summits/tam_en.htm).
62. European Court of Human Rights, *Case of Rantsev v. Cyprus and Russia, Application 25965/4, Judgement*, Strasbourg, 7 January 2010, [Online] available at: <https://rm.coe.int/16806ebd5e>.

63. European Union, *Consolidated version of the Treaty on the Functioning of the European Union*, 13 December 2007, 2008/C 115/01, [Online] available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>.
64. European Union, *Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*, 18 June 2009, 2009/52/EC, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32009L0052>.
65. European Union, *Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA*, OJ L 335, 13 December 2011, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32011L0093>.
66. European Union: Council of the European Union, *Council Directive 2004/81/EC of 29 April 2004 on the Residence Permit Issued to Third-Country Nationals Who are Victims of Trafficking in Human Beings or Who Have Been the Subject of an Action to Facilitate Illegal Immigration, Who Cooperate With the Competent Authorities*, OJ L 261/19-261/23; 2004/81/EC, 6 August 2004, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX%3A32004L0081>.
67. European Union: Council of the European Union, *The Stockholm Programme – An Open and Secure Europe Serving and Protecting the Citizens*, 17024/09, 2 December 2009, [Online] available at: [https://ec.europa.eu/anti-trafficking/stockholm-programme-open-and-secure-europe-serving-and-protecting-citizens-0\\_en](https://ec.europa.eu/anti-trafficking/stockholm-programme-open-and-secure-europe-serving-and-protecting-citizens-0_en).
68. European Union: Council of the European Union, *Charter of Fundamental Rights of the European Union (2007/C 303/01)*, 14 December 2007, C 303/1, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>.
69. European Union: Council of the European Union, *Council Framework Decision 2002/629 on Combating Trafficking in Human Beings*, 19 July 2002, 2002/629/JHA, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32002F0629>.
70. European Union: Council of the European Union, *Directive 2012/29/EU of the European Parliament and of the Council of October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA*, 14 November 2012, L 315/57, [Online] available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2012:315:0057:0073:EN:PDF>.
71. Hague Conference on Private International Law, *Hague Convention on the Protection of Children and Co-operation in Respect of Inter-country Adoption*, 29 May 1993, <https://www.hcch.net/en/instruments/conventions/full-text/?cid=69>.
72. International Labour Organization (ILO), *C029 - Forced Labour Convention, 1930 (No. 29)*, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029).

73. International Labour Organization (ILO), *C105 - Abolition of Forced Labour Convention, 1957 (No. 105)*, [https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100\\_ILO\\_CODE:C105](https://www.ilo.org/dyn/normlex/en/f?p=1000:12100:0::NO::P12100_ILO_CODE:C105).
74. International Labour Organization (ILO), *Ratifications of C189 - Domestic Workers Convention, 2011 (No. 189)*, [https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:2551460](https://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:2551460).
75. International Labour Organization (ILO), *International Labour Standards on Forced Labour*, <https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/forced-labour/lang--en/index.htm>.
76. International Labour Organization (ILO), *Protocol of 2014 to the Forced Labour Convention, 1930, P029*, Geneva, 2014 (Entry into force: 9 Nov. 2016), [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::p12100\\_ilo\\_code:p029](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no::p12100_ilo_code:p029).
77. International Labour Organization (ILO), *Abolition of Forced Labour Convention, C105, 25 June 1957, C105*, [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms\\_346434.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/genericdocument/wcms_346434.pdf).
78. International Labour Organization (ILO), *Forced Labour (Supplementary Measures) Recommendation, 2014, (No. 203), R203*, [https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no:12100:p12100\\_ilo\\_code:r203:no](https://www.ilo.org/dyn/normlex/en/f?p=normlexpub:12100:0::no:12100:p12100_ilo_code:r203:no).
79. International Labour Organization (ILO), *Forced Labour Convention, C29, 28 June 1930, C29*, [https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms\\_346435.pdf](https://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/documents/genericdocument/wcms_346435.pdf).
80. International Labour Organization (ILO), *Worst Forms of Child Labour Convention, C182, 17 June 1999, C182*, [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C182](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182).
81. League of Nations, *Convention to Suppress the Slave Trade and Slavery*, New York, 25 September 1926, 60 LNTS 253, Registered No. 1414, <https://www.ohchr.org/Documents/ProfessionalInterest/slavery.pdf>.
82. Ministerial Conference under the Presidency of the European Union, *The Hague Ministerial Declaration On European Guidelines For Effective Measures To Prevent And Combat Trafficking In Women For The Purpose Of Sexual Exploitation*, The Hague, 24-26 April 1997, [Online] available at: <https://www.legislationline.org/documents/action/popup/id/8747#:~:text=The%20objective%20of%20the%20present,and%20appropriate%20assistance%20and%20support>.
83. The European Parliament and the Council of the European Union, *Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*, 24.6.2024, [Online] available at: <https://eur-lex.europa.eu/eli/dir/2024/1712>.
84. UN Committee on the Rights of the Child (CRC), *General comment no. 5 (2003): General measures of implementation of the Convention on the Rights of the Child*, 27 November 2003, CRC/GC/2003/5, <https://digitallibrary.un.org/record/513415?ln=en>.



85. UN Economic and Social Council (ECOSOC), *Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery*, 7 September 1956, <https://www.refworld.org/docid/58c156dc4.html>.
86. UN General Assembly, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*. (A/RES/54/263), New York, 25 May 2000, [Online] available at: <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-convention-rights-child-sale-children-child>.
87. UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, New York, 15 November 2000, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>.
88. UN General Assembly, *United Nations Convention against Transnational Organized Crime: resolution/adopted by the General Assembly*, Vienna, 8 January 2001, A/RES/55/25, (hereinafter, UNTOC) available at: [Online] available at: <https://www.refworld.org/docid/3b00f55b0.html>.
89. UN General Assembly, *Convention on the Rights of the Child, 20 November 1989*, United Nations, Treaty Series, vol. 1577, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.
90. UN General Assembly, *International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families*, 18 December 1990, A/RES/45/158, <https://www.ohchr.org/Documents/ProfessionalInterest/cmw.pdf>.
91. UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, <https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.
92. UN General Assembly, *United Nations Convention against Transnational Organized Crime : resolution / adopted by the General Assembly*, 8 January 2001, A/RES/55/25, <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>.
93. UN Office of the High Commissioner for Human Rights (OHCHR), *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, 20 May 2002, E/2002/68/Add.1, [Online] available at: [https://www.ohchr.org/documents/publications/commentary\\_human\\_trafficking\\_en.pdf](https://www.ohchr.org/documents/publications/commentary_human_trafficking_en.pdf).
94. *United Nations Treaty Collection*, [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=XVIII-12-a&chapter=18](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XVIII-12-a&chapter=18).
95. United Nations, *Convention against Transnational Organized Crime and the Protocols thereto*, Vienna, 16 October 2000, [Online] available at: <https://www.unodc.org/documents/treaties/UNTOC/Review%20Mechanism/Resolution/English.pdf>.
96. United Nations, *Legislative Guide for the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, Vienna, 2020, [Online] available at: [https://www.unodc.org/documents/human-trafficking/2020/TiP\\_LegislativeGuide\\_Final.pdf](https://www.unodc.org/documents/human-trafficking/2020/TiP_LegislativeGuide_Final.pdf).

97. United Nations, *Optional Protocol on the Involvement of Children in Armed Conflict*, <https://childrenandarmedconflict.un.org/tools-for-action/opac/>.
98. UNODC, OHCHR, UNHCR, UNICEF, ILO, UN Women, *Joint UN Commentary on the EU Directive – A Human Rights-Based Approach*, November 2011, [Online] available at: [https://ec.europa.eu/anti-trafficking/joint-un-commentary-eu-directive-human-rights-based-approach\\_en](https://ec.europa.eu/anti-trafficking/joint-un-commentary-eu-directive-human-rights-based-approach_en).

## Official reports, strategies, action plans and studies of international and EU institutions

99. Alina Dinu (ed.) (EPRS | European Parliamentary Research Service), *Implementation of Directive 2011/36/EU: Migration and gender issues European implementation assessment*, PE 654.176 – September 2020, [Online] available at: [https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS\\_STU\(2020\)654176\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2020/654176/EPRS_STU(2020)654176_EN.pdf).
100. Amnesty International, *Right to Be Free from Rape. Overview of Legislation and State of Play in Europe and International Human Rights Standards*, 24 November 2018, [Online] available at: <https://www.amnesty.org/en/documents/eur01/9452/2018/en/>.
101. Council of Europe, *Explanatory Report to the Council of Europe Convention on Action against Trafficking in Human Beings*, Warsaw, 16 May 2005, [Online] available at: <https://rm.coe.int/16800d3812>.
102. Council of Europe, *Practical impact of the Council of Europe monitoring mechanisms in improving respect for human rights and the rule of law in member states*, Strasbourg, 2014, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806d22c8>.
103. Council of Europe, *Romania urged to effectively prosecute human traffickers and to ensure access to compensation for their victims*, Media Release Réf. DC 109(2021), Strasbourg, 3 June 2021, [Online] available at: [https://search.coe.int/directorate\\_of\\_communications/Pages/result\\_details.aspx?ObjectId=0900001680a2b3df](https://search.coe.int/directorate_of_communications/Pages/result_details.aspx?ObjectId=0900001680a2b3df).
104. Council of Europe, *Second Summit of Heads of State and Government (Strasbourg, 10-11 October 1997) Final Declaration and Action Plan*, Strasbourg, 11 October 1997, [Online] available at: <https://rm.coe.int/168063dced>.
105. Council of Europe: GRETA, *Evaluation Report Romania – Third Evaluation Round*, Strasbourg, 3 June 2021, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8>.
106. Council of Europe: GRETA, *Evaluation Report Romania, Council of Europe*, 3 June 2021, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8>.
107. Council of Europe: GRETA, *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, GRETA(2018)26\_ROM\_rep*, Reply submitted on 22 October 2019, [Online]

- available at: <https://rm.coe.int/reply-from-romania-to-the-questionnaire-for-the-evaluation-of-the-impl/1680997282>.
108. Council of Europe: GRETA, *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. Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings Reply submitted on 22 October 2019*, [Online] available at: <https://rm.coe.int/reply-from-romania-to-the-questionnaire-for-the-evaluation-of-the-impl/1680997282>.
  109. Council of Europe: GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland – Second Evaluation Round*, Strasbourg, 17 November 2017, [Online] available at: <https://rm.coe.int/greta-2017-29-fgr-pol-en/168077c9ce>.
  110. Council of Europe: GRETA, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania. First evaluation round*, Strasbourg, 31 May 2012, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680683a1d>.
  111. Council of Europe: GRETA, *Third Round Evaluation report Romania. Access to justice and effective remedies for victims of trafficking in human beings*, GRETA(2021)09, 3 June 2021, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8>.
  112. Council of Europe: GRETA, *Third Round Evaluation report Romania. Access to justice and effective remedies for victims of trafficking in human beings*, GRETA(2021)09, 3 June 2021, [Online] available at: <https://rm.coe.int/evaluation-report-on-the-implementation-of-the-council-of-europe-conve/1680a2b0f8>.
  113. Council of Europe: GRETA, *Trafficking in Children. Thematic Chapter of the 6th General Report on GRETA's Activities*, May 2018, <https://rm.coe.int/6gr-extract-web-en/16808b6552>.
  114. European Union Agency for Law Enforcement Cooperation, *Catching the virus: cybercrime, disinformation and the COVID-19 pandemic*, 3 April 2020, <https://respect.international/catching-the-virus-cybercrime-disinformation-and-the-covid-19-pandemic/>.
  115. European Union External Action, *Guidance on Due Diligence for EU Businesses to Address the Risk of Forced Labour in Their Operations and Supply Chains*, 12 July 2021, [Online] available at: [https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc\\_159709.pdf](https://trade.ec.europa.eu/doclib/docs/2021/july/tradoc_159709.pdf).
  116. European Union: European Commission, *Commission Staff Working Document accompanying the document Report from the Commission to the European Parliament and the Council. Report on the progress made in the fight against trafficking in human beings (2016) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims* {COM(2016) 267

- final*}, Brussels, 19 May 2016, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016SC0159>.
117. European Union: European Commission, *Commission Staff Working Document Statistics and trends in trafficking in human being in the European Union in 2019-2020 Accompanying the document Report from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions Report on the progress made in the fight against trafficking in human beings (Fourth Report) {COM(2022) 736 final}*, Brussels, 19 December 2022, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022SC0429>.
  118. European Union: European Commission, *Commission Third Report on the progress made in the fight against trafficking in human beings*, COM(2020) 661 final and SWD(2020) 226 final, Brussels, 20 October 2020, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52020DC0661&from=GA>.
  119. European Union: European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025*, Brussels, 14 April 2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_on\\_combatting\\_trafficking\\_in\\_human\\_beings\\_2021-2025\\_com-2021-171-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_on_combatting_trafficking_in_human_beings_2021-2025_com-2021-171-1_en.pdf).
  120. European Union: European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and The Committee of the Regions on the EU Strategy to tackle Organised Crime 2021-2025*, Brussels, 14.4.2021, [https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021\\_eu\\_strategy\\_to\\_tackle\\_organised\\_crime\\_2021-2025\\_com-2021-170-1\\_en.pdf](https://ec.europa.eu/home-affairs/sites/default/files/pdf/14042021_eu_strategy_to_tackle_organised_crime_2021-2025_com-2021-170-1_en.pdf).
  121. European Union: European Commission, *Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. The EU Strategy towards the Eradication of Trafficking in Human Beings 2012–2016*, Brussels, 19 June 2012, [Online] available at: [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN\\_](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52012DC0286&from=EN_)
  122. European Union: European Commission, *Data collection on trafficking in human beings in the EU*, Brussels, 2020, [Online] available at: [https://data.europa.eu/doi/10.2837/897741\\_](https://data.europa.eu/doi/10.2837/897741_)
  123. European Union: European Commission, *Report from the Commission to the European Parliament and the Council assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/ EU*, Brussels, 2 December 2016, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2016:719:FIN.>

124. European Union: European Commission, *Report from the Commission to the European Parliament and the Council assessing the impact of existing national law, establishing as a criminal offence the use of services which are the objects of exploitation of trafficking in human beings, on the prevention of trafficking in human beings, in accordance with Article 23 (2) of the Directive 2011/36/EU, COM(2016) 719 final*, Brussels, 2 December 2016, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52016DC0719&rid=2>.
125. European Union: European Commission, *Report on the progress made in the fight against trafficking in human beings (2016)*, Brussels, 19 May 2016 [Online] available at: [https://ec.europa.eu/anti-trafficking/first-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/first-report-progress-made-fight-against-trafficking-human-beings_en).
126. European Union: European Commission, *Second report on the implementation of the Action Oriented Paper*, Brussels, 3 December 2012, [Online] available at: [https://ec.europa.eu/anti-trafficking/second-report-implementation-action-oriented-paper\\_en](https://ec.europa.eu/anti-trafficking/second-report-implementation-action-oriented-paper_en).
127. European Union: European Commission, *Second report on the progress made in the fight against trafficking in human beings (2018)*, Brussels, 3 December 2018 [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018DC0777&from=EN>.
128. European Union: European Commission, *Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms, HOME/2018/ISFP/PR/THB/0000*, Publications Office of the European Union, Luxembourg, 2020, [Online] available at: <https://op.europa.eu/en/publication-detail/-/publication/d5542e9c-0e92-11eb-bc07-01aa75ed71a1/language-en>.
129. European Union: European Commission, *The EU rights of victims of trafficking in human beings*, 2013, [Online] available at: [https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu\\_rights\\_of\\_victims\\_of\\_trafficking\\_en\\_1.pdf](https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/eu_rights_of_victims_of_trafficking_en_1.pdf).
130. European Union: European Commission, *Third report on the progress made in the fight against trafficking in human beings*, Brussels, 20 October 2020, [Online] available at: [https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings\\_en](https://ec.europa.eu/anti-trafficking/third-report-progress-made-fight-against-trafficking-human-beings_en).
131. European Union: European Commission, *Working Together to Address Trafficking in Human Beings. Key Concepts in a Nutshell*, 4 December, 2018, [Online] available at: [https://ec.europa.eu/anti-trafficking/sites/default/files/key\\_concepts\\_in\\_a\\_nutshell.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/key_concepts_in_a_nutshell.pdf).
132. European Union: European Commission, *Communication from the Commission to the European Parliament and the Council. Action Plan on Unaccompanied Minors (2010-2014)*, 6 May 2010, COM(2010) 213/3, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-unaccompanied-minors-2010-2014\\_en](https://ec.europa.eu/anti-trafficking/eu-policy/action-plan-unaccompanied-minors-2010-2014_en).
133. EUROPOL, *Situation Report Trafficking in human beings in the EU*, Document Ref No: 765175, The Hague, February 2016, [Online] available at: [https://www.europol.europa.eu/cms/sites/default/files/documents/thb\\_situational\\_report\\_-\\_europol.pdf](https://www.europol.europa.eu/cms/sites/default/files/documents/thb_situational_report_-_europol.pdf).

134. EUROSTAT, *Persons involved in trafficking in human beings by legal status and sex*, last update 09.02.2023 [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_SEX/default/table](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_SEX/default/table).
135. EUROSTAT, *Persons involved in trafficking in human beings by legal status and sex*, last update 09.02.2023 [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_SEX/default/table](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_SEX/default/table).
136. EUROSTAT, *Trafficking in Human Beings*, last update: 09.02.2023, [Online] available at: [https://ec.europa.eu/eurostat/databrowser/explore/all/popul?lang=en&subtheme=crim.crim\\_thb&display=list&sort=category&extractionId=CRIM\\_THB\\_VEXP](https://ec.europa.eu/eurostat/databrowser/explore/all/popul?lang=en&subtheme=crim.crim_thb&display=list&sort=category&extractionId=CRIM_THB_VEXP).
137. EUROSTAT, *Victims of trafficking in human beings by all forms of exploitation*, last update: 09.02.2023, [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_VEXP/default/table?lang=en&category=crim.crim\\_thb](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_VEXP/default/table?lang=en&category=crim.crim_thb).
138. EUROSTAT, *Victims of trafficking in human beings by citizenship*, last update: 09/02/2023, [Online] available at: [https://ec.europa.eu/eurostat/databrowser/view/CRIM\\_THB\\_VCTZ/default/bar?lang=en&category=crim.crim\\_thb](https://ec.europa.eu/eurostat/databrowser/view/CRIM_THB_VCTZ/default/bar?lang=en&category=crim.crim_thb).
139. Giammarinaro, Maria Grazia (UN General Assembly), *The Report of the Special Rapporteur on Trafficking in Persons, Especially Women and Children, - 20 Years After: Implementing and Going Beyond the Palermo Protocol towards a human rights centred approach*, 17 July 2020, A/75/169, [Online] available at: <https://undocs.org/A/75/169>.
140. GRETA, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties First evaluation round*, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ab822>.
141. GRETA, *Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the parties Second evaluation round*, [Online] available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016805ab825>.
142. GRETA, *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 Thematic focus: Access to justice and effective remedies for victims of trafficking in human beings*, [Online] available at: <https://rm.coe.int/greta-2018-26-en/16808f0990>.
143. Huda, Sigma (UN Commission on Human Rights), *Report of the Special Rapporteur on the Human Rights Aspects of the Victims of Trafficking in Persons, Especially Women and Children*, 20 February 2006, E/CN.4/2006/62, [Online] available at: <https://www.refworld.org/docid/48abd53dd.html>.
144. ILO and Walk Free Foundation, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, Geneva, 2017, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms\\_575479.pdf](https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/documents/publication/wcms_575479.pdf).

145. ILO, Walk Free, IOM, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage*, Geneva, 12 September 2022, [Online] available at: [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_854733/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_854733/lang--en/index.htm).
146. IOM and United Nations, *World Migration Report*, 2000, [Online] available at: [https://publications.iom.int/system/files/pdf/wmr\\_2000\\_edited\\_0.pdf](https://publications.iom.int/system/files/pdf/wmr_2000_edited_0.pdf).
147. Jagoda Gregulska, Claire Healy, Elena Petreska, *et al.* (European Commission), *Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms*, Luxembourg, Directorate-General for Migration and Home Affairs, Publications Office, 2020, [Online] available at: <https://data.europa.eu/doi/10.2837/24454>.
148. Rena, Alice and Amelio, Sonia (UN Institute for Crime and Justice Research (UNICRI)), *Virtual meetings "COVID-19, Crime Prevention and Criminal Justice Priorities: a Spotlight on Vulnerable Groups". Summary Report*, , 30 November – 3 December 2020, [Online] available at: [http://www.unicri.it/sites/default/files/2021-01/UNICRI%20Virtual%20Meetings\\_Summary%20Report\\_0.pdf](http://www.unicri.it/sites/default/files/2021-01/UNICRI%20Virtual%20Meetings_Summary%20Report_0.pdf).
149. *Report by Thomas Hammarberg, the Council of Europe Commissioner for Human Rights on his visit to Cyprus on 7-10 July 2003 (CommDH(200836))*, Commissioner for Human Rights, 12 December 2008, [Online] available at: [https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CY/CoE\\_CYP\\_UPR\\_S06\\_2009\\_document7.pdf](https://lib.ohchr.org/HRBodies/UPR/Documents/Session6/CY/CoE_CYP_UPR_S06_2009_document7.pdf).
150. UN Commission on Human Security, *Human Security Now*, New York, 2003, [Online] available at: <https://digitallibrary.un.org/record/503749/files/Humansecuritynow.pdf>.
151. UN General Assembly, *Improving the coordination of efforts against trafficking in persons - Report of the Secretary-General (A/76/120)*, 28 June 2021, [Online] available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/A\\_76\\_120\\_E.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/A_76_120_E.pdf).
152. UN General Assembly, *Report of the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/41/46*, 23 April 2019, [Online] available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G19/112/06/PDF/G1911206.pdf?OpenElement>.
153. UN General Assembly, *Trafficking in persons, especially women and children: note / by the Secretary-General*, 3 August 2015, A/70/260, [Online] available at: <https://www.refworld.org/docid/55f28c1b4.html>.
154. UN General Assembly, *Trafficking in Women and Girls Report of the Secretary-General*, 7 August 2020, A/75/289, <https://undocs.org/A/75/289>.
155. UNODC, *Global Report on Trafficking in Persons 2022*, United Nations publication, New York, 2022, [Online] available at: [https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP\\_2022\\_web.pdf](https://www.unodc.org/documents/data-and-analysis/glotip/2022/GLOTiP_2022_web.pdf).
156. Walby, Sylvia; Towers, Jude; Francis, Brian *et al.* (European Commission), *Study on comprehensive policy review of anti-trafficking projects funded by the European Commission*, Luxembourg, 23 September 2016, file:///C:/Users/Asus/Downloads/study\_on\_comprehensive\_policy\_review%20(1).pdf.

157. Weissbrodt, David, and Anti-Slavery International (Office of the United Nations High Commissioner for Human Rights), *Abolishing Slavery and its Contemporary Forms*, United Nations, 2002, [Online] available at: <https://www.ohchr.org/Documents/Publications/slaveryen.pdf>.

## US Department of State's TIP reports

158. US department of State, *2022 Trafficking in Persons Report: Romania*, [Online] available at: <https://www.state.gov/reports/2022-trafficking-in-persons-report/romania/>.
159. US Department of State, *2023 Trafficking in Persons Report: Romania*, [Online] available at: <https://www.state.gov/reports/2023-trafficking-in-persons-report/romania/>.
160. US Department of State, *2023 Trafficking in Persons Report: Romania*, [Online] available at: <https://www.state.gov/reports/2023-trafficking-in-persons-report/romania/>.
161. US Department of State, *Trafficking in Persons Report June 2019*, [Online] available at: <https://www.state.gov/wp-content/uploads/2019/06/2019-Trafficking-in-Persons-Report.pdf>.
162. US Department of State, *Trafficking in Persons Report June 2020*, [Online] available at: <https://www.state.gov/wp-content/uploads/2020/06/2020-TIP-Report-Complete-062420-FINAL.pdf>.
163. US Department of State, *Trafficking in Persons Report, June 2012*, [Online] available at: <https://2009-2017.state.gov/j/tip/rls/tiprpt/2012/>.
164. US Department of State, *Trafficking in Persons Report, June 2013*, [Online] available at: <https://2009-2017.state.gov/j/tip/rls/tiprpt/2013/>.
165. US Department of State, *Trafficking in Persons Report, June 2014*, [Online] available at: <https://2009-2017.state.gov/j/tip/rls/tiprpt/2014/>.
166. US Department of State, *Trafficking in Persons Report, June 2015*, [Online] available at: <https://2009-2017.state.gov/j/tip/rls/tiprpt/2015/>.
167. US Department of State, *Trafficking in Persons Report, June 2016*, [Online] available at: <https://2009-2017.state.gov/j/tip/rls/tiprpt/2016/>.
168. US Department of State, *Trafficking in Persons Report, June 2017*, [Online] available at: <https://www.state.gov/wp-content/uploads/2019/02/271339.pdf>.
169. US Department of State, *Trafficking in Persons Report, June 2018*, [Online] available at: <https://www.state.gov/wp-content/uploads/2019/01/282798.pdf>.
170. US Department of State, *Trafficking in Persons Report, June 2021*, [Online] available at: <https://www.state.gov/wp-content/uploads/2021/09/TIPR-GPA-upload-07222021.pdf>.
171. US Department of State, *Trafficking in Persons Report, June 2022*, <https://www.state.gov/reports/2022-trafficking-in-persons-report/>.

## Other online reports and studies

172. "Briefing - Assessment of Ten Years of Swedish and Dutch Policies on Prostitution", *European Women's Lobby, Europeen des Femmes, CAP International*,



- August 2012, [Online] available at: <http://www.cap-international.org/wp-content/uploads/2017/10/Brief-prostitution-Sweden-and-Netherlands-EN-1.pdf>.
173. “France”, *Data Commons*, [Online] available at: [https://datacommons.org/place/country/FRA?utm\\_medium=explore&mprop=count&popt=Person&hl=en](https://datacommons.org/place/country/FRA?utm_medium=explore&mprop=count&popt=Person&hl=en).
174. “Romania”, *Data Commons*, [Online] available at: [https://datacommons.org/place/country/ROU?utm\\_medium=explore&mprop=count&popt=Person&hl=en](https://datacommons.org/place/country/ROU?utm_medium=explore&mprop=count&popt=Person&hl=en).
175. “Share of countries with full, partial or no legislation on trafficking in persons from 2003 to 2020”, in: *Statista Research Department*, April 2021, [Online] available at: <https://www.statista.com/statistics/300899/percentage-of-countries-by-legislation-on-trafficking-in-persons-by-region/>.
176. Bragă, Andreea; Neaga, Diana-Elena and Nica, Georgiana Anca, “TOATĂ LUMEA ȘTIA! Violența împotriva femeilor rome și nerome între ‘normal’ și normativ”, *Centrul Filia*, Editura Hecate, 2017, [Online] available at: [https://centrulfilia.ro/new/wp-content/uploads/2021/01/Toata-lumea-stia\\_coperta.pdf](https://centrulfilia.ro/new/wp-content/uploads/2021/01/Toata-lumea-stia_coperta.pdf).
177. Breslin, Ruth; Latham, Linda; and O’Connor, Monica, *Confronting the Harm: Documenting the Prostitution Experiences and Impacts on Health and Wellbeing of Women Accessing the Health Service Executive Women’s Health Service*, SERP, Dublin, 2021, [Online] available at: <https://serp.ie/wp-content/uploads/2023/02/Confronting-the-Harm-FINAL.pdf>.
178. Daniela Danna, “Report on prostitution laws in the European Union”, *La Strada International*, February 2014, [Online] available at: <https://documentation.lastradainternational.org/lisidocs/3048-EU-prostitution-laws.pdf>.
179. Djuranovic, Inja, *Trauma and coping. A study of women that were trafficked for the purpose of sexual exploitation in India*, Göteborgs Universitet, February 2009, [Online] available at: <https://core.ac.uk/download/pdf/16324342.pdf>.
180. Dr. Michaela Iuliana Nanu et al., *Report on Report Adolescent pregnancy in Romania*, Asociatia SAMAS & UNICEF, 8 January 2021, [Online] available at: <https://www.unicef.org/romania/media/4081/file/Adolescent%20Pregnancy%20in%20Romania%20Report.pdf>.
181. Estourgie, Savanne, *The fight against Human Trafficking. Why do countries ratify, but not all comply with the Palermo Protocol?*, Radboud University Nijmegen, March 2016, [Online] available at: [https://theses.uibn.ru.nl/bitstream/handle/123456789/1710/Estourgie%2C\\_Savanna\\_1.pdf?sequence=1](https://theses.uibn.ru.nl/bitstream/handle/123456789/1710/Estourgie%2C_Savanna_1.pdf?sequence=1).
182. Julia Planitzer and Helmut Sax (eds.), *A Commentary on the Council of Europe Convention on Action Against Trafficking in Human Beings*, Edward Elgar Publishing, 2020, [Online] available at: DOI 10.4337/9781788111560.
183. Kelleher Associates, Monica O’Connor and Jane Pillinger, *Globalisation, Sex Trafficking and Prostitution: The Experiences of Migrant Women in Ireland*, Immigrant Council of Ireland, Dublin, 2009, [Online] available at: <https://www.immigrantcouncil.ie/sites/default/files/2017-09/AT%202009%20Globalisation%2C%20Sex%20trafficking%20%26%20Prostitution%20Report%20SUMMARY.pdf>.

184. O'Connor, Monica, and Grainne Healy, *The Links between Prostitution and Sex Trafficking: A Briefing Handbook*, 2006, [Online] available at: <https://catwinternational.org/wp-content/uploads/2019/09/The-Links-between-Prostitution-and-Sex-Trafficking-A-Briefing-Handbook.pdf>.
185. OSCE, *Doubt in Favour of the Defendant, Guilty Beyond Reasonable Doubt. Comparative study*, 2016, [Online] available at: <https://atlas-of-torture.org/api/files/1596200461375uswbgj658ys.pdf>.
186. Reinschmidt, Lena, "Prostitution in Europe between Regulation and Prohibition. Comparing Legal Situations and Effects", *Observatory for Sociopolitical Developments in Europe*, Working Paper No. 13, May 2016, [Online] available at: <https://beobachtungsstelle-gesellschaftspolitik.de/f/52b9df1667.pdf>.
187. Smith, Linda A., Samantha Healy Vardaman, and Melissa A. Snow, "The National Report on Domestic Minor Sex Trafficking: America's Prostituted Children", *Shared Hope International*, May 2009, [Online] available at: [https://sharedhope.org/wp-content/uploads/2012/09/SHI\\_National\\_Report\\_on\\_DMST\\_2009.pdf](https://sharedhope.org/wp-content/uploads/2012/09/SHI_National_Report_on_DMST_2009.pdf).
188. *Survey conducted in 2017 by the Public Health Agency of Sweden*, [Online] available at: <https://swedishgenderequalityagency.se/men-s-violence-against-women/prostitution-and-human-trafficking/prostitution-policy-in-sweden-targeting-demand/>.
189. Wijers, Marjan, "Comparative study on National Rapporteurs on Trafficking in Human Beings and Equivalent Mechanisms", *Project Balkans ACT (Against Crime of Trafficking) Now!*, November 2018, [Online] available at: [https://www.qag-al.org/ang/publication/comparative\\_research.pdf](https://www.qag-al.org/ang/publication/comparative_research.pdf).

## Official pages and documents of international and EU institutions

190. "Portalul European e-justitie, Drepturile victimelor, pe țări. România", *European e-Justice Portal*, last update: 04/02/2021, [Online] available at: [https://e-justice.europa.eu/171/RO/victims\\_\\_rights\\_\\_by\\_country](https://e-justice.europa.eu/171/RO/victims__rights__by_country).
191. "United Nations Convention against Transnational Organized Crime and the Protocols Thereto", *UNODC*, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>.
192. Council of Europe, *Additional Protocol to the European Social Charter Providing for a System of Collective Complaints*, CETS No 158, Strasbourg, 9 November 1995, [Online] available at: <https://rm.coe.int/168007cdad>.
193. Council of Europe, Directorate General of Human Rights and Legal Affairs Gender Equality and Anti-Trafficking Division, *Action against Trafficking in Human Being*, Strasbourg, 8 October 2008, [Online] available at: <https://www.osce.org/files/f/documents/9/e/34289.pdf>.
194. Council of Europe, *GRETA country reports*, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/country-reports>.
195. Council of Europe, *Greta Meetings, Monitoring Mechanism*, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/meetings>.

196. Council of Europe, Monitoring mechanism, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/monitoring-mechanism>.
197. Council of Europe, *Romania*, [Online] available at: <https://www.coe.int/en/web/anti-human-trafficking/romania>.
198. Council of Europe: Committee of Ministers, *Resolution CM/Res(2013)28. Rules on the election procedure of the members of the Group of Experts on Action against Trafficking in Human Beings (GRETA)*, 24 October 2013, [Online] available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectID=09000016805c7260](https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016805c7260).
199. EUROJUST, *Joint investigation teams*, [Online] available at: <https://www.eurojust.europa.eu/term/joint-investigation-teams?search=human%20trafficking&criteria=publication&order=DESC&page=1>.
200. European e-Justice Portal, *National Justice Systems*, [Online] available at: [https://e-justice.europa.eu/16/EN/national\\_justice\\_systems](https://e-justice.europa.eu/16/EN/national_justice_systems).
201. *European Judicial Network*, [Online] available at: <https://www.ejn-crimjust.europa.eu/ejn2021/Home/EN>.
202. European Union: Council of the European Union, *Council Framework Decision of 15 March 2001 on the standing of victims in criminal proceedings* (OJ L 82 22.03.2001), [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32001F0220>.
203. European Union: Council of the European Union, *de Sousa Santos adopted by the Council on the basis of Article K.3 of the Treaty on European Union concerning action to combat trafficking in human beings and sexual exploitation of children* (OJ L 63 04.03.1997), [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:31997F0154>.
204. European Union: European Commission, *Child protection – integrating systems*, [Online] available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13884-Child-protection-integrating-systems\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13884-Child-protection-integrating-systems_en).
205. European Union: European Commission, *Commissioner Johansson's speech at the Joint Session of the EU Network of National Rapporteurs and/or Equivalent Mechanisms and EU Civil Society Platform against trafficking in human beings*, 21 October 2020, [Online] available at: [https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-joint-session-eu-network-national-0\\_en](https://ec.europa.eu/commission/commissioners/2019-2024/johansson/announcements/commissioner-johanssons-speech-joint-session-eu-network-national-0_en).
206. European Union: European Commission, *Communication from the Commission to the Council and the European Parliament on the application of Directive 2004/81 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities*, COM(2014) 635 final, Brussels, 17 October 2014, [Online] available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A52014DC0635>.
207. European Union: European Commission, *Communication from the Commission to the European Parliament and The Council Reporting on the follow-up to the EU Strategy*

- towards the Eradication of trafficking in human beings and identifying further concrete actions, Brussels: European Commission, 4 December 2017, [Online] available at: <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A52017DC0728>.
208. European Union: European Commission, *Data collection on trafficking in human beings in the EU*, Brussels, Publications Office, 2020, [Online] available at: <https://data.europa.eu/doi/10.2837/897741>.
209. European Union: European Commission, *EMPACT fighting crime together*, [https://ec.europa.eu/home-affairs/policies/law-enforcement-cooperation/operational-cooperation/empact-fighting-crime-together\\_en](https://ec.europa.eu/home-affairs/policies/law-enforcement-cooperation/operational-cooperation/empact-fighting-crime-together_en).
210. European Union: European Commission, *EU Civil Society E-Platform against THB*, [Online] available at: [https://europa.eu/sinapse/sinapse/index.cfm?fuseaction=login.redirect&redirect=cmyrestricted.home&CMTY\\_ID=3AEF24D6-C7A2-D9CE-B4A38C12F64D7C70&request=1](https://europa.eu/sinapse/sinapse/index.cfm?fuseaction=login.redirect&redirect=cmyrestricted.home&CMTY_ID=3AEF24D6-C7A2-D9CE-B4A38C12F64D7C70&request=1).
211. European Union: European Commission, *EU Civil Society Platform against THB 2021*, [Online] available at: <https://ec.europa.eu/anti-trafficking/system/files/2021-10/EU%20Civil%20Society%20Platform%20against%20THB%202021.pdf>.
212. European Union: European Commission, *Criminal justice – EU rules on victims' rights (update)*, [Online] available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13096-Criminal-justice-EU-rules-on-victims-rights-update-\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13096-Criminal-justice-EU-rules-on-victims-rights-update-_en).
213. European Union: European Commission, *Identified victim of trafficking in human beings*, [Online] available at: [https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/identified-victim-trafficking-human-beings\\_en](https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/identified-victim-trafficking-human-beings_en).
214. European Union: European Commission, *Launch of the EU Civil Society Platform against Trafficking in Human Beings*, Brussels, 31 MAY 2013, [Online] available at: [https://ec.europa.eu/anti-trafficking/launch-eu-civil-society-platform\\_en](https://ec.europa.eu/anti-trafficking/launch-eu-civil-society-platform_en).
215. European Union: European Commission, *Presumed victim of trafficking in human beings*, [Online] available at: [https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/presumed-victim-trafficking-human-beings\\_en](https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/presumed-victim-trafficking-human-beings_en).
216. European Union: European Commission, *Publications*, [Online] available at: [https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/publications\\_en](https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime-and-human-trafficking/together-against-trafficking-human-beings/publications_en).
217. European Union: European Commission, Sustainable Corporate Governance, [Online] available at: [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12548-Sustainable-corporate-governance_en).
218. European Union: European Commission, *Trafficking in Human Beings*, [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/trafficking-in-human-beings_en).
219. European Union: European Commission, *Transnational Referral Mechanism Model – TRM*, 23 May 2017, [https://ec.europa.eu/anti-trafficking/transnational-referral-mechanism-model-trm\\_en](https://ec.europa.eu/anti-trafficking/transnational-referral-mechanism-model-trm_en).

220. European Union: European Parliament, *Report on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights*, [Online] available at: [https://www.europarl.europa.eu/doceo/document/A-9-2023-0240\\_EN.html](https://www.europarl.europa.eu/doceo/document/A-9-2023-0240_EN.html).
221. European Union: European Parliament, *The Treaty of Lisbon, Fact Sheets on the European Union: European Parliament*, [Online] available at: <https://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon>.
222. European Union: European Parliament, *Ylva Johansson on behalf of the European Commission, Parliamentary questions*, 10 March 2021, [https://www.europarl.europa.eu/doceo/document/P-9-2020-006707-ASW\\_EN.html](https://www.europarl.europa.eu/doceo/document/P-9-2020-006707-ASW_EN.html).
223. EUROPOL, *EU Policy Cycle – EMPACT. EMPACT 2022+ Fighting crime together*, 20 January 2022, [Online] available at: <https://www.europol.europa.eu/crime-areas-and-statistics/empact>.
224. EUROPOL, *Exploiting Isolation: Sexual Predators Increasingly Targeting Children During Covid Pandemic*, 19 June 2020, [Online] available at: <https://www.europol.europa.eu/media-press/newsroom/news/exploiting-isolation-sexual-predators-increasingly-targeting-children-during-covid-pandemic>.
225. Interpol, *Fact Sheet - Trafficking in human beings*, 2017, [Online] available at: <https://www.interpol.int/en/Crimes/Human-trafficking/Our-role-in-fighting-human-trafficking>.
226. Interpol, *Types of human trafficking*, [Online] available at: <https://www.interpol.int/en/Crimes/Human-trafficking/Types-of-human-trafficking>.
227. IOM, *TACT – Transnational Referral Mechanism Model*, [Online] available at: <http://www.iomfrance.org/tact/>.
228. Maria Grazia Giammarinaro (United Nations Human Rights Office of the High Commissioner), *The Importance of Implementing the Non-Punishment Provision: The Obligation to Protect Victims*, 4 February 2021, [Online] available at: <https://www.ohchr.org/Documents/Issues/Trafficking/Non-Punishment-Paper.pdf>.
229. Marija Jovanovic (Council of Europe), *Comparison of Anti-Trafficking Legal Regimes and Actions in the Council of Europe and ASEAN: Realities, Frameworks and Possibilities for Collaboration*, Strasbourg, May 2018, [Online] available at: <https://rm.coe.int/coe-asean-study-thb/16808c1b91>.
230. OHCHR, *Working Group on Contemporary Forms of Slavery*, <https://www.ohchr.org/EN/Issues/Slavery/WGSlavery/Pages/WGSlaveryIndex.aspx>.
231. Organization for Security and Co-operation in Europe (OSCE), *Decision no. 2/03 Combating Trafficking in Human Beings, MC.DEC/2/03*, Maastricht, 2 December 2003, [Online] available at: <https://www.osce.org/files/f/documents/7/5/23866.pdf>.
232. Organization for Security and Co-operation in Europe (OSCE), *Declaration on Trafficking in Human Beings, MC(10).JOUR/2*, Porto, 7 December 2002, [Online] available at: <https://www.osce.org/files/f/documents/d/c/23862.pdf>.
233. *The United Nations Office on Drugs and Crime (UNODC)*, <https://www.unodc.org/unodc/en/unodc.html>.

234. United Nations Office on Drugs and Crime, *UNODC Concludes the 10th session of the Conference of the Parties to the UN Convention against Transnational Organized Crime*, Vienna, 19 October 2020, [Online] available at: <https://www.unodc.org/unodc/frontpage/2020/October/unodc-concludes-the-10th-session-of-the-conference-of-the-parties-to-the-un-convention-against-transnational-organized-crime.html>.
235. United Nations, *Conference of the Parties to the United Nations Convention against Transnational Organized Crime, CTOC/COP/2020/L.4/Rev.1*, Vienna, 8 October 2020, [Online] available at: [https://www.unodc.org/documents/treaties/UNTOC/COP/SESSION\\_10/Website/CTOC\\_COP\\_2020\\_L.4\\_REV.1/CTOC\\_COP\\_2020\\_L.4\\_REV.1\\_E.pdf](https://www.unodc.org/documents/treaties/UNTOC/COP/SESSION_10/Website/CTOC_COP_2020_L.4_REV.1/CTOC_COP_2020_L.4_REV.1_E.pdf).
236. United Nations, Human Rights and Human Trafficking. *Fact Sheet No. 36*, United Nations Human Rights, Office of the High Commissioner, New York and Geneva, 2014.
237. UNODC, *Mechanism for the Review of the Implementation of the United Nations Convention Against Transnational Organised Crime and the Protocols Thereto*, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/home.html>.
238. *What is the OSCE*, [Online] available at: <https://www.osce.org/whatistheosce>.
239. World Health Organisation, *Who Guiding Principles on Human Cell, Tissue and Organ Transplantation*, 2010, [Online] available at: [https://www.who.int/transplantation/Guiding\\_PrinciplesTransplantation\\_WHA63.22en.pdf](https://www.who.int/transplantation/Guiding_PrinciplesTransplantation_WHA63.22en.pdf).

## Guidelines and curriculums for professionals

240. “Program educational”, *eLiberare*, [Online] available at: <https://www.eliberare.com/educatie/> (accessed 27 August 2023).
241. ANITP, *Confederația Elvețiană, Identificarea, asistența și returnarea voluntară a victimelor traficului de ființe umane între Elveția și România*, Programul de cooperare Elvețiano-Român, 13 octombrie 2006, [Online] available at: [https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597\\_ANITP\\_Brosura\\_A5\\_ROMANA\\_13\\_OCTOMBRIE.pdf](https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597_ANITP_Brosura_A5_ROMANA_13_OCTOMBRIE.pdf).
242. David, Fiona; Bryant, Katharine, and Larsen, Jacqueline J., *Migrants and Their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour*, Geneva: International Organization for Migration (IOM), 2019, [Online] available at: <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour>.
243. de Sousa Santos, Boaventura (scientific coord.) *et al.*, *The Fight against Trafficking in Human Beings in EU: Promoting Legal Cooperation and Victims’ Protection*, HOME-2010-ISEC-AG-54, Vienna: European Commission, April 2014, [Online] available at: [https://ec.europa.eu/anti-trafficking/fight-against-trafficking-human-beings-eu-promoting-legal-cooperation-and-victims-protection\\_en](https://ec.europa.eu/anti-trafficking/fight-against-trafficking-human-beings-eu-promoting-legal-cooperation-and-victims-protection_en).

244. ECPAT International, *Interagency Working Group on Sexual Exploitation of Children, Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse*, Bangkok, 2016, [Online] available at: <https://ecpat.org/wp-content/uploads/2021/05/Terminology-guidelines-396922-EN-1.pdf>.
245. ECPAT International, *The Commercial Sexual Exploitation of Children in Europe. Developments, Progress, Challenges and Recommended Strategies for Civil Society*, November 2014, [Online] available at: [https://childhub.org/sites/default/files/library/attachments/regional\\_csec\\_overview\\_europe.pdf](https://childhub.org/sites/default/files/library/attachments/regional_csec_overview_europe.pdf).
246. Eurojust, *Eurojust Report on Trafficking in Human Beings Best practice and issues in judicial cooperation*, February 2021, [Online] available at: <https://www.cig.gov.pt/wp-content/uploads/2021/02/Relatorio-Eurojust-TSH.pdf>.
247. European Commission, *EU Guidelines for the Promotion and Protection of the Rights of the Child (2017) Leave no child behind*, 12 April 2017, [Online] available at: [https://ec.europa.eu/anti-trafficking/sites/default/files/eu\\_guidelines\\_rights\\_of\\_child\\_0.pdf](https://ec.europa.eu/anti-trafficking/sites/default/files/eu_guidelines_rights_of_child_0.pdf).
248. Hancilova, Blanka and Massey, Camille, *Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States*, Vienna: International Centre for Migration Policy Development (ICMPD), 2009, [Online] available at: [https://www.icmpd.org/file/download/48679/file/Evaluation\\_EU\\_MS\\_THB\\_legislation.pdf](https://www.icmpd.org/file/download/48679/file/Evaluation_EU_MS_THB_legislation.pdf).
249. International Centre for Migration Policy Development (ICMPD), *Legislation and the Situation Concerning Trafficking in Human Beings for the Purpose of Sexual Exploitation in EU Member States*, 2009, [Online] available at: [https://www.icmpd.org/file/download/48679/file/Evaluation\\_EU\\_MS\\_THB\\_legislation.pdf](https://www.icmpd.org/file/download/48679/file/Evaluation_EU_MS_THB_legislation.pdf).
250. International Centre for Migration Policy Development (ICMPD), *Anti-Trafficking Training Material for Judges and Prosecutors Handbook in EU Member States and Accession and Candidate Countries*, Vienna, 2006, [Online] available at: [https://documentation.lastradainternational.org/lisidocs/540%20AGIS\\_JUD\\_Handbook.pdf](https://documentation.lastradainternational.org/lisidocs/540%20AGIS_JUD_Handbook.pdf).
251. International Labour Organization (ILO), *Judges, prosecutors and legal aid practitioners' training on forced labour*, 2018, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms\\_686734.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/publication/wcms_686734.pdf).
252. Inter-Parliamentary Union and UNODC, *Combating Trafficking in Persons. A Handbook for Parliamentarians N°16*, 2009, [Online] available at: <https://www.ipu.org/resources/publications/handbooks/2016-07/handbook-parliamentarians-combating-trafficking-in-persons>.
253. OSCE, *Resource Police Training Guide: Trafficking in Human Beings*, TNTD/SPMU Publication Series Vol. 12, Vienna, July 2013, [Online] available at: <https://www.osce.org/files/f/documents/8/9/109935.pdf>.

254. Swepston, Lee (ILO), *Forced and Compulsory Labour in International Human Rights Law*, May 2014, [Online] available at: [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_342966.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_342966.pdf).
255. United Nations Children's Fund (UNICEF), *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, 2006, [Online] available at: <https://www.refworld.org/docid/49997af7d.html>.
256. United Nations Office on Drugs and Crime (UNODC), *Model Law against Trafficking in Persons*, Vienna, 5 August 2009, p.13, [Online] available at: [https://www.unodc.org/documents/human-trafficking/Model\\_Law\\_against\\_TIP.pdf](https://www.unodc.org/documents/human-trafficking/Model_Law_against_TIP.pdf).
257. United Nations Office on Drugs and Crime (UNODC), *Issue Paper. The Role of 'Consent' in the Trafficking in Persons Protocol*, Vienna, 2014, [Online] available at: [https://www.unodc.org/documents/human-trafficking/2014/UNODC\\_2014\\_Issue\\_Paper\\_Consent.pdf](https://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf).
258. UNODC, *Anti-human trafficking manual for criminal justice practitioners. Module 11*, New York, 2009, [Online] available at: [https://www.unodc.org/documents/human-trafficking/TIP\\_module11\\_Ebook.pdf](https://www.unodc.org/documents/human-trafficking/TIP_module11_Ebook.pdf).
259. UNODC, *Issue Paper. Abuse of a position of vulnerability and other "means" within the definition of trafficking in persons*, New York, 2013, [Online] available at: [https://www.unodc.org/documents/human-trafficking/2012/UNODC\\_2012\\_Issue\\_Paper\\_-\\_Abuse\\_of\\_a\\_Position\\_of\\_Vulnerability.pdf](https://www.unodc.org/documents/human-trafficking/2012/UNODC_2012_Issue_Paper_-_Abuse_of_a_Position_of_Vulnerability.pdf).
260. UNODC, OHCHR, UNHCR, UNICEF, ILO, UN Women, *Joint UN Commentary on the EU Directive – A Human Rights-Based Approach*, November 2011, [Online] available at: [https://ec.europa.eu/anti-trafficking/joint-un-commentary-eu-directive-human-rights-based-approach\\_en](https://ec.europa.eu/anti-trafficking/joint-un-commentary-eu-directive-human-rights-based-approach_en).
261. UNODC, *Toolkit to Combat Trafficking in Persons*, Global Programme Against Trafficking in Human Beings, 2<sup>nd</sup> Edition, New York, 2008, [Online] available at: [https://ec.europa.eu/anti-trafficking/toolkit-combat-trafficking-persons\\_en](https://ec.europa.eu/anti-trafficking/toolkit-combat-trafficking-persons_en).

## Romanian legislation, case law and public police documents

262. "Codul Penal din 2009 (Legea nr. 286/2009), Monitorul Oficial nr. 510 din 2009, cu modificările și completările ulterioare", *Sintact*, [Online] available at: <https://sintact.ro/#/act/16901302/77?directHit=true&directHitQuery=noul%20cod%20penal&pit=2023-04-14>.
263. "Codul Penal din 2009 (Legea nr. 286/2009), Monitorul Oficial nr. 510 din 2009, cu modificările și completările ulterioare", *Sintact*, [Online] available at: <https://sintact.ro/#/act/16901302/77?directHit=true&directHitQuery=noul%20cod%20penal&pit=2023-04-14>.
264. "Codul Penal din 1968 CODUL PENAL – Republicare", *Sintact*, [Online] available at: <https://sintact.ro/#/act/16785596/61/codul-penal-din-1968-codul-penal-republicare?keyword=codul%20penal%201969&cm=STOP>.
265. "Codul de Procedură Penală din 2010 (LEGEA nr. 135/2010), Monitorul Oficial nr. 486 din 2010, cu modificările și completările ulterioare", *Sintact*, [Online] available



- at: <https://sintact.ro/#/act/16910517/129/codul-de-procedura-penala-din-2010-legea-nr-135-2010?keyword=cod%20de%20procedura%20penala&cm=SFIRST>.
266. “Decizia Prim-Ministrului nr. 22/2023 privind constituirea și atribuțiile Comitetului interministerial de coordonare strategică intersectorială a luptei împotriva traficului de persoane”, publicată în Monitorul Oficial, Partea I nr. 85 din 31 ianuarie 2023, in: *Lege 5*. În vigoare de la 31 ianuarie 2023, [Online] available at: <https://lege5.ro/gratuit/geztenzqg42ds/decizia-nr-22-2023-privind-constituirea-si-atributiile-comitetului-interministerial-de-coordonare-strategica-intersectoriala-a-luptei-impotriva-trafficului-de-persoane>.
267. “Decizie din 09-iul-2020 Curtea de Apel - Bucuresti, Sectia II penala”, *Sintact*, [Online] available at: <https://sintact.ro/#/jurisprudence/534349697/1/decizie-nr-658-2020-din-09-iul-2020-curtea-de-apel-bucuresti-proxenetismul-art-213-ncp-penal?keyword=Decizie%20nr.%20658~2F2020%20din%2009-iul-2020,%20Curtea%20de%20Apel%20Bucuresti,%20proxenetismul%20&cm=SFIRST>.
268. “Decizie nr. 134/2018 din 29-mai-2018 Înalta Curte de Casație și Justiție București”, *Sintact*, [Online] available at: <https://sintact.ro/#/jurisprudence/520787050?cm=DOCUMENT>.
269. “Decizie nr. 227/2021 din 22-iul-2021, Tribunalul Arges, traficul de persoane (art.210 NCP) (Penal)”, *Sintact*, [Online] available at: [https://sintact.ro/#/jurisprudence/535438631/1/decizie-nr-227-2021-din-22-iul-2021-tribunalul-arges-trafficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20227~2F2021%20din%2022-iul-2021,%20Tribunalul%20Arges,%20traficul%20de%20persoane%20\(art.210%20NCP\)%20\(Penal\)&cm=SFIRST](https://sintact.ro/#/jurisprudence/535438631/1/decizie-nr-227-2021-din-22-iul-2021-tribunalul-arges-trafficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20227~2F2021%20din%2022-iul-2021,%20Tribunalul%20Arges,%20traficul%20de%20persoane%20(art.210%20NCP)%20(Penal)&cm=SFIRST).
270. “LEGE nr. 300 din 11 iulie 2006”, *Camera deputaților*, [Online] available at: [https://www.cdep.ro/pls/legis/legis\\_pck.htp\\_act?ida=65910](https://www.cdep.ro/pls/legis/legis_pck.htp_act?ida=65910).
271. “LEGE nr. 565 din 16 octombrie 2002”, *Portal legislativ*, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/39747>.
272. “LEGE nr. 678 din 21 noiembrie 2001 (actualizată)”, *ANITP*, [Online] available at: [https://anitp.mai.gov.ro/ro/docs/legislatie/678\\_2001.pdf](https://anitp.mai.gov.ro/ro/docs/legislatie/678_2001.pdf).
273. “LEGE nr. 678 din 21 noiembrie 2001 privind prevenirea și combaterea traficului de persoane”, *Camera deputaților*, [Online] available at: [https://www.cdep.ro/pls/legis/legis\\_pck.htp\\_act\\_text?id=30767](https://www.cdep.ro/pls/legis/legis_pck.htp_act_text?id=30767).
274. “Legea 211/2004 privind unele măsuri pentru asigurarea informării, sprijinirii și protecției victimelor infracțiunilor, Monitorul Oficial nr. 505 din 2004, cu modificările și completările ulterioare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16851672/9/legea-211-2004-privind-unele-masuri-pentru-asigurarea-informarii-sprajinirii-si-protectiei...?keyword=legea%20211~2F2004%20&cm=SFIRST>.
275. “Legea 318/2015 pentru înființarea, organizarea și funcționarea Agenției Naționale de Administrare a Bunurilor Indisponibilizate și pentru modificarea și completarea unor acte normative, Monitorul Oficial nr. 961 din 2015, cu modificările și

- completările ulterioare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16952146/4/legea-318-2015-pentru-infiintarea-organizarea-si-functionarea-agentiei-nationale-de-administrare...?keyword=Legea%20318~2F2015%20&cm=SFIRST>.
276. “Legea 682/2002 privind protecția martorilor - REPUBLICARE\*”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16837598/7/legea-682-2002-privind-protectia-martorilor-republicare?keyword=legea%20682~2F2002%20&cm=SFIRST>.
277. “Legea 76/2002 privind sistemul asigurarilor pentru somaj si stimularea ocuparii fortei de munca, Monitorul Oficial nr. 103 din 2002, cu modificările și completările ulterioare”, *Sintact*, [Online] available at: <https://sintact.ro/#/act/16830953/46?directHit=true&directHitQuery=Legea%20nr.%2076%2F2002>.
278. “Noul Cod de Procedură Penală”, *Legea de la A la Z*, <https://legeaz.net/noul-cod-procedura-penala-ncpp/art-16>.
279. “Principiul independenței judecătorilor și supunerii lor numai legii”, *Legea de la A la Z*, [Online] available at: <https://legeaz.net/dictionar-juridic/principiul-independentei-judecatorilor-si-supunerii-lor-numai-legii#comentarii>.
280. “Sentinta din 16-mar-2023 Tribunalul SUCEAVA Suceava, Sectia penala”, *Sintact*, [Online] available at: <https://sintact.ro/#/jurisprudence/553759802/1/sentinta-nr-rj-86452-de-62-2023-din-16-mar-2023-tribunalul-suceava-traficul-de-persoane-art-210...?keyword=decizie%20RJ%2086452de62~2F2023%20&cm=SFIRST>.
281. Consiliul Superior al Magistraturii, *Hotărârea nr. 600/13.05.2021*, [Online] available at: [http://old.csm1909.ro/csm/linkuri/24\\_05\\_2021\\_\\_102012\\_ro.pdf](http://old.csm1909.ro/csm/linkuri/24_05_2021__102012_ro.pdf).
282. Consiliul Superior al Magistraturii, Inspekția Judiciară, *Raportul privind practica instanțelor de judecată și a parchetelor de pe lângă acestea în investigarea și soluționarea cauzelor privind infracțiuni la viața sexuală cu victime minore*, 27 iulie 2021, [Online] available at: <https://www.csm1909.ro/ViewFile.ashx?guid=1c656a33-bd25-4118-85f1-6411fdeb1c4f-InfoCSM>.
283. *Constituția României*, [Online] available at: <https://www.constitutiariomaniei.ro/>.
284. Guvernul României, *HOTĂRÂRE nr. 49 din 19 ianuarie 2011*, [Online] available at: [https://legislatie.just.ro/Public/DetaliiDocumentAfis/126229\\_](https://legislatie.just.ro/Public/DetaliiDocumentAfis/126229_)
285. Guvernul României, *Mecanism național din 31 ianuarie 2023 de identificare și referire a victimelor traficului de persoane, publicat în Monitorul oficial nr. 95 bis din 3 februarie 2023*, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocument/265243>.
286. Guvernul României, *Mecanism național din 31 ianuarie 2023 de identificare și referire a victimelor traficului de persoane, publicat în Monitorul oficial nr. 95 bis din 3 februarie 2023*, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocument/265243ANITP>, “Mecanismul național de identificare și referire a victimelor traficului de persoane, Publication co-financed by the Internal Security Fund - Police Cooperation”, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/Proiecte/ISF01/MNIR%20Lb%20Romana.pdf>.
287. Guvernul României, *Ordonanță de urgență nr. 143 din 28 octombrie 2022 pentru modificarea art. 17 din Ordonanța Guvernului nr. 25/2014 privind încadrarea în muncă și detașarea străinilor pe teritoriul României și pentru modificarea și*

- completarea unor acte normative privind regimul străinilor în România, publicat în Monitorul oficial nr. 1049 din 28 octombrie 2022, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/260845>.*
288. Guvernul României, *Plan comun de acțiune pentru combaterea traficului de persoane între Guvernul României și Guvernul Regatului Unit al Marii Britanii și Irlandei de Nord*, 18 mai 2023, [Online] available at: <https://gov.ro/ro/media/comunicate/plan-comun-de-actiune-pentru-combaterea-traficului-de-persoane-intre-guvernul-romaniei-i-guvernul-regatului-unit-al-marii-britanii-i-irlandei-de-nord&page=1>.
289. Guvernul României, *România câștigă credibilitate și recunoaștere în lupta împotriva traficului de persoane*, 20 iulie 2022, [Online] available at: <https://gov.ro/ro/stiri/romania-ca-tiga-credibilitate-i-recunoa-tere-in-lupta-impotriva-traficului-de-persoane>.
290. ANITP, “HOTĂRÂRE nr. 460 din 11 mai 2011 privind organizarea și funcționarea Agenției Naționale împotriva Traficului de Persoane”, Publicat în MONITORUL OFICIAL nr. 331 din 12 mai 2011 Data intrării în vigoare 12-05-2011 [Online] available at: <https://anitp.mai.gov.ro/ro/docs/legislatie/460-2011-modificat-1.pdf>.
291. *Informații generale relevante | Hotărâre 1142/2012*, [Online] available at: <https://lege5.ro/Gratuit/gmztkojyqg/informatii-generale-relevante-hotarare-1142-2012-anexa-nr-1-strategia-nationala-impotriva-traficului-de-persoane-pentru-perioada-2012-2016?dp=gyztgmbwgaytm>.
292. Iugan, Andrei Viorel, “*Codul Penal adnotat. Partea speciala. Jurisprudență națională 2014-2020 din 01-iul-2021*”, in: *Universul Juridic*, art. 188., [Online] available at: <https://sintact.ro/#/commentary/587237868/1/iugan-andrei-viorel-codul-penal-adnotat-partea-speciala-jurisprudenta-nationala-2014-2020-din-01...?pit=2023-04-14&keyword=dec.%20pen.%20nr.%20134~2F29.05.2018&cm=SFIRST>.
293. Ministerul Justiției, *Proiectul de Hotărâre de Guvern pentru aprobarea Metodologiei de emiter, distribuie și decontare a voucherelor destinate victimelor infracțiunii, pentru stabilirea cuantumului acestora, precum și a criteriilor de selectare a entităților publice și private înrolate în mecanismul de acordare și pentru completarea Hotărârii Guvernului nr. 652/2009 privind organizarea și funcționarea Ministerului Justiției*, [Online] available at: <https://www.just.ro/proiectul-de-hotarare-de-guvern-pentru-aprobarea-metodologiei-de-emitere-distribuie-si-decontare-a-voucherelor-destinate-victimelor-infracțiunii-pentru-stabilirea-cuantumului-acestora-precum-si-a/>.
294. Parlamentul României, Camera Deputaților, *PLx. 602/2022*, București, 21 martie 2023, [Online] available at: [https://www.cdep.ro/comisii/administratie/pdf/2023/rs602\\_22.pdf](https://www.cdep.ro/comisii/administratie/pdf/2023/rs602_22.pdf).
295. Parlamentul României, Camera Deputaților, *Proiect de Lege pentru modificarea și completarea Legii nr.678/2001 privind prevenirea și combaterea traficului de persoane, precum și pentru completarea Ordonanței de urgență nr.97/2005 privind*

- evidența, domiciliul, reședința și actele de identitate ale cetățenilor români*, [Online] available at: [https://www.cdep.ro/pls/proiecte/upl\\_pck2015.proiect?idp=20377](https://www.cdep.ro/pls/proiecte/upl_pck2015.proiect?idp=20377).
296. Parlamentul României, *Lege nr. 217 din 29 octombrie 2020 pentru modificarea și completarea Legii nr. 286/2009 privind Codul penal, precum și pentru modificarea art. 223 alin. (2) din Legea nr. 135/2010 privind Codul de procedură penală*, publicat în Monitorul oficial nr. 1012 din 30 octombrie 2020, [Online] available at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/231967>.
297. *Planul Național de Acțiune 2018-2020 pentru implementarea Strategiei naționale împotriva traficului de persoane pentru perioada 2018-2022 | Hotărâre 861/2018*, [Online] available at: <https://lege5.ro/Gratuit/gmydqojxhe3a/planul-national-de-actiune-2018-2020-pentru-implementarea-strategiei-nationale-impotriva-traficului-de-persoane-pentru-perioada-2018-2022-hotarare-861-2018?dp=gi3tgnbqqg3dinq>.
298. Secretariatul General al Guvernului, *Strategia națională împotriva traficului de persoane pentru perioada 2018 – 2022 (Anexa 1)*, [Online] available at: <https://sgg.gov.ro/1/wp-content/uploads/2018/10/ANEXA-1-22.pdf>.

## Romanian national reports, studies and press releases

299. ANITP, *Raport privind evoluția traficului de persoane în anul 2013*, București, 2014, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/Cercetare/RapoarteAnuale/Rap%20anual%202013.pdf>.
300. ANITP, *Raport privind evoluția traficului de persoane în anul 2014*, București, 2014, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/studii/Raport%20anual%202014.pdf>.
301. ANITP, *Raport privind evoluția traficului de persoane în anul 2015*, București, 2016, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/Cercetare/RapoarteAnuale/Raport%20anual%20trafic%202015.pdf>.
302. ANITP, *Raport privind evoluția traficului de persoane în anul 2016*, București, 2017, [Online] available at: <https://anitp.mai.gov.ro/raport-privind-evolutia-traficul-de-persoane-in-anul-2016/>.
303. ANITP, *Raport privind evoluția traficului de persoane în anul 2017*, București, 2018, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/Cercetare/RapoarteAnuale/Raport-national-2017final.pdf>.
304. ANITP, *Raport privind evoluția traficului de persoane în anul 2018*, București, 2019, [Online] available at: <https://anitp.mai.gov.ro//ro/docs/studii/Raport%20national%202018.pdf>.
305. ANITP, *Raport privind fenomenul traficului de persoane în anul 2019*, București, 2020, [Online] available at: <https://anitp.mai.gov.ro//ro/docs/studii/Raport%20anual%20privind%20fenomenul%20traficului%20de%20persoane%20in%202019.pdf>.
306. ANITP, *Raport privind fenomenul traficului de persoane în anul 2020*, București, 2021, [Online] available at: <https://anitp.mai.gov.ro//ro/docs/studii/Raport%20anual%202020.pdf>.

307. ANITP, *Raport privind fenomenul traficului de persoane în anul 2021*, București, 2022, [Online] available at: <https://anitp.mai.gov.ro/ro/docs/studii/Raport%20anual%202021.pdf>.
308. ANITP, *Datele deschise privind situația victimelor traficului de persoane în anul 2022*, 6 aprilie 2023, [Online] available at: <https://data.gov.ro/dataset/datele-deschise-privind-situatia-victimelor-traficului-de-persoane-in-anul-2022/resource/f10759c1-461e-4d45-901d-e4a259b47a1c>.
309. ANITP, *Programul de cooperare elvețiano-român, Identificarea, asistența și returnarea voluntară a victimelor traficului de ființe umane între Elveția și România*, [Online] available at: [https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597\\_ANITP\\_Brosura\\_A5\\_ROMANA\\_13\\_OCTOMBRIE.pdf](https://anitp.mai.gov.ro/ro/docs/Proiecte/PIP/3597_ANITP_Brosura_A5_ROMANA_13_OCTOMBRIE.pdf).
310. ANITP, *Rapoarte anuale*, [Online] available at: <https://anitp.mai.gov.ro/subiectele/cercetare/rapoarte-anuale/>.
311. DIICOT, *Comunicat de presa 08.02.2023*, <https://www.diicot.ro/mass-media/3862-comunicat-de-presa-08-02-2023>.
312. Draguș, Mihaela (ANITP), *Reuniunea comitetului interministerial de monitorizare a implementării strategiei naționale de prevenire și combatere a traficului de persoane*, 12 decembrie 2022, [Online] available at: <https://anitp.mai.gov.ro/reuniunea-comitetului-interministerial-de-monitorizare-a-implementarii-strategiei-nationale-de-prevenire-si-combatere-a-traficului-de-persoane/>.
313. Government of Romania, *Prime Minister Nicolae-Ionel Ciucă's working meeting for the analysis of the results achieved by Romania in preventing and combating trafficking in human beings*, Press release in 20 January 2022, [Online] available at: <https://gov.ro/en/news/prime-minister-nicolae-ionel-ciuca-s-working-meeting-for-the-analysis-of-the-results-achieved-by-romania-in-preventing-and-combating-trafficking-in-human-beings>.
314. IGPR, *Combaterea traficului de persoane, prioritate a autorităților române*, Press release, January 25th, 2022, [Online] available at: <https://www.politiaromana.ro/ro/stiri-si-media/stiri/combaterea-traficului-de-persoane-prioritate-a-autoritatilor-romane>.
315. MAI, *Evaluarea calitativă a implementării și analiza datelor STRATEGIEI NAȚIONALE ÎMPOTRIVA TRAFICULUI DE PERSOANE 2018-2022*, [Online] available at: <chrome-extension://efaidnbmnnnbpcajpglclefndmkaj/https://anitp.mai.gov.ro/ro/docs/Despre%20Noi/Anexe/Raport%20SNITP%2031%20Aug.pdf>.
316. Poliția Română, *Oficiul Național pentru Protecția Martorilor*, [Online] available at: <https://www.politiaromana.ro/ro/politia-romana/unitati-centrale/oficiul-national-pentru-protectia-martorilor>.
317. U.S. Mission Romania, *Raportul privind traficul de persoane (2020), Ambasada SUA în România*, 21 July 2020, <https://ro.usembassy.gov/ro/raportul-privind-traficul-de-persoane-2020/>.

## Other countries' Criminal Codes and legislation

318. "Executive Order - Strengthening Protections Against Trafficking In Persons In Federal Contracts", *The White House – President Barack Obama*, September 25, 2012, <https://obamawhitehouse.archives.gov/the-press-office/2012/09/25/executive-order-strengthening-protections-against-trafficking-persons-fe>.
319. Bundesministerium der Justiz, *Gesetz zur Regelung der Rechtsverhältnisse der Prostituierten (Prostitutionsgesetz - ProstG)*, 20.12.2001, [Online] available at: <http://www.gesetze-im-internet.de/prostg/ProstG.pdf>.
320. *Criminal Code of the Republic of Moldova, No. 985-XV of 18 April 2002, Official Monitor of the Republic of Moldova, No.128-129/1012* of 13 September 2002, <https://www.legislationline.org/documents/action/popup/id/4826>.
321. Eerste Kamer der Staten Generaal, *Wet Regulering prostitutie en Bestrijding Misstanden Sexbranche*, [Online] available at: [https://www.eerstekamer.nl/wetsvoorstel/32211\\_wet\\_regulering\\_prostitutie](https://www.eerstekamer.nl/wetsvoorstel/32211_wet_regulering_prostitutie).
322. *French Penal Code*, [Online] available at: [https://www.equalrightstrust.org/ertdocumentbank/french\\_penal\\_code\\_33.pdf](https://www.equalrightstrust.org/ertdocumentbank/french_penal_code_33.pdf).
323. *International and Domestic Law*, U.S. Department of State, <https://www.state.gov/international-and-domestic-law/>.
324. *Legge Merlin, Legge, 20/02/1958 n° 75*, [Online] available at: <https://www.altalex.com/documents/leggi/2013/10/24/legge-merlin>.
325. *LOI n° 2016-444 du 13 avril 2016 visant à renforcer la lutte contre le système prostitutionnel et à accompagner les personnes prostituées (1)*, [Online] available at: <https://www.legifrance.gouv.fr/loda/id/JORFTEXT000032396046/>.
326. Ministerio de Justicia, *Criminal Code*, 2016, [Online] available at: [https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documentos/Criminal\\_Code\\_2016.pdf](https://www.mjusticia.gob.es/es/AreaTematica/DocumentacionPublicaciones/Documentos/Criminal_Code_2016.pdf).
327. *The Swedish Criminal Code*, SFS 1962:700 Brottsbalken, updated 2 December 2022, [Online] available at: <https://www.government.se/contentassets/7a2dcae0787e465e9a2431554b5eab03/the-swedish-criminal-code.pdf>.
328. United States of America, *Victims of Trafficking and Violence Protection Act of 2000*, Public Law 106-386 [H.R. 3244], 28 October 2000, <https://www.govinfo.gov/content/pkg/PLAW-106publ386/pdf/PLAW-106publ386.pdf>.

## Articles in online journals or magazines

329. "Integrating Equality: Globalization, Women's Rights, and Human Trafficking", in: *International Studies Quarterly*, 2013, Vol. 57, No. 4, pp. 683–697, *JSTOR*, [Online] available at: <http://www.jstor.org/stable/24014642>.
330. Aduhene-Kwarteng, Kwame, "The Influence of Globalization on Human Trafficking", in: *Research Gate*, January 2018, [Online] available at: [Online] available at: [https://www.researchgate.net/publication/320753277\\_The\\_influence\\_of\\_globalization\\_on\\_Human\\_trafficking](https://www.researchgate.net/publication/320753277_The_influence_of_globalization_on_Human_trafficking).

331. Antunes, Sandrina and Isabel Camisão, "Introducing Realism in International Relations Theory", in: *e-International Relations*, February 27, 2018, in: *e-International Relations*, [Online] available at: <https://www.e-ir.info/2018/02/27/introducing-realism-in-international-relations-theory/>.
332. Barry, Kathleen, "Prostitution of sexuality: A cause for new international human rights", in: *Journal of Personal and Interpersonal Loss*, Vol. 2, Issue 1, 1997, [Online] available at: doi:10.1080/10811449708414404.
333. Bassiouni, Cherif; Rothenberg, Daniel; Higonnet, Ethel *et al.*, "Addressing International Human Trafficking in Women and Children for Commercial Sexual Exploitation in the 21st century", in: *Revue internationale de droit pénal*, 2010/3 (Vol. 81), pp. 417-491, DOI: 10.3917/ridp.813.0417, <https://www.cairn-int.info/journal-revue-internationale-de-droit-penal-2010-3-page-417.htm>.
334. Bell, Duncan. "What Is Liberalism?", in: *Political Theory*, Vol. 42, No. 6, 2014, pp. 682–715, *JSTOR*, [Online] accessible at: [www.jstor.org/stable/24571524](http://www.jstor.org/stable/24571524).
335. Bernstein, Elizabeth, "The Sexual Politics of the 'New Abolitionism'", in: *Differences: a Journal of Feminist Cultural Studies*, Vol. 18, Issue 3, 2007, [Online] available at: <https://doi.org/info:doi/>.
336. Bertone, Andrea M. "Transnational Activism to Combat Trafficking in Persons", in: *The Brown Journal of World Affairs*, Vol. 10, No. 2, 2004, *JSTOR*, [Online] available at: [www.jstor.org/stable/24590517](http://www.jstor.org/stable/24590517).
337. Bosma, Alice and Rijken, Conny, "Key Challenges in the Combat of Human Trafficking: Evaluating the EU Trafficking Strategy and EU Trafficking Directive", in: *New Journal of European Criminal Law*, Vol. 7, Issue 3, 2016, [Online] available at: doi:10.1177/203228441600700306.
338. Brewer, Devin, "Globalization and Human Trafficking", in: *Topical Research Digest: Human Rights and Human Trafficking*, University of Denver, 2008, [Online] available at: [https://www.unodc.org/e4j/data/\\_university\\_uni\\_/globalisation\\_and\\_human\\_trafficking.html?lng=en](https://www.unodc.org/e4j/data/_university_uni_/globalisation_and_human_trafficking.html?lng=en).
339. Campbell, Brian, "The Cocoa Protocol: Success or Failure?", in: *International Labour Rights Forum*, June 30, 2008, [Online] available at: <https://laborrights.org/sites/default/files/publications-and-resources/Cocoa%20Protocol%20Success%20or%20Failure%20June%202008.pdf>.
340. Casassa, Kaitlin; Knight, Logan, and Mengo, Cecilia, "Trauma Bonding Perspectives from Service Providers and Survivors of Sex Trafficking: A Scoping Review", in: *Trauma, Violence, & Abuse*, 2021, [Online] available at: doi:10.1177/1524838020985542, [journals.sagepub.com/home/tva](https://journals.sagepub.com/home/tva).
341. Chaudary, Saadiya, "Trafficking in Europe: An Analysis of the Effectiveness of European Law", in: *Michigan Journal of International Law*, Vol. 3, Issue 1, [Online] available at: <https://repository.law.umich.edu/mjil/vol33/iss1/505>.
342. Chuang, Janie A., "Exploitation Creep and the Unmaking of Human Trafficking Law", in: *The American Journal of International Law*, Vol. 108, No. 4, October 2014), [Online] available at: doi:10.5305/amerjintelaw.108.4.0609.

343. Chuang, Janie, "Redirecting the Debate over Trafficking in Women: Definitions, Paradigms, and Contexts", in: *Harvard Human Rights Journal*, 1998, Vol. 11, [Online] available at: [https://digitalcommons.wcl.american.edu/facsch\\_lawrev/1541](https://digitalcommons.wcl.american.edu/facsch_lawrev/1541).
344. Cockbain, Ella and Bowers, Kate, "Human trafficking for sex, labour and domestic servitude: how do key trafficking types compare and what are their predictors?", in: *Crime, Law and Social Change*, Vol. 72, 25 April 2019, [Online] available at: <https://doi.org/10.1007/s10611-019-09836-7>.
345. Doezema, Jo, "Who Gets to Choose? Coercion, Consent, and the UN Trafficking Protocol", in: *Gender and Development*, Vol. 10, No. 1, 2002, pp. 20-27, [Online] available at: <http://www.jstor.org/stable/4030678>.
346. Dupont, Jonathan "The European Anti-Human Trafficking Legal and Policy Framework: The Council of Europe and the EU", in *Acams Today Magazine*, September 4, 2020, [Online] available at: <https://www.acamstoday.org/the-european-anti-human-trafficking-legal-and-policy-framework-the-council-of-europe-and-the-eu/>.
347. Duško Peulić, *Human Trafficking: A Threat to State Security and Human Security*, January 2017, DOI: 10.7251/BPG1701069P, [Online] available at: [https://www.researchgate.net/publication/317205202\\_human\\_trafficking\\_a\\_threat\\_to\\_state\\_security\\_and\\_human\\_security](https://www.researchgate.net/publication/317205202_human_trafficking_a_threat_to_state_security_and_human_security).
348. Farley, Melissa, "Prostitution and Trafficking in Nine Countries: An Update on Violence and Posttraumatic Stress Disorder", in: *Journal of Trauma Practice*, Vol. 2, 2003, [Online] available at: [doi.org/10.1300/J189v02n03\\_03](https://doi.org/10.1300/J189v02n03_03).
349. Friesendorf, Cornelius, "Pathologies of Security Governance: Efforts Against Human Trafficking in Europe", in: *Security Dialogue*, vol. 38, no. 3, 2007, doi:10.1177/0967010607081518, <https://journals.sagepub.com/doi/abs/10.1177/0967010607081518>.
350. Garciandia, Rosana, "State responsibility and positive obligations in the European Court of Human Rights: The contribution of the ICJ in advancing towards more judicial integration", in: *Leiden Journal of International Law*, Vol. 33, Issue 1, 2020, pp. 177-187, [Online] available at: [doi:10.1017/S0922156519000591](https://doi.org/10.1017/S0922156519000591).
351. Goździak, Elżbieta M. and Vogel, Kathleen M., "Palermo at 20: A Retrospective and Prospective", in: *Journal of Human Trafficking*, Vol. 6, no. 2, pp. 109-118, doi:10.1080/23322705.2020.1690117.
352. Gromek-Broc, Katarzyna, "EU Directive on preventing and combating trafficking in human beings and protecting victims: Will it be effective?", in: *Nova et Vetera*, Vol. 20, No. 64, 2011, [Online] available at: DOI:10.22431/25005103.180.
353. Haynes, Dina F., "(Not) Found Chained to a Bed in a Brothel: Conceptual, Legal, and Procedural Failures to Fulfill the Promise of the Trafficking Victims Protection Act", in: *Georgetown Immigration Law Journal*, 2007, Vol. 21, pp. 337-382, [Online] available at: [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=984927](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=984927).
354. Hernández-Truyol, Berta E., and Larson, Jane E., "Sexual Labor and Human Rights", in: *Columbia Human Rights Law Review*, Vol. 37, Issue 2, Winter 2006, pp. 391-446, [Online] available at: <http://scholarship.law.ufl.edu/facultypub/193>.



355. Holmström, Charlotta, “The Swedish Sex Purchase Act: Where Does it Stand?”, in: *Oslo Law Review*, 2017/2, Årgang 4, pp. 82-104, 25 August 2017, [Online] available at: <https://juridika.no/tidsskrifter/oslo-law-review/2017/2/artikkel/holmstr%C3%B6m>.
356. Hyland, Kelly E., “The Impact of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children”, in: Human Rights Brief, Vol. 8, no. 2, 2001, [Online] available at: <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1492&context=hrbrief>.
357. Ian Tennant, “Fulfilling the Promise of Palermo? A Political History of the UN Convention Against Transnational Organized Crime”, in: *Journal of Illicit Economies and Development*, Vol. 2, Issue 1, 2021, [Online] available at: DOI: <http://doi.org/10.31389/jied.90>.
358. Ioannou, Maria, John Synnott, Amy Reynolds, and John Pearson, “A comparison of online and offline Grooming characteristics: An application of the victim roles model”, in: *Computers in Human Behavior*, Vol. 85, 2018, pp. 291-297, doi: 10.1016/j.chb.2018.04.011, [Online] available at: <https://www.sciencedirect.com/science/article/abs/pii/S0747563218301754>.
359. Jackson, Robert and Sørensen, Georg, “Introduction to International Relations. Theories and Approaches”, Third Edition, in: *Oxford University Press*, 2007.
360. Jaeger, Hans-Martin, “Hegel’s reluctant realism and the transnationalisation of civil society”, in: *Review of International Studies*, Cambridge University Press, 2002, Vol. 28, No. 3, pp. 497-517, [Online] available at: <https://library.fes.de/libalt/journals/swetsfulltext/14058135.pdf>.
361. Jaffer Latief Najar, “20 Years of Impact of the Palermo Protocol: Contestation and Reflections”, in: *Global Policy*, 20 April 2021, [Online] available at: <https://www.globalpolicyjournal.com/blog/20/04/2021/20-years-impact-palermo-protocol-contestation-and-reflections>.
362. James, Stephen, “The Key Drivers of Human Security Discourse and the Challenge to Realism”, 2011, in: *Cornell International Affairs Review*, [Online] available at: <http://www.inquiriesjournal.com/a?id=1228>.
363. Jervis, Robert, “Hans Morgenthau, Realism, and the Scientific Study of International Politics” in: *Social Research*, Vol. 61, No. 4, 1994, pp. 853-876, *JSTOR*, [Online] available at: [www.jstor.org/stable/40971063](http://www.jstor.org/stable/40971063).
364. Jervis, Robert, “Realism in the Study of World Politics”, in: *International Organization*, vol. 52, no. 4, 1998, *JSTOR*, [Online] available at: [www.jstor.org/stable/2601364](http://www.jstor.org/stable/2601364).
365. John Cotton Richmond, “Less than half of 1 percent of human trafficking victims are identified. That needs to change”, in: *New Atlanticist*, June 16, 2023, [Online] available at: [https://www.atlanticcouncil.org/blogs/new-atlanticist/less-than-half-of-1-percent-of-human-trafficking-victims-are-identified-that-needs-to-change/#:~:text=and%20data%20modeling.,The%20UN%20estimates%20that%20traffickers%20are%20compelling%2027.6%20million%20people,estimated%20victims%20\(0.4%20percent\)](https://www.atlanticcouncil.org/blogs/new-atlanticist/less-than-half-of-1-percent-of-human-trafficking-victims-are-identified-that-needs-to-change/#:~:text=and%20data%20modeling.,The%20UN%20estimates%20that%20traffickers%20are%20compelling%2027.6%20million%20people,estimated%20victims%20(0.4%20percent)).

366. Dupont, Jonathan, “The European Anti-Human Trafficking Legal and Policy Framework: The EU’s Strategy Toward the Eradication of Human Trafficking?”, in: *Acams Today*, 8 January 2021, [Online] available at: <https://www.acamstoday.org/the-european-anti-human-trafficking-legal-and-policy-framework-the-eus-strategy-towards-the-eradication-of-human-trafficking/>.
367. Jones, Jackie and Winterdyk, John, “Human Trafficking: Challenges and Opportunities for the 21st Century. Outcomes and Proposals”, in: *Oñati Socio-legal Series*, Vol. 8, No. 1, p. 165-173, 2018, [Online] available at: <https://opo.iisj.net/index.php/osls/article/view/920>.
368. Katwal, Milan Jung, “Neo-Abolitionism of Prostitution, It Works”, in: *The Kathmandu Post*, 24 February 2020, [Online] available at: <https://kathmandupost.com/16/2020/02/24/neo-abolitionism-of-prostitution-it-works>.
369. King, Lindsey, “International Law and Human Trafficking”, in: *Human Rights and Human Welfare Journal*, Josef Korbel School of International Studies, University of Denver, 2008, [Online] available at: <https://www.du.edu/korbel/hrhw/researchdigest/trafficking/InternationalLaw.pdf>.
370. Korab-Karpowicz, W. Julian, “How International Relations Theorists Can Benefit by Reading Thucydides”, in: *The Monist*, Vol. 89, No. 2, 2006, pp. 232–244, JSTOR, [Online] available at: [www.jstor.org/stable/27903977](http://www.jstor.org/stable/27903977).
371. Korab-Karpowicz, W. Julian, “Political Realism in International Relations”, in: *The Stanford Encyclopedia of Philosophy (Fall 2020 Edition)*, Edward N. Zalta (ed.), [Online] available at: <https://plato.stanford.edu/archives/fall2020/entries/realism-intl-relations/>.
372. Lebovic, Sam, “Why Is America the World’s Police?”, in: *Boston Review*, October 19, 2020, [Online] available at: <http://bostonreview.net/politics/sam-lebovic-stephen-wertheim-tomorrow-the-world>.
373. Leidholdt, Dorchen, “Prostitution: A Violation of Women’s Human Rights”, in: *Cardozo Women’s Law Journal*, Vol. 1, No. 133, 1993, [Online] available at: <https://prostitutionresearch.com/prostitution-a-violation-of-womens-human-rights-2/>.
374. Litam, Stacey Diane A., “Human Sex Trafficking in America: What Counselors Need to Know”, in: *The Professional Counselor*, 2017, Vol. 7, Issue 1, p. 45-61, doi:10.15241/sdal.7.1.45, [Online] available at: <https://files.eric.ed.gov/fulltext/EJ1159657.pdf>.
375. Lukes, Eleana, “Being Groomed for A Life of Sex Trafficking: The Raw and Uncut Truth”, in: *Culminating Projects in Child and Family Studies*, No. 29, St. Cloud State University, October 2018, [Online] available at: [https://repository.stcloudstate.edu/cfs\\_etds/29](https://repository.stcloudstate.edu/cfs_etds/29).
376. MacKinnon, Catharine A., “Prostitution and Civil Rights”, in: *Michigan Journal of Gender and Law*, Vol. 1, Issue 1, 1993, [Online] available at: <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=1192&context=mjgl>.
377. Nusha Yonkova and Edward Keegan, “Stop traffick: Tackling demand for sexual services of trafficked women and girls. Social Work and Social Sciences Review”

- in: *Social Work and Social Sciences Review*, Vol. 19, No. 3, Dublin, 2014, pp. 42-60, [Online] available at: <https://doi.org/10.1921/swssr.v19i3.1190>.
378. O'Brien, Jennifer E., and Wen Li, "The Role of the Internet in the Grooming, Exploitation, and Exit of United States Domestic Minor Sex Trafficking Victims", in: *Journal of Children and Media*, 2019, pp. 1-17, doi:10.1080/17482798.2019.1688668, [Online] available at: <https://www.tandfonline.com/doi/abs/10.1080/17482798.2019.1688668>.
379. Obokata, Tom, "Trafficking of Human Beings as a Crime Against Humanity: Some Implications for the International Legal System", in: *The International and Comparative Law Quarterly*, Vol. 54, No. 2, April 2005, p. 445-457, [Online] available at: <http://www.jstor.org/stable/3663256>.
380. Peksen, Dursun, Blanton, Shannon Lindsay, Blanton, Robert G., "Neoliberal Policies and Human Trafficking for Labor: Free Markets, Unfree Workers?", in: *Political Research Quarterly*, Vol. 70, Issue 3, University of Utah, 2017, pp. 673-686, [Online] available at: DOI:10.1177/1065912917710339.
381. Planitzer, Julia, "GRETA's First Years of Work: Review of the monitoring of implementation of the Council of Europe Convention on Action against Trafficking in Human Beings", in: *Anti-Trafficking Review*, Issue 1, June 2012, DOI: 10.14197/atr.201212, [Online] available at: <https://www.antitraffickingreview.org/index.php/atrjournal/article/view/18/21/>.
382. Plant, Roger, "Forced Labour, Slavery and Human Trafficking: When do definitions matter?", in: *Anti-Trafficking Review*, No. 5, 2015, [Online] available at: <https://doi.org/10.14197/atr.201215511>.
383. Post, Che, Brouwer, Jan G., and Vols, Michael, "Regulation of Prostitution in the Netherlands: Liberal Dream or Growing Repression?", in: *European Journal on Criminal Policy and Research*, 2019, Vol. 25, pp. 99-118, [Online] available at: <https://doi.org/10.1007/s10610-018-9371-8>.
384. Price, Richard, Reus-Smit, Christian, "Dangerous Liaisons?: Critical International Theory and Constructivism", in: *European Journal of International Relations*, 1998, Vol. 4, Issue 3, pp. 259-294, [Online] available at: doi:10.1177/1354066198004003001, <https://journals.sagepub.com/doi/10.1177/1354066198004003001>.
385. Rohlf, Michael, "Immanuel Kant", in: *The Stanford Encyclopedia of Philosophy (Fall 2020 Edition)*, Edward N. Zalta (ed.), [Online] available at: <https://plato.stanford.edu/archives/fall2020/entries/kant/>.
386. Ruggie, J. G., "Continuity and Transformation in the World Polity: Toward a Neorealist Synthesis", in: *World Politics*, Vol. 35, Issue 2, 1983, pp. 261-285, DOI:10.2307/2010273, [Online] available at: [http://journals.cambridge.org/abstract\\_S0043887100005268](http://journals.cambridge.org/abstract_S0043887100005268).
387. Simmons, Beth A., Lloyd, Paulette, and Stewart, Brandon M., "The Global Diffusion of Law: Transnational Crime and the Case of Human Trafficking", in: *International Organization*, Vol. 72, Issue 2, 2018, pp. 249-281, [Online] available at: doi:10.1017/S0020818318000036.

388. Simonovska, Tijana, *Social Construction of Human Trafficking in Canada: Diagnostic and Prognostic Framing of Anti-Trafficking Efforts at the Federal Government Level*, Ottawa, 2019, [Online] available at: <http://dx.doi.org/10.20381/ruor-24104>.
389. Snyder, Jack, "One World, Rival Theories", in: *Foreign Policy*, November-December 2004, [Online] available at [www.foreignpolicy.com](http://www.foreignpolicy.com).
390. Symeonidou-Kastanidou, Elisavet, "Directive 2011/36/EU on Combating Trafficking in Human Beings: Fundamental Choices and Problems of Implementation", in: *New Journal of European Criminal Law*, Vol. 7, Issue 4, 2016, p. 465-466, [Online] available at: [doi:10.1177/203228441600700406](https://doi.org/10.1177/203228441600700406).
391. Tannenwald, Nina, "Ideas and Explanation: Advancing the Theoretical Agenda", in: *Journal of Cold War Studies*, 2005, Vol. 7, Issue 2, pp. 13-72, [Online] available at: [doi: https://doi.org/10.1162/1520397053630619](https://doi.org/10.1162/1520397053630619).
392. Tompea, Roxana Claudia, "Europe's Migrant Human Trafficking – A Case Study of Romania's Sexually Exploited Women", in: *Journal of Modern Slavery. A Multidisciplinary Exploration of Human Trafficking Solutions*, Vol. 8, Issue 1, 2023, [Online] available at: [https://slavefreetoday.org/journal\\_of\\_modern\\_slavery/v8i1a3-europes-migrant-human-trafficking-a-case-study-of-romanias-sexually-exploited-women.pdf](https://slavefreetoday.org/journal_of_modern_slavery/v8i1a3-europes-migrant-human-trafficking-a-case-study-of-romanias-sexually-exploited-women.pdf).
393. Tsai, Yu-tai. "The Emergence of Human Security: A Constructivist View", in: *International Journal of Peace Studies*, Vol. 14, No. 2, 2009, pp. 19-33. JSTOR, [Online] available at: [www.jstor.org/stable/41852991](http://www.jstor.org/stable/41852991).
394. Usman, Mikail Usman, "Trafficking in Women and Children as Vulnerable Groups: Talking Through Theories of International Relations", in: *European Scientific Journal*, June 2014 edition, Vol. 10, No.17, [Online] available at: <https://www.researchgate.net/publication/335082817>.
395. Villacampa Estiarte, Carolina "The European Directive on Preventing and Combating Trafficking in Human Beings and the Victim-Centric Treatment of this Criminal Phenomenon", in: *European Criminal Law Review*, Vol. 2, Issue 3, 2012, pp. 291-318, [Online] available at: [doi.org/10.5235/219174412804816345](https://doi.org/10.5235/219174412804816345).
396. Waltz, Kenneth N. "Kant, Liberalism, and War", in: *The American Political Science Review*, Vol. 56, No. 2, 1962, pp. 337, JSTOR, [doi:10.1177/0090591714535103](https://doi.org/10.1177/0090591714535103), [Online] available at: [www.jstor.org/stable/1952369](http://www.jstor.org/stable/1952369).
397. Webster, Steven *et al.*, "European Online Grooming Project - Final Report", *Research Gate*, March 2012, [Online] available at: [https://www.researchgate.net/publication/257941820\\_European\\_Online\\_Grooming\\_Project\\_-\\_Final\\_Report](https://www.researchgate.net/publication/257941820_European_Online_Grooming_Project_-_Final_Report).
398. White, Mark D., "Defending Kant's Classical Liberalism", in: *Cato Unbound, A Journal of Debate*, October 10, 2016, [Online] available at: <https://www.cato-unbound.org/2016/10/10/mark-d-white/defending-kants-classical-liberalism>.
399. Whyte, Alexander, "Neorealism and Neoliberal Institutionalism: Born of the Same Approach?", in: *E-Intrenational Relations*, June 11, 2012, [Online] available at: <https://www.e-ir.info/2012/06/11/neorealism-and-neoliberal-institutionalism-born-of-the-same-approach/>.

400. Zeegers, Nicolle, and Althoff, Martina, "Regulating Human Trafficking by Prostitution Policy?", in: *European Journal of Comparative Law and Governance*, 2015, Vol. 2, Issue 4, pp. 351–378, [Online] available at: doi:10.1163/22134514-00204004.

### Chapters or articles in a collective volume (printed or electronic)

401. Stein, Arthur A., "Neoliberal Institutionalism", in: Christian Reus-Smit and Duncan Snidal (eds.), *The Oxford Handbook of International Relations*, September 2009, DOI: 10.1093/oxfordhb/9780199219322.003.0011.
402. Brennan, Denise, "Subjectivity of Coercion: Workers' Experiences with Trafficking in the United States", in: P. Kotiswaran (Ed.), *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, Cambridge Studies in Law and Society, 2017, pp. 134-154, Cambridge: Cambridge University Press. [Online] available at: doi:10.1017/9781316675809.005.
403. Hurd, Ian, "Constructivism", in: *The Oxford Handbook of International Relations*, Christian Reus-Smit and Duncan Snidal (eds.), Oxford: Oxford University Press, 2008, pp. 298–316, [Online] available at: <https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780199219322.001.0001/oxfordhb-9780199219322-e-17>.
404. Kant, Immanuel, "Idea for a Universal History with a Cosmopolitan Aim", in: *Anthropology, History, and Education*, Cambridge University Press, 2007.
405. Kegley, Charles, "Theories of World Politics", in: Charles William Kegley, Shannon Lindsey Blanton, *World Politics. Trends and Transformation*, Cengage Learning, 2010–2011 Edition.
406. Meiser, Jeffrey W., "Liberalism", in: Stephen Mcglinchey, *International Relations Theory*, Bristol: International Relations Publishing, 2017, [Online] available at: <https://www.e-ir.info/publication/international-relations-theory/>.
407. Merry, Sally E. and Ramachandran, Vibhuti, "The Limits of Consent: Sex Trafficking and the Problem of International Paternalism", in: Michael Barnett (Ed.), *Paternalism beyond Borders*, pp. 224-255, Cambridge: Cambridge University Press, 2016, [Online] available at: doi:10.1017/9781316799956.008.
408. Burchill, Scott, "Liberalism", in: Scott Burchill, et al., Scott Burchill, et al., *Theories of International Relations*, Third Edition, New York: Palgrave Macmillan, 2005, [Online] available at: <http://lib.jnu.ac.in/sites/default/files/ReferenceFile/Theories-of-IR.pdf>.
409. Seibel, Caleb L., "Chapter 1: Human Trafficking and the History of Slavery in America", in: *Combating Human Trafficking. A Multidisciplinary Approach* (edited by Michael J. Palmiotto), CRC Press, 2014.
410. Theys, Sarina, "Constructivism", in: Stephen Mcglinchey, et al (eds.), *International Relations Theory*, International Relations Publishing, Bristol, 2017, [Online] available at: <https://www.e-ir.info/publication/international-relations-theory/>.
411. Weitzer, Ronald, "Legal Prostitution Systems in Europe" (2nd edition, 2021), in: H. Nelen, D. Siegel (Eds.), *Contemporary Organized Crime, Studies of Organized Crime 18*, 2021, pp. 47–64, [Online] available at: DOI: 10.1007/978-3-319-55973-5\_4.

## News articles online

412. “About 7,200 Romanian police officers retire this year”, in: *Romania Insider*, 25 September 2017, [Online] available at: <https://www.romania-insider.com/romanian-police-officers-retire-2017>.
413. “Cei 25 de inculpați în dosarul Țăndărei, achitați definitiv. Procesul s-a încheiat după aproape 9 ani”, in: *Digi24*, 23 December 2019, [Online] available at: <https://www.digi24.ro/stiri/actualitate/cei-25-de-inculpati-in-dosarul-tandarei-achitati-definitiv-procesul-s-a-incheiat-dupa-aproape-9-ani-1236072>.
414. “Expert al Comisiei Europene pe trafic de persoane: s-a creat o suprapunere între faptele de trafic de persoane și cele de proxenetism”, in: *Cluj Just*, 26 January 2023, [Online] available at: <https://www.clujjust.ro/expert-al-comisiei-europene-pe-traffic-de-persoane-s-a-creat-o-suprapunere-intre-faptele-de-traffic-de-persoane-si-cele-de-proxenetism/>.
415. “Politici publice mai bune la nivel european, pentru mai puține victime ale traficului de persoane în scop sexual”, in: *RFI*, 17 May 2023, [Online] available at: <https://www.rfi.ro/eveniment-155936-politici-publice-mai-bune-la-nivel-european-pentru-mai-putine-victime-ale>.
416. “Tot mai mulți asiatici iau locul românilor pe piața muncii”, in: *Digi24*, 26 November 2022, [Online] available at: <https://www.digi24.ro/stiri/actualitate/social/tot-mai-multi-asiatici-iau-locul-romanilor-pe-piata-muncii-salariul-este-unul-foarte-bun-este-mult-mai-mare-decat-in-bangladesh-2160225>.
417. Beauchamp, Zack, “The anti-liberal moment”, in: *Vox Media*, September 9, 2019, <https://www.vox.com/policy-and-politics/2019/9/9/20750160/liberalism-trump-putin-socialism-reactionary>.
418. Bedea, Ionuț, “Cum au scăpat de pușcărie zece traficanți de copii cu complicitatea politicienilor și procurorilor români”, in: *Europa Liberă România*, 28 January 2023, [Online] available at: <https://romania.europalibera.org/a/prescriere-traffic-de-persoane/32242927.html>
419. Chirciu, Simona „Traficul de persoane demistificat. Cum actioneaza traficantii si ce este metoda loverboy”, in: *Mediafax*, 30 July 2021, <https://www.mediafax.ro/social/exclusiv-interviuri-trafficul-de-persoane-demistificat-cum-actioneaza-traficantii-si-ce-este-metoda-loverboy-cum-ii-protejam-pe-copii-20209635> (accessed 2 September 2021).
420. Cojan, Liviu, “România aplică pedepse prea blânde traficantilor de ființe umane și nu plătește despăgubiri pentru victime (raport GRETA)”, in: *Digi24*, 3 June 2021, [Online] available at: <https://www.digi24.ro/stiri/actualitate/social/romania-aplica-pedepse-prea-bande-traficantilor-de-fiinte-umane-si-nu-plateste-despagubiri-pentru-victime-raport-greta-1550491>.
421. Giorgiana Marina, “Mii de polițiști ies la pensie de teamă că vor primi bani mai puțini. Legea le permite pensionarea la 47 de ani dacă au vechime”, in: *Digi24*, 21

- April 2021, [Online] available at: <https://www.digi24.ro/stiri/actualitate/mii-de-politisti-ies-la-pensie-de-teama-ca-vor-primi-bani-mai-putini-legea-le-permite-pensionarea-la-47-de-ani-daca-au-vechime-1503311>.
422. Ioana Câmpean, “Mădălina Turza (PNL), demisă din Guvern de către premierul Ciolacu”, in: *G4 Media*, 13 July 2023, [Online] available at: <https://www.g4media.ro/madalina-turza-pnl-demisa-din-guvern-de-catre-premierul-ciolacu-ea-conducea-departamentul-pentru-responsabilitate-sociala-comunitara-si-grupuri-vulnerabile.html>.
423. Marica, Irina, “Save the Children: Over 9,000 girls in Romania become mothers at a young age”, in: *Romania Insider*, 11 October 2017, [Online] available at: <https://www.romania-insider.com/girls-romania-mothers-young-age>.
424. Meseșan, Diana, „ORDONANȚĂ SECRETĂ. Cum au reușit politicienii și patronatele să îi lege pe muncitorii străini de angajatorii lor din România. Sclavagism modern”, in: *Libertatea*, 12 decembrie 2022, [Online] available at: <https://www.libertatea.ro/stiri/sclavagism-modern-legea-prin-care-muncitorii-straini-sunt-legati-de-angajatorii-lor-din-romania-4369690>.
425. Mihăescu, Alexandru, “Cine sunt migranții din Asia care muncesc în România”, in: *G4 Media*, 23 November 2022, [Online] available at: <https://www.g4media.ro/cine-sunt-migrantii-din-asia-care-muncesc-in-romania-varsta-medie-de-27-de-ani-majoritari-din-india-vietnam-bangladesh-si-pakistan-jumatate-invata-romana.html> (accessed 13 March 2023).
426. Olteanu, Andreea, “Ministerul Justiției: numele victimelor din dosarele de trafic de persoane și trafic de minori vor fi anonimizate”, in: *MediaFax*, 17.11 2020, [Online] available at: <https://www.mediafax.ro/justitie/ministerul-justitiei-numele-victimelor-din-dosarele-pe-traffic-de-persoane-si-traffic-de-minori-vor-fi-anonimizate-19748297>.
427. Rațiu, Daniela, “Interviu Iulia Motoc, judecător CEDO: România este primul stat din UE care furnizează victime pentru trafic, fie pentru exploatare sexuală sau muncă forțată”, in: *G4Media*, 5 April 2021, [Online] available at: <https://www.g4media.ro/interviu-iulia-motoc-judecator-cedo-romania-este-primul-stat-din-ue-care-furnizeaza-victime-pentru-traffic-fie-pentru-exploatare-sexuala-sau-munca-fortata.html>.
428. Ștefănescu, Cristian, “Trafic de persoane sub protecția statului roman”, in: *DW*, 27 June 2020, [Online] available at: <https://www.dw.com/ro/traffic-de-persoane-sub-prot%C8%9Bia-statalui-rom%C3%A2n/a-53963109>.

### Other web articles

429. “About ECPAT”, *ECPAT*, [Online] available at: <https://www.ecpat.org/>.
430. “About IOM”, *IOM*, [Online] available at: <https://iom.by/en/about-iom>.
431. “About Us”, *Stop the Traffick*, [Online] available at: <https://www.stopthetraffik.org/who-we-are/about-us/>.

432. "Austria: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/austria\\_en](https://ec.europa.eu/anti-trafficking/austria_en).
433. "Belgium: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/belgium\\_en](https://ec.europa.eu/anti-trafficking/belgium_en).
434. "Bulgaria: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/bulgaria\\_en#:~:text=The%20Bulgarian%20government%20has%20not,function%20as%20a%20national%20Rapporteur](https://ec.europa.eu/anti-trafficking/bulgaria_en#:~:text=The%20Bulgarian%20government%20has%20not,function%20as%20a%20national%20Rapporteur).
435. "Commission Takes on New Role as Ireland's National Rapporteur on the Trafficking of Human Beings", *Irish Human Rights and Equality Commission*, 22 October 2020, [Online] available at: <https://www.ihrec.ie/commission-takes-on-new-role-as-irelands-national-rapporteur-on-the-trafficking-of-human-beings/#:~:text=The%20Irish%20Human%20Rights%20and,the%20Trafficking%20of%20Human%20Beings>.
436. "Conference Effective Strategies to Combat Human Trafficking for the Purpose of Sexual Exploitation", *eLiberare*, [Online] available at: <https://eliberare.com/end-demand/>.
437. "Coordination of the Fight Against Trafficking in Human Beings", *Government of Israel, Ministry of Justice*, 26 April 2021, [Online] available at: <https://www.gov.il/en/departments/news/26-04-2021-01>.
438. "Council of Europe - Group of Experts on Action against Trafficking in Human Beings (CoE-GRETA)", *Austrian Red Cross' Department ACCORD: Country of Origin Information System*, 7 May 2020, [Online] available at: <https://www.ecoi.net/en/source/11061.html>.
439. "Countries Where Prostitution Is Legal 2021", *World Population Review*, 2021, [Online] available at: <https://worldpopulationreview.com/country-rankings/countries-where-prostitution-is-legal>.
440. "Croatia: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/croatia\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/croatia_en).
441. "Debt Bondage", Stop Violence Against Women, *The Advocates for Human Rights*, [Online] available at: [https://www.stopvaw.org/debt\\_bondage#\\_ednref4](https://www.stopvaw.org/debt_bondage#_ednref4).
442. "Despre noi", *Agenția Națională Împotriva Traficului de Persoane*, [Online] available at: <https://anitp.mai.gov.ro/despre-noi/>.
443. "Estonia: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/estonia\\_en](https://ec.europa.eu/anti-trafficking/estonia_en).
444. "Finland: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/finland\\_en](https://ec.europa.eu/anti-trafficking/finland_en).
445. "France: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/france\\_en](https://ec.europa.eu/anti-trafficking/france_en).
446. "Greece: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/greece\\_en](https://ec.europa.eu/anti-trafficking/greece_en).



447. "Italy: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/italy\\_en](https://ec.europa.eu/anti-trafficking/italy_en).
448. "Know the Signs of Human Trafficking", *Deliver Fund*, [Online] available at: <https://deliverfund.org/the-human-trafficking-problem-in-america/know-the-signs/>.
449. "Luxembourg: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/luxembourg\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/luxembourg_en).
450. "Malta: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/malta\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/malta_en).
451. "New EU Anti-Trafficking Coordinator Appointed", *La Strada International*, 1 July 2021, [Online] available at: <https://www.lastradainternational.org/news/new-eu-anti-trafficking-coordinator-appointed/>.
452. "Poland: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/poland\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/poland_en).
453. "Portugal: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/portugal\\_en](https://ec.europa.eu/anti-trafficking/portugal_en).
454. "Raportul anual 2021", *ADPARE*, [Online] available at: <https://adpare.eu/wp-content/uploads/2022/10/ADPARE-Raport-anual-2021.pdf>
455. "Romania: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/romania\\_en](https://ec.europa.eu/anti-trafficking/romania_en).
456. "Spain: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries/spain\\_en](https://ec.europa.eu/anti-trafficking/eu-countries/spain_en).
457. "Sweden: Together Against Trafficking in Human Beings", *European Commission*, [Online] available at: [https://ec.europa.eu/anti-trafficking/sweden\\_en](https://ec.europa.eu/anti-trafficking/sweden_en).
458. "Trafficking", *Know Your Country*, [Online] available at: <https://www.knowyourcountry.com/human-trafficking>.
459. "Training pentru avocați, procurori, judecători, în București România", *Asociația Pro Refugiu*, May 15, 2017, [Online] available at: <https://prorefugiu.org/training-avocati-procurori-judecatori/>.
460. "What is modern slavery?", *Anti-Slavery International*, [Online] available at: <https://www.antislavery.org/slavery-today/modern-slavery/>.
461. "Who we are", *Global Alliance Against Traffic in Women*, [Online] available at: <https://www.gaatw.org/about-us>.
462. *A21 organisation*, [Online] available at: <https://www.a21.org/content/get-to-know-us/grd33s>.
463. Abi-Falah, Layla, "The Female Burden and the International Political Economy of Sex Trafficking", *International Affairs Forum*, [Online] available at: [https://www.ia-forum.org/Content/ViewInternal\\_Document.cfm?contenttype\\_id=5&ContentID=8609](https://www.ia-forum.org/Content/ViewInternal_Document.cfm?contenttype_id=5&ContentID=8609).
464. Amnesty International, *Joint NGO Statement on the draft European Convention against Trafficking in Human Beings*, IOR61/020/2004, November 2004, [Online] available at: <https://www.amnesty.org/ar/wp-content/uploads/2021/09/ior610202004en.pdf>.

465. Anouk, Deana, “Nordic Model Now. Prostitution in the EU, or how the lack of legal harmonization goes against the EU’s values”, *EU Logos Athena*, 29 juillet 2019, [Online] available at: <https://www.eu-logos.org/2019/07/29/prostitution-in-the-eu-or-how-the-lack-of-legal-harmonization-goes-against-the-eus-values/>.
466. Benneyworth, IJ, “The ‘Great Debates’ in *International Relations Theory*”, *E-International Relations*, May 2011, [Online] available at: <https://www.e-ir.info/2011/05/20/the-‘great-debates’-in-international-relations-theory/>.
467. Chapko, Rachel, “Unraveling the Stages of Grooming”, *National Child Protection Task Force*, 3 September 2020, [Online] available at: <https://www.ncptf.org/post/unraveling-the-stages-of-grooming>.
468. *Coalition against Trafficking in Women (CATW)*, [Online] available at: <https://catwinternational.org/>.
469. *Decriminalisation of the sex trade vs. the Nordic Model. What you need to know, Nordic Model Now*, April 2022, [Online] available at: <https://nordicmodelnow.org/wp-content/uploads/2022/04/Decrim-vs-the-NM-booklet-with-references.pdf>.
470. eLiberare, *The conference “Effective Strategies to Combat Human Trafficking for the Purpose of Sexual Exploitation”*, Bucharest, Romania on May 17th, 2023, [Online] available at: <https://eliberare.com/end-demand/>.
471. End Slavery Now, *Slavery Today*, [Online] available at: <http://www.endslaverynow.org/learn/slavery-today>.
472. *European Union External Action*, [Online] available at: <https://www.eeas.europa.eu/>.
473. Europol, *Joint Investigation Teams – JITs*, 26 Nov 2021, [Online] available at: <https://www.europol.europa.eu/partners-collaboration/joint-investigation-teams>.
474. *Global Alliance against Trafficking in Women (GAATW)*, [Online] available at: <https://www.gaatw.org/>.
475. [https://ec.europa.eu/anti-trafficking/estonia\\_en](https://ec.europa.eu/anti-trafficking/estonia_en).
476. *ILO: International Labour Organization*, [Online] available at: <https://www.un.org/youthenvoy/2013/08/ilo-international-labour-organization/>.
477. *Jadwiga*, [Online] available at: <https://www.jadwiga-online.de/en/>.
478. *Kompass. Response Model of Intervention in the Ukrainian Crisis*, model developed by eLiberare Association, [Online] available at: [https://kompass.world/wp-content/uploads/2022/05/Kompass-Intervention-Model\\_c.pdf](https://kompass.world/wp-content/uploads/2022/05/Kompass-Intervention-Model_c.pdf).
479. Lepper, Joe, *Pandemic Sparks ‘Perfect Storm’ for Increase in Online Child Sexual Abuse, Children and Young People Now*, 27 January 2021, [Online] available at: <https://www.cypnow.co.uk/news/article/pandemic-sparks-perfect-storm-for-increase-in-online-child-sexual-abuse>.
480. Long, Mariah, “Basic Stages of Grooming for Sexual Exploitation”, *End Slavery Now*, 22 September 2014, [Online] available at: <https://www.endslaverynow.org/blog/articles/basic-stages-of-grooming-for-sexual-exploitation>.
481. Mahoney, Stephanie, *Human Trafficking: An Overview of Sex Trafficking, National Center for Victims of Crime*, 13 July 2020, [Online] available at: <https://www.ncvctta.org/post/human-trafficking-an-overview-of-sex-trafficking>.

482. Maria Grazia Giammarinaro, “Revising *EU Directive* on Human Trafficking. For Good or Bad Reasons?”, *La Strada International*, 7 November 2021, [Online] available at: <https://www.lastradainternational.org/blog/revising-eu-directive-on-human-trafficking-for-bad-or-good-reasons/>.
483. Micu Bogdan Foundation, [Online] available at: <https://fundatiamicubogdan.ro/>.
484. Ministerul Justiției, *ANABI, Mission*, [Online] available at: <https://anabi.just.ro/en/about-us/mission>.
485. Ministerul Justiției, *ANABI, Șase ani de la operaționalizarea ANABI*, [Online] available at: <https://anabi.just.ro/en>.
486. Ministrul Educației, *Programul „A doua șansă”*, [Online] available at: [https://www.edu.ro/a\\_doua\\_sansa](https://www.edu.ro/a_doua_sansa).
487. Niall McCarthy, “The Legal Status of Prostitution Across Europe”, *Statista*, 14 November 2018, [Online] available at: <https://www.statista.com/chart/16090/policy-models-regarding-prostitution-in-the-eu/>.
488. Open Door Foundation, [Online] available at: <http://www.usadeschisa.ro/about-us>.
489. Pashakhanlou, Arash Heydarian, “Comparing and Contrasting Classical Realism and Neorealism”, in: *E-International Relations*, July 23 2009, [Online] available at: <https://www.e-ir.info/2009/07/23/comparing-and-contrasting-classical-realism-and-neo-realism/>.
490. People to People Foundation, [Online] available at: <https://www.people2people.ro/>.
491. Peterson, Michelle, “Recognizing the Stages of Grooming”, *Fight to End Exploitation*, March 2019, [Online] available at: <https://fighttoendexploitation.org/2019/03/01/grooming-in-human-trafficking/>.
492. *Platforma ProTECT*, [Online] available at: <https://traficdepersoane.ro/>.
493. Platforma ProTECT, *Scrisoare deschisă adresată Guvernului României privind Raportul TIP 2022*, 22 July 2022, [Online] available at: <https://www.dropbox.com/s/nxzaik8m3caoi0i/Scrisoare%20deschis%C4%83%20-clarific%C4%83ri%20TIP%20Report.pdf?dl=0>.
494. Polaris Project, *Global Modern Slavery Data Hub Launches*, 28 November 2017, [Online] available at: <https://polarisproject.org/press-releases/global-modern-slavery-data-hub-launches/>.
495. Polaris Project, *Love and Trafficking: How Traffickers Groom & Control Their Victims*, 11 February 2021, [Online] available at: <https://polarisproject.org/blog/2021/02/love-and-trafficking-how-traffickers-groom-control-their-victims/>.
496. Portuguese Presidency of the Council of the European Union 2021, *International Conference on Human Trafficking*, 25 May 2021, [Online] available at: <https://www.2021portugal.eu/en/news/international-conference-on-human-trafficking/>.
497. Proiectul ANITP și IJM “Consolidarea răspunsului proactiv al justiției penale față de traficul de persoane din România”, *ANITP*, 2020, [Online] available at: <https://anitp.mai.gov.ro/proiect-ijm/>.

498. Roldan Oviedo, Ana, *Man, the State, and Human Trafficking Rethinking Human Trafficking from Constructivist and Policy Making Perspectives*, [Online] available at: <http://web.isanet.org/Web/Conferences/HR2016-NYC/Archive/5d37178d-7c54-4d0f-bc93-be95676ec12b.pdf>.
499. Salvation Army, *Modern slavery*, <https://www.salvationarmy.org.uk/modern-slavery>.
500. Singh, Mini, “The Debate on Trafficking and Sex-Slavery”, *The Feminist Sexual Ethics Project*, [Online] available at: <https://www.brandeis.edu/projects/fse/slavery/contemporary/essay-trafficking-introduction.html>.
501. Stop the Traffick, *Types of exploitation*, [Online] available at: <https://www.stopthetraffik.org/about-human-trafficking/types-of-exploitation/>.
502. Tennant, Ian, “Engaging with the UNTOC Review Mechanism. An overview for civil society”, *Global Initiative against Transnational Organised Crime*, 31 May 2021, [Online] available at: <https://globalinitiative.net/analysis/untoc-review-civil-society/>.
503. The EMMA Coalition, *Global Policies*, [Online] available at: <https://equalitymo.delma.org/global-policies#:~:text=The%20French%20law%20or%20what,through%20exit%20programming%20and%20supports>.
504. The Ohio State University, *The Grooming Process and Warning Signs*, November 2016, [Online] available at: <https://u.osu.edu/swk5005/sample-page/>.
505. UNCAC Civil Society Coalition, *The 10th UNTOC COP: Links Between Organized Crime and Corruption*, 28 October 2020, [Online] available at: <https://uncaccoalition.org/the-10th-untoc-cop-links-between-organized-crime-and-corruption/>.
506. UNICEF, *When ‘Home’ Doesn’t Necessarily Mean Safe (EVA)*, 04 November 2020, [Online] available at: <https://www.unicef.org/moldova/en/stories/when-home-doesnt-necessarily-mean-safe-eva>.
507. United Nations: UNODC, *Mechanism for the Review of the Implementation of the UNTOC and the Protocols thereto*, [Online] available at: <https://www.unodc.org/unodc/en/organized-crime/intro/review-mechanism-untoc/home.html#:~:text=The%20UNTOC%20Review%20Mechanism%20is,and%20to%20promote%20international%20cooperation>.
508. US Department of State, Office to Monitor and Combat Trafficking in Persons, *What is Modern Slavery?*, [Online] available at: <https://www.state.gov/what-is-modern-slavery/>.
509. US Department of State, *Understanding Human Trafficking. Fact Sheet*, Office to Monitor and Combat Trafficking in Persons, 20 January 2021, [Online] available at: <https://www.state.gov/what-is-trafficking-in-persons/>.
510. Virgilio, Emilie, *Sex Trafficking Through IR Paradigms*, September 28, 2014, [Online] available at: <https://gvpt200group5.weebly.com/blog/sex-trafficking-through-ir-paradigms>.

511. Witherspoon, Gerald F., *Human Security, IR Theories, and Human Trafficking*, January 5, 2014, [Online] available at: <https://geraldwitherspoonsr.wordpress.com/2014/01/05/human-security-ir-theories-and-human-trafficking/>.

## Online encyclopedias

512. *Stanford Encyclopedia of Philosophy*, Fall 2020 Edition, [Online] available at: <https://plato.stanford.edu/entries/vico/>.

## Unpublished documents

513. Florin Bejan, Responsabil Legea 544/2001 (ANITP), Adresă nr. 4327050/04.10.2022 către Platforma ProTECT, 4 October 2022 [document obtained with the permission of the ProTECT Platform. Unpublished].
514. Platforma ProTECT, Adresă 544 CR ANITP - întrebări pe date TIP Report 2022, 30.08.2022 [document obtained with the approval of the ProTECT Platform. Unpublished].

## Online video

515. *Departamentul de Stat la SUA a ridicat ratingul de țară al României în domeniul traficului de persoane la nivelul 2, în cadrul Raportului anual publicat la data de 19 iulie 2022*, Facebook video published on the Facebook account Maria Madalina Turza, [Online] available at: <https://www.facebook.com/watch/?v=3260841890871196>.

## Book reviews

516. Dixon, R., book review of *National Interests and International Society* by Martha Finnemore, in: *Millennium*, 1997, Vol. 26, Issue 1, pp. 170-172, [Online] available at: DOI:10.1177/03058298970260010313.
517. Larvor, Brendan, *Mind*, Vol. 109, no. 435, 2000, pp. 614–618, *JSTOR*, [Online] available at: [www.jstor.org/stable/2659945](http://www.jstor.org/stable/2659945). (accessed 18 June 2021, book review of *The Social Construction of What?*, by Ian Hacking, Cambridge, MA: Harvard University Press, 1999).

## LinkedIn Profiles and Posts

518. *International conference Effective Strategies to Combat Human Trafficking for the Purpose of Sexual Exploitation, organized by the Swedish Embassy in Bucharest*, [Online] available at: [https://www.linkedin.com/posts/ioana-sandescu-bauer\\_enddemand-inspiringfreedom-humantrafficking-activity-7065075112701476864-sB5s?utm\\_source=share&utm\\_medium=member\\_desktop](https://www.linkedin.com/posts/ioana-sandescu-bauer_enddemand-inspiringfreedom-humantrafficking-activity-7065075112701476864-sB5s?utm_source=share&utm_medium=member_desktop).
519. *LinkedIn profile of Ioana Bauer*, [Online] available at: <https://ro.linkedin.com/in/ioana-sandescu-bauer>.

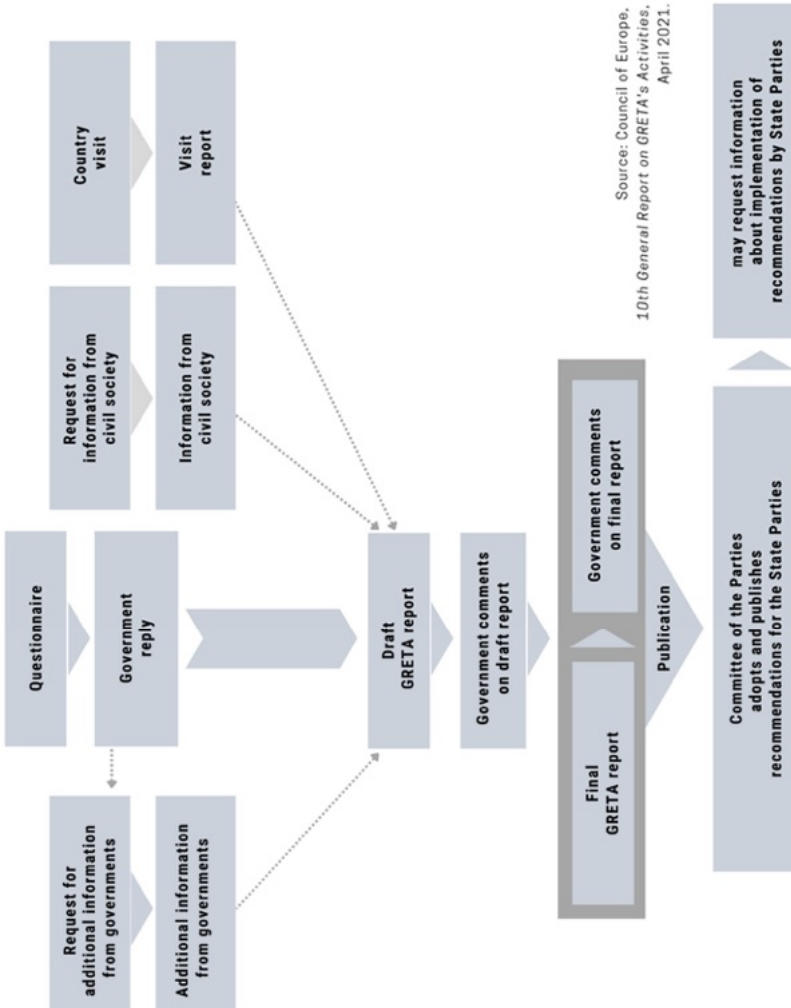
520. Ruth Breslin, *Linkedin Profile*, [Online] available at: <https://ie.linkedin.com/in/ruth-breslin-49224a5> (accessed 07 July 2023).

### **Youtube conferences**

521. *Swedish Presidency of the Council of the EU, Conference on prevention models to address the demand that fosters trafficking for sexual purposes*, Youtube video, Mar 29, 2023, [Online] available at: [https://www.youtube.com/watch?v=nt\\_\\_bG9aIWI](https://www.youtube.com/watch?v=nt__bG9aIWI).

## APPENDIX 1

### Workflow of the monitoring mechanism of the Council of Europe Anti-Trafficking Convention



## APPENDIX 2

### Anti-trafficking National Rapporteurs or Equivalent Mechanisms (NREMs) in the EU Member States

No (official) National Rapporteur (NR)		
<b>Denmark</b>	Denmark has not appointed an NR. However, the National Centre of Investigation (NCI) of the Danish National Police and the Danish Centre against Human Trafficking (CMM) monitor activities and the impact of anti-trafficking efforts in Denmark.	
<b>Germany</b>	Germany has not established an NR.	The Federal Criminal Police (BKA) has published an annual <i>Situation Report Trafficking in Human Beings</i> since 1994. Cases of forced labour investigated by labour inspectors are also included in this situation report. The purpose of the situation report is to provide a compact summary of current information on developments within the field of human trafficking. The report enables police and political decision-makers to assess the extent of the problem and plan accordingly. The situation report is also an important basis for the work of the Federal Working Group on Trafficking in Women.
NC/NR is part of a relevant ministry or its subordinated body		
<b>Austria</b>	The National Coordinator (NC) (2009) <i>de facto</i> acts as NR. The NC is based at the Federal Ministry for European and International Affairs and also serves as the Head of the Austrian Task Force against trafficking.	One of the priorities of the Task Force is to improve data collection on THB, including the identification of victims.
<b>Croatia</b>	The NC exercises the role of NR. NC is director of the Government Office for Human Rights and Rights of National Minorities	



<b>Cyprus</b>	Law 60(I)/2014 provides for an independent external evaluator as NR, but he/she is not yet appointed. Until then, the <b>Multidisciplinary Coordinating Group</b> <i>de facto</i> fulfils the function of NR. The Group is chaired by the <b>National Co-ordinator</b> , a function held by the <b>Minister of Interior</b> . Members include representatives from the competent ministries and Non-Governmental Agencies.	Responsibilities of the Multidisciplinary Co-ordinating Group include the drafting of annual reports on the implementation of the trafficking legislation, and the domestic and international situation on THB. Reports are submitted to the House of Representatives after it has been approved by the Council of Ministers.
<b>Czech Republic</b>	The role of NR is assigned to the <b>Ministry of Interior</b> , Department of Prevention of Criminality (2003). This department is also responsible for coordinating trafficking policies.	Information gathering, analysis and monitoring; coordination of anti-trafficking policies; submission of reports and policy papers to the government.
<b>Estonia</b>	The National Coordinator (NC) is the equivalent mechanism to the National Rapporteur in Estonia. The NC (2006) exercises the role of NR. The position is held by a senior adviser of the Criminal Policy Department at the Ministry of Justice	NC gathers information on the progress of the implementation of the National Action Plan: collects statistical data from various stakeholders. Provides annual reports to the Government.
<b>Greece</b>	The Office of the National Rapporteur on Trafficking in Human Beings (2013) is appointed under the Ministry of Foreign Affairs.	The NR is Head of the Office to Monitor & Combat Trafficking in Human Beings, which is staffed by Foreign Ministry Experts. The Office of the National Rapporteur in the Ministry of Foreign Affairs prepared the National Referral Mechanism, which started operating in 2019, and created a large network of different stakeholders to get involved in the fight against THB from the public and private sectors.

<b>Hungary</b>	The NC (2008) exercises the role of NR. The position is held by the <b>Deputy State Secretary for the EU and International Relations</b> of the <b>Ministry of Interior</b> .	The main responsibilities of the National Coordinator include the annual report to the Government on the steps taken during the year and on remaining challenges.
<b>Italy</b>	The function of NR is fulfilled by the <b>Department for Equal Opportunities (DEO)</b> of the <b>Presidency of the Council of Ministers</b> , the central authority responsible for the promotion and coordination of policies and actions against THB.	The DEO also acts as the national observatory on THB. It gathers documents and reports on THB, information on the national and international legal framework, as well as reference documents and judgments on a secured website to which registered NGOs and local authorities, have access to enter information on trafficked persons assisted within the national assistance programmes. DEO uses a special database (SIRIT) for the collection of information on THB to monitor the phenomenon.
<b>Latvia</b>	The NC exercises the role of NR. Based at the <b>Ministry of Interior</b> .	The NC has been assigned the task of gathering and analysing data from different state institutions and NGOs. NC reports annually to the Cabinet of Ministers on the implementation of the National Action Plan. Complementary, the Latvian State Police prepares an annual report for internal use on the activities in the field of combating THB.
<b>Lithuania</b>	The function of NR is held by an official of the <b>Ministry of Interior</b> (2016).	The NR collects statistical data and other relevant information on THB and counter-THB activities and actions; conducts data analysis and evaluates trends and the results of counter-THB activities and actions; issues recommendations and presents them to the Minister of the Interior, the Commission of Coordination of the Fight against THB and the public. The Minister

		of the Interior informs the Government of the recommendations by the NR.
<b>Portugal</b>	The NC (2008) exercises the role of NR. The NR/NC is appointed under the <b>Commission for Citizenship and Gender Equality (CIG)</b> . The CIG is part of the <b>Presidency of the Council of Ministers</b> and falls under the authority of the <b>Secretary of State of Citizenship and Equality</b> .	NR drafts annual implementation reports of the National Action Plan and reports accordingly to Government members. In addition to the NR, the Observatory on THB is mandated to produce, collect, analyse and disseminate information on HT and other kinds of gender violence.
<b>Romania</b>	The function of the NR is assigned to the National Agency against Trafficking in Persons (ANITP) within the <b>Ministry of Internal Affairs (2011)</b> .	According to Government Decision No. 460/2011, ANITP coordinates, evaluates and monitors the implementation of anti-trafficking policies by the responsible authorities and drafts annual reports. ANITP is also responsible for maintaining the Integrated System for Monitoring and Evaluation of Victims of Trafficking (SIMEV) on VOTs and plays a key role in the referral mechanism. SIMEV is an important tool for the evaluation of the phenomenon, in order to identify trends and make them available for stakeholders, ensuring the effectiveness of early action to implement the National Strategy against Trafficking in Persons.
<b>Slovakia</b>	The function of NR is fulfilled by the <b>Information Centre for Crime and Human Trafficking Prevention (ICCHTP)</b> , which is part of the <b>Ministry of Interior (2009)</b> .	The ICCHTP was established with the aim of collecting information on victims of trafficking, providing analysis and evaluation of activities, and sharing information at the national and international levels. Next to the NR, Slovakia has an AT coordinator (2005).

<b>Slovenia</b>	The NC (2002) <i>de facto</i> acts as NR (2012). The NC is based at the <b>Ministry of Interior</b> .	The NC prepares annual reports and strategic documents that are submitted to the Government.
<b>Spain</b>	The Director of the <b>Private Office of the Secretary of State for Security</b> is appointed as National Rapporteur (2014). The NR is supported by the <b>Intelligence Centre against Terrorism and Organised Crime (CITCO)</b> as the focal point in the field of THB. The Office of the NR has a total of three staff, including a focal point official at CITCO. The Ministries of the Interior, Equality, Justice, Inclusion, Migration and Social Security, Labour and Social Economy have a role in drawing up the Anti-Trafficking National Plan.	Tasks of the NR include supervision, monitoring and control of the anti-trafficking activities of all state institutions; assessment of trends in THB; measuring results of actions; collection and analysis of information; identification and exchange of good practices; and development of common indicators to facilitate comparison and consistency of information. It also focuses on creating coordination among stakeholders, establishing collaboration mechanisms and providing a greater role to NGOs.
<b>Sweden</b>	The function of the NR is fulfilled by the <b>National Police Board (1998)</b> , assisted by the <b>National Criminal Investigation Department (NCID)</b> .	The duty of the NR/NCID is to collect and process information about trafficking within and through Sweden and to evaluate the effectiveness of law enforcement actions as well as legal, policy and practical measures and initiatives. The NR/NCID issues annual monitoring reports to the Government. Information is collected through the 7 police regions, the County Administrative Board (National coordinator), the Migration Agency, social services and NGOs within the Swedish Civil Society Platform.
<b>NR or equivalent mechanisms are organised as collective governmental bodies</b>		
<b>Bulgaria</b>	The National Commission on THB (NCCTHB) (2004) <i>de facto</i> fulfils the role of NR. The	Annual reports on the activities of the Secretariat of the Commission

	NCCTHB is a collective body of the Council of Ministers, composed of high-level officials from twelve ministries and institutions.	and the relevant institutions that are members of the Commission.
<b>Malta</b>	The role of the National Rapporteur is played by the Anti-Trafficking Monitoring Committee, which is appointed by the Prime Minister and consists of the representative of the Prime Minister, the Ministry for Home Affairs and National Security, the Ministry for the Family and Social Solidarity, the Office of the Commissioner of Police, the Office of the Attorney General and Caritas Malta.	The Coordination function of the National Rapporteur or Equivalent Mechanism (NREM) is fulfilled by the Human Rights Directorate. The Human Rights Directorate was recently entrusted to lead the government's anti-trafficking reform and streamline coordination with ministries, national authorities, social partners, NGOs, and other stakeholders. The Human Rights Directorate is also responsible for monitoring the implementation of the anti-trafficking policy at the national level. These functions include conducting assessments of trends in HT, measuring results of anti-trafficking actions, gathering statistics in close cooperation with civil society organisations active in this field, and reporting.
<b>Poland</b>	A National Rapporteur has not been appointed in Poland. The Inter-Ministerial Committee for Combating Trafficking in Human Beings serves as a mechanism equivalent to a National Anti-trafficking Rapporteur, but in practice, its Secretariat, i.e. the Ministry of the Interior and Administration's Unit of the European Migration Network and Prevention of THB, fulfils this function and participates in the Informal EU Network of National	Poland has a separate national anti-trafficking coordinator.

	Rapporteurs or equivalent mechanisms.	
<b>NR is part of an independent body – independent but not separate</b>		
<b>Belgium</b>	The function of NR is a combination of Myria, Federal Migration Centre, as independent rapporteur (2014) and the Interdepartmental Coordination Unit on THB (ICU) as coordination body and the rapporteur of the State.	Myria is an independent public body. Its mission is to ensure the protection of the fundamental rights of migrants, Inform public authorities about the nature and extent of migration flows, and stimulate the fight against human trafficking and smuggling. Myria has the power to take legal action and act as a civil party in trafficking cases. The main task of the ICP is coordinating, presenting, and introducing a policy.
<b>Finland</b>	Non-Discrimination Ombudsman acts as the Finnish National Rapporteur on trafficking in persons. In January 2009 the Finnish government appointed the Ombudsman for Minorities to serve as the National Rapporteur, followed by the Non-Discrimination Ombudsman since 1 <sup>st</sup> January 2015. The National Rapporteur is an independent actor administratively situated within the Ministry of Justice.	The tasks of the National Rapporteur include monitoring phenomena relating to human trafficking, the fulfilment of international obligations and the effectiveness of national legislation; issuing proposals, recommendations, statements and advice relevant to combating human trafficking and promoting and ensuring the rights of victims; keeping in contact with international organisations; providing legal advice and assisting victims as necessary; reporting regularly to the Government and Parliament on human trafficking and related phenomena.
<b>France</b>	The Commission Nationale Consultative des Droits de l'Homme (National Human Rights Institute) is assigned as independent NR (2014)	Next to the Commission as NR, France has a separate National Coordinator.

<b>Ireland</b>	The Irish Human Rights and Equality Commission has been designated as Ireland's Independent National Rapporteur on the Trafficking of Human Beings (2020). To bring this change into effect a Statutory Instrument has been signed by the Minister for Justice confirming the Commission in this new additional role.	As National Rapporteur, the Commission will prepare and publish monitoring reports and thematic reports evaluating Ireland's overall performance against the State's international obligations, such as the EU Anti-Trafficking Directive, the Council of Europe Convention on Action against Trafficking (2005) and the Palermo Protocol to the UN Convention against Organised Crime (2000).
<b>Luxembourg</b>	The law adopted in 2014 appointed the Advisory Committee on Human Rights (CCDH) as <b>NR</b> , as an independent authority working together with the <b>Committee to monitor trafficking in human beings</b> .	The National Rapporteur identifies trends in human trafficking, evaluates the results of the actions undertaken to effectively combat this phenomenon, including the collection of statistics in close collaboration with relevant civil society organisations, and submits every two years a report to the Parliament. The Rapporteur also closely follows the work of the Committee and is invited to its meetings. The first report to the Parliament was issued in March 2017.
<b>NR is a separate independent agency</b>		
<b>Netherlands</b>	The Dutch government established a National Rapporteur in 2000. The National Rapporteur on Trafficking in Human Beings and Sexual Violence against Children is an independent institution. The independent position is legally embedded.	The NR collects information on the nature and scale of HT and sexual violence against children. The NR is an independent authority with her/his own office, which reports to the government.

*Source: Information retrieved from [ec.europa.eu](http://ec.europa.eu)<sup>1</sup>*

<sup>1</sup> *General situation of anti-trafficking in EU Member States*, [Online] available at: [https://ec.europa.eu/anti-trafficking/eu-countries\\_en](https://ec.europa.eu/anti-trafficking/eu-countries_en).

## APPENDIX 3

### Case Study 1

The text provided in *Case Study 1* was adapted, abridged and translated from Romanian by the author from the original text of *Decision no. 673/2020 of 3rd December 2020 of Court of Appeal Oradea*<sup>2</sup>, and the subheadings were provided by the author in order to identify the main elements of the definition of HT.

#### Case Study 1

*Decision no. 673/2020 of 3rd December 2020 of Court of Appeal Oradea*<sup>3</sup>

Under criminal sentence no. 102/2020 dated October 1<sup>st</sup>, 2020, pronounced by the Court G\_\_\_ G\_\_\_, based on the indictment of the Prosecutor's Office attached to the High Court of Cassation and Justice - D.I.I.C.O.T. - Territorial Service Oradea issued in file no. 76/D/P/2020 on May 14<sup>th</sup>, 2020, the defendant AA, born on July 14<sup>th</sup>, 1978, in Salonta, Bihor county, of Romanian nationality, marital status: consensual union, minor children: 2, education: 8th grade, profession/occupation: no job, repeat offender, with actual residence in locality of Ciumești, was convicted for the offence of HT, to the penalty of 5 years imprisonment, with the prohibition from exercising the rights provided for in Article 66 letters a, b and h of the Criminal Code, namely the right to be elected to public office or any other public office, the right to hold a position involving the exercise of state authority and the right to own, carry and use any category of weapons, for a period of 4 years, as an additional penalty.

#### Evidence adduced during both the criminal proceedings and the judicial inquiry:

- statements of the victim BB;
- statements of the defendant AA;
- statements of the witness Sarah V. (the defendant's concubine);
- statement of the witness H.Z.B (the driver of the car who transported the victim from the locality of Ciumești to Sanislău, for a fee, at the request of the defendant and his concubine);
- statements of the witness HH (the victim's mother);

<sup>2</sup> Curtea de Apel Oradea, *Decizii nr. 673/2020 din 03-dec-2020, Curtea de Apel Oradea, traficul de persoane (art.210 NCP) (Penal)*, [Online] available at: [https://sintact.ro/#/jurisprudence/534753200/1/decizie-nr-673-2020-din-03-dec-2020-curtea-de-apel-oradea-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20673~2F2020%20din%2003-dec-2020,%20Curtea%20de%20Apel%20Oradea,%20traficul%20de%20persoane%20\(art.210%20NCP\)%20\(Penal\)&cm=SFIRST](https://sintact.ro/#/jurisprudence/534753200/1/decizie-nr-673-2020-din-03-dec-2020-curtea-de-apel-oradea-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20673~2F2020%20din%2003-dec-2020,%20Curtea%20de%20Apel%20Oradea,%20traficul%20de%20persoane%20(art.210%20NCP)%20(Penal)&cm=SFIRST) (accessed 14 April 2023) [hereinafter, *Decision no. 673/2020 of 3rd December 2020 of Court of Appeal Oradea*].

<sup>3</sup> *Ibidem*.



- statement of the witness J.J. during the criminal proceedings (witness who denounced the defendant);
- audio recordings made during the investigation of the *in flagrante delicto*, containing the discussions between the defendant, the investigator's undercover collaborator and the victim.

**On the basis of the evidence adduced during both the criminal proceedings and the judicial inquiry, the court found the following facts:**

Defendant AA is a native of Salonta, Bihor County, and is 42 years old. According to his criminal record, since 1999, he has been convicted of several offences (nine separate judgments), including aggravated theft, threats, trafficking in minors (three convictions), assault and other types of violence, bodily harm, indecent assault, HT and procuring. Through his concubine, the defendant allegedly knew the victim and her family.

**Action 1: Harboring**

During April 2020, the victim BB left her parental home without taking any luggage with personal belongings and went to the home of the defendant AA in Ciumești, where the latter was living with his concubine V. Sarah, and where the victim was accommodated for several days.

**Means 1: Abuse of a position of vulnerability**

Both the defendant and his concubine declared that the victim was chased away from home by her mother, who reproached her for not contributing money to the family expenses without the two of them realising that this situation was not favourable to them, and probably in the (mistaken) belief that they could more easily dispose of a person who was deprived of care and that their act was not guilty.

**Means 2: Transfer. Purpose: exploitation of prostitution**

From the day of arrival at the defendant's home, the victim was allegedly transferred to a man from Salonta, Bihor county, who allegedly travelled to Ciumești to pick up the victim and take her to his home with the aim of selling her forward for prostitution abroad. There, the victim stayed for several days with the man's wife, after which, not having been taken abroad as promised, she returned to the defendant's home on April 7<sup>th</sup>, 2020.

**Means 3: Attempts to transfer. Purpose: exploitation of prostitution**

On the evening of April 7<sup>th</sup>, 2020, the defendant AA took the initiative to contact several people he knew via the Facebook Messenger application. Thus, on the night of April 7<sup>th</sup> to 8<sup>th</sup>, 2020, the defendant sent text messages to three persons: firstly, to the user "S\_\_\_ Babau" with the following content: "Hi; I am H.; The girl is 23 years old and independent"; the second message he sent to witness JJ: "Hi, I have a 23-year-old independent girl. Interested?"; the third message he sent to user "Miki Bombardierul":

"Hi Miki, I'm H.. She's a 23-year-old girl, do you happen to know anything?" The next day, the defendant sent messages and had two phone conversations with a certain Bobi. Among the messages sent were "So, what do you think?", "Tall", "Has ID", "23", "Very \_\_\_", and "She stays put wherever you place her".

Discussions between the defendant and witness JJ continued the next day, even though the witness firmly rejected the defendant's proposals. At the same time, the defendant continued to contact the witness by video call, sent him three photos of the victim and informed him of the price of EUR400 for the victim.

The witness JJ decided to denounce the defendant. Under the coordination of the prosecution and through witness JJ, the defendant was caught in flagrante delicto on April 8<sup>th</sup>, 2020, by the simulation of the transfer and "purchase" of the victim.

#### **Means 4: Transport**

The defendant travelled in a car driven by witness H.Z.B. from Ciumești to Sanislău. In the car were the defendant, the victim, the defendant's concubine, her brother and the driver.

#### **Means 5: Repeated transfer (simulated). Purpose: exploitation of prostitution**

After a few minutes of discussion between the defendant and the authorised collaborator, in which the victim also participated, the defendant gave assurances that the victim knew what she had to do, that she performed all types of sexual acts with a large number of clients, that he was free to do whatever he wanted with the victim, that no one would be searching for the victim and that the victim would not make trouble for him or run away, the victim was transferred/sold in exchange for EUR400. At that point, the police intervened, and the crime was found to have been committed *in flagrante delicto*.

#### **Background of the victim**

BB, a victim of human trafficking, is 22 years old (at the time of the Decision) and comes from a family with a precarious material situation, living with her parents in Sanislău. Together with them, in the same house, live five other members. None of the adults have a job and they earn their daily subsistence from occasional day jobs in the local community and from state allowances for their minor children.

BB, despite having completed 8 grades, cannot read or write and has speech and language difficulties. Over the years, she has had relationships with several men and has repeatedly left home for this purpose. The victim has a minor child who was given by court order to the father because of the mother's lack of material conditions for his upbringing.

Previously, without it being possible to establish the exact date, BB had gone to France for about six months, where she worked as a prostitute on the streets. With

reference to this, the victim stated that she had also been trafficked on that occasion and sold by other people.

#### **Specialised psychological assessment**

The BB victim is gullible, suggestible, manipulable and educationally deficient. She has a mild mental impairment (IQ level is 65). All these elements were highlighted during the psychological assessment of the victim and are factors that contributed to the situation she has been in, that of a victim of human trafficking (according to the Psychological Assessment Report drawn up by specialists from the National Agency against Trafficking in Persons - ANITP).

#### **Assistance offered**

In the course of the prosecution, the representatives of the ANITP offered the victim the possibility of being institutionalised, with a view to psychological counselling and the provision of a safe and stimulating environment. However, the victim refused, stating that she wanted to return home to her family.

As of April 24<sup>th</sup>, 2020, the victim was referred to the Foundation People to People Oradea, which provides specialised assistance services to victims of trafficking in persons, but these services have not been provided to date, as the victim could not be contacted.

#### **The victim was informed of her rights**

In court, after being informed of her rights as an injured party, BB stated that she was requesting that the defendant be ordered to pay the sum of RON2200 in compensation for non-material damage, thus becoming a civil party to the case.

*Source: The text was abridged and adapted from Decision no. 673/2020 of 3rd December 2020 of Court of Appeal Oradea, sintact.ro*

## APPENDIX 4

### Case Study 2

The text provided in *Case Study 2* was adapted, abridged and translated from Romanian by the author from the original text of *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*<sup>4</sup>, and from the corresponding news article<sup>5</sup>. The subheadings were also provided by the author in order to identify the main elements of the definition of HT.

#### Case Study 2.

*Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*<sup>6</sup>

The indictment of June 30<sup>th</sup>, 2020 issued in case no. 275D/P/2016 of the Prosecutor's Office attached to the High Court of Cassation and Justice - D.I.I.C.O.T. - Territorial Service Piteşti, ordered the indictment of the defendant AA, under investigation for the offence of HT, provided for by Article 210 para. 1 lit. a of the Criminal Code.

As the Court Decision anonymises the names of the victim, the defendant and the witnesses, except for one, the following acronyms will be used to refer to the persons involved:

- AA - the defendant (the person accused of human trafficking, born in 1996);
- BB - the victim (the person considered to be a victim of human trafficking, date of birth not specified);
- EE, also referred to as Stulier (the victim's second client, who eventually married the victim).
- FF - the defendant's friend (who hosted the defendant and the victim at his home in Wurzburg, Germany)
- GG - the defendant's other girlfriend who, according to the investigation report dated February 21<sup>st</sup>, 2017, of the judicial authorities of the B.C.C.O Pitești, was in a romantic relationship with the defendant and had been practising prostitution in Germany for his benefit, for 4 years;

<sup>4</sup> Decizie nr. 227/2021 din 22-iul-2021, Tribunalul Argeş, traficul de persoane (art.210 NCP) (Penal), [Online] available at: [https://sintact.ro/#/jurisprudence/535438631/1/decizie-nr-227-2021-din-22-iul-2021-tribunalul-arges-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20227~2F2021%20din%2022-iul-2021,%20Tribunalul%20Argeş,%20traficul%20de%20persoane%20\(art.210%20NCP\)%20\(Penal\)&cm=SFIRST](https://sintact.ro/#/jurisprudence/535438631/1/decizie-nr-227-2021-din-22-iul-2021-tribunalul-arges-traficul-de-persoane-art-210-ncp-penal?keyword=Decizie%20nr.%20227~2F2021%20din%2022-iul-2021,%20Tribunalul%20Argeş,%20traficul%20de%20persoane%20(art.210%20NCP)%20(Penal)&cm=SFIRST) (accessed 14 April 2023) [hereinafter, *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*].

<sup>5</sup> Alina Crângeanu, "Povestea Alisei. Dusă la produs într-un club erotic din Würzburg, o muscelancă a fost salvată de un client, care a luat-o de nevastă", *Jurnalul de Argeş*, 3.12.2021, [Online] available at: <https://jurnaluldearges.ro/povestea-alisei-dusa-la-produs-intr-un-club-erotic-din-wurzburg-o-muscelanca-a-fost-salvata-de-un-client-care-a-luat-o-de-nevasta-155325/> (accessed 14 April 2023).

<sup>6</sup> *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*

For the Court Decision, the following evidence was provided by the prosecutors:

- the victim's complaint;
- the statements of the suspect/defendant AA;
- statements of witnesses, specifically of EE, FF and GG
- the minutes of the investigations, drawn up by the criminal investigation bodies of the BCCO Pitești - Trafficking in Persons Service;

However, the victim BB and the witness EE (who eventually became her husband) were not able to witness in Court since they were in Germany at the time of the Court hearing, as it was during the COVID-19 pandemic, and they also had two young children. Their statements during the investigation phase were used instead.

### **Background**

At the age of 10, the victim was living in a village in Muscel, only with her father, to whom she was entrusted for upbringing and education. At the end of 2011 and the beginning of 2012, during high school, she met AA while they were both students at different high schools in Câmpulung. For four years, they were in a romantic relationship, and until mid-2016, they lived together in Bucharest.

### **Action 1: recruitment; means 1: deception.**

In the spring of 2016, the defendant AA, taking advantage of his friendship with witness FF, who was living in Wurzburg, Germany, convinced the victim BB, to accompany him to Germany, explaining to her that he would work in construction and she would take care of the household chores, implying to her that this would allow them to keep their relationship.

### **Action 2: transport**

On June 15<sup>th</sup>, 2016, BB followed the defendant AA to Germany, and on June 17<sup>th</sup>, 2016, they arrived in Wurzburg and stayed at FF's home. On the same day, after the defendant had left town without any explanation, FF told BB that the defendant knew a girl named C. who was a prostitute in Wurzburg at the Eden Garden Sauna club.

### **Means 2: coercion (psychological and physical), and means 3: abuse of a position of vulnerability (the retention of the victim's ID card)**

When AA returned home, the victim reproached him for hiding the fact that he had a girl who was prostituting for his benefit, but the defendant denied this.

In these circumstances, the defendant began to persuade the injured person, through emotional blackmail and aggression, to agree to practice prostitution. The victim refused and expressed her wish to return to Romania, but the defendant did not return her ID card, which he had taken from her under the pretence of presenting it to customs during the trip to Germany while knowing that she did not have any money to pay for the transport.

Unable at that time to secure her return to the country, the victim had to accept work in an erotic club.

**Purpose: the exploitation of the prostitution of others**

On the morning of June 19<sup>th</sup>, 2020, at 10.00 AM, AA, together with an acquaintance who had a car, drove her to the “Viva Sauna FKK” club in Würzburg. He returned her identity card so that she could be registered as a sex worker. At the reception of the club, she was met by a Romanian girl who informed her about what she had to do and the price for the time spent with the client, namely EUR50 for half an hour and EUR100 for an hour. Because she lived in the club and was provided with meals, the girl was obliged to pay EUR50 per day to the club, and the rest of the money obtained from the sexual services was given to AA at the end of each night. The victim's working hours were from 12 PM to 2 AM.

The first night, BB did not have any clients, but the second night, she had a client who gave her EUR100. On the third night, a second client named Stulier, came in. Each night, Stulier preferred BB's company and, at the end of the programme, gave her between EUR250-300. A week later, on June 26<sup>th</sup>, 2016, at around 2 AM, after the victim had parted with her client, Stulier, and left the club with the intention of going to the building where the girls' bedrooms were located, she was met by the defendant, AA. He demanded the amount of money she had received that evening. The victim handed him the sum of EUR450 received from the client.

**Means 4: coercion (threat/use of force/other form of coercion)**

However, AA, suspecting that the victim was hiding some of the money, reproached her and began to hit her. The scene was seen by BB's client, Stulier, who was walking towards his car and came to the injured person's aid, shouting at the assailant, who ran away. Stulier offered to call the police, but the victim refused, assuring him that she was all right.

**The exit: rescued by the client**

On June 27<sup>th</sup>, 2016, Stulier returned to the club and convinced BB to leave the club, assuring her of his support. She accepted it, left the club and chose to live with her former client at his home. Afterwards, the two married, and at the time of the court's decision, July 2021, they had two young children together. At the trial in 2020, they did not show up and told the judges that they could not leave Germany because of the children and the pandemic. Only their statements from the DIICOT prosecution were used.

DIICOT prosecutors submitted as evidence the victim's complaint and statements of the witnesses, E.E., F.E., G.G., as well as the intercept of a phone call in which AA complained of poverty and told a friend that he and his “woman” were going to Germany to get money for a car.

However, the Court of Arges decided that the evidence provided by the prosecutors was not sufficient to reveal concretely and unequivocally what the circumstances of the defendant's and the victim's trip to Germany were.

*Source:* The text was abridged, adapted and translated from *Decision no. 227/2021 of 22nd July 2021 of the Court of Argeş*, sintact.ro

## APPENDIX 5

### Case Study 3

The text provided in *Case Study 3* was adapted, abridged and translated from Romanian by the author of the original text of Judgment No. *RJ 86452de62/2023 of 16-Mar-2023, Court of Suceava*<sup>7</sup>. The subheadings were also provided by the author, so as to mark the action, means and purpose within the case.

#### Case Study 3.

*Judgment no. RJ 86452de62/2023 of 16-Mar-2023, Court of Suceava, human trafficking (art.210 NCP)*<sup>8</sup>

By indictment no. 330/D/P/2015 of the Prosecutor's Office of the High Court of Cassation and Justice - Directorate for the Investigation of Organised Crime and Terrorism (DIICOT) - Suceava Territorial Service, the defendant AA was indicted for committing the offences of human trafficking in the case of two victims, being convicted according to Art. 38 NCC (concurrent offences). The case was registered with the Court of Suceava on October 30<sup>th</sup>, 2020, initially under no. ####/86/2020.

For the final judgement, the following evidence (and other data) was used in Court:

- Testimonies of witnesses
  - Defendant AA;
  - Victim BB – the first victim;
  - Witness BC – the husband of the first victim;
  - Witness BD – the victim BB's friend who kept in touch with the victim and knew the circumstances of her situation;
  - Witness BE – a woman whom the defendant attempted to recruit using the same “loverboy method” immediately after victim BB returned to Romania; the attempt failed;
  - Victim CC – the second victim;
  - Witness CD – the mother of the second victim.

<sup>7</sup> *Sentinta din 16-mar-2023 Tribunalul SUCEAVA Suceava, Sectia penala*, [Online] available at: <https://sintact.ro/#/jurisprudence/553759802/1/sentinta-nr-rj-86452-de-62-2023-din-16-mar-2023-tribunalul-suceava-traficul-de-persoane-art-210...?keyword=decizie%20RJ%2086452de62~2F2023%20&cm=SFIRST> (accessed 2 May 2023) [*Judgment no. RJ 86452de62/2023 of 16-Mar-2023, Court of Suceava*].

<sup>8</sup> *Ibidem*.

- data provided by the German judicial authorities who, following checks carried out on the victim CC, established that on 04.02.2016, she was working at the brothel FKK Sauna Club x in Hanau using the pseudonym "####";
- Minutes of investigations of Facebook profiles and computer searches on mobile phones of victims and witnesses;
- Address of the Municipality of the Commune ##### concerning the assets belonging to the defendant;
- Address and reply from the Suceava County Administration of Public Finances regarding information concerning the defendant;
- Delegation for compulsory legal assistance for the victims;
- Declarations of civil party;
- Minutes of acknowledgement of the victim's rights;
- Address and psycho-social report drawn up by D.G.A.S.P.C Suceava concerning the victims;

*\* AA failed to appear for prosecution, having left the country*

## CASE A

### Action 1: Online recruitment of victim BB

#### Means 1: Deception // Abuse of a position of vulnerability

At the end of April 2015, AA contacted the victim BB through Facebook. According to details provided by BB herself, the defendant established that BB was a vulnerable person, given that at that time, she was 20 years old, had a 2-year-old child and was married, but did not get along with her husband BC. He promised her “a better life”, i.e. to move together to Germany where they would find work, and by convincing her that he was serious, the defendant AA gained the victim's trust, and she became emotionally attached to him. About one month later, at the end of May 2015, the defendant AA succeeded in convincing BB to travel with him to Germany.

#### Means 2: Physical and psychological coercion

### Action 2 and 3: Harboursing and Transport

#### Purpose: Exploitation of prostitution

When they arrived in Germany, the victim BB claimed that they lived in a building with other Romanian nationals who were friends of AA, whom BB realised were involved in theft and prostitution. After 2-3 days, the defendant AA, saying he lacked money, proposed BB to practice prostitution, and when she refused, the defendant exercised acts of mental and physical violence against her.

In these circumstances, as she was afraid, the victim BB gave in and agreed to prostitution. Thus, after being instructed on how to behave with "clients" and what



rates to charge depending on the nature of the sexual acts performed, the injured person was transported by the defendant AA to a brothel in the locality of x, where she claims to have performed normal sexual acts with 2-3 clients from whom she obtained EUR60 each.

### **Means 3: Physical coercion – use of force**

On that day, the victim BB claims that AA showed up in the room assigned to her by the receptionist of the brothel and asked her for the money she had earned from the “clients”. The victim told the defendant that she intended to return to Romania and that she would use the money she had obtained for this purpose. The victim’s decision irritated the defendant AA, who punched and kicked her several times in different areas of her body and then took the money away from her. Moreover, the defendant tried to deprive the victim of her identity card and mobile phone to prevent her from returning to Romania but had to leave the room immediately as the victim asked the receptionist to intervene.

### **The exit**

Next, after reporting to the receptionist that she had been forced into prostitution by AA, the victim called her friend BD, who was in Romania and asked her for help. Witness BD, in turn, contacted the victim’s husband - witness BC, who bought a return ticket to Romania for her. Witness BD claimed that victim BB called her and told her the whole situation. BD advised her to leave, but BB replied, “I cannot do so, as here in Germany, this activity is legal, and I cannot call the police”. Later, BB managed to leave the brothel with the help of a bodyguard working in the brothel, to whom she told the whole story of how she ended up in Germany.

### **Case B**

Between 2015 and January 2016, using the same *modus operandi* described above (“the loverboy method”), defendant AA recruited the victim CC for the purpose of sexual exploitation.

### **Action 1: Online recruitment of victim CC**

#### **Means 1: Deception // Abuse of a position of vulnerability**

In December 2015, AA approached the victim CC on Facebook. Thus, according to details provided by the victim himself, the defendant established that CC was a vulnerable person, given that at that time, the victim was 19 years old, lived with her sister, but did not get along with her mother CD, who was working abroad. He promised her “a better life”, i.e. to go to Germany together where they would find work, and by convincing her that he was serious, the defendant AA gained the victim’s trust, and she became emotionally attached to him. At the end of January 2016, the defendant AA managed to persuade CC to travel together to Hanau in Germany.

**Means 2: Deception****Action 2 and 3: Harbours and Transport****Purpose: Exploitation of prostitution**

When they arrived in Hanau, the victim CC claims they lived with other persons of Romanian nationality, friends of AA, whom she realised were involved in theft and prostitution. After two weeks, under the pretence that he had huge financial debts, defendant AA proposed to the victim CC to practice prostitution, telling her that this was the only solution to obtain money in a relatively short time. In these circumstances, being emotionally attached to the defendant AA, the victim CC gave in and agreed to prostitution. She worked as a prostitute for about three weeks in February 2016, as she claimed during the hearings, in Hanau, Mainz, Kassel and x, in rented flats or at the “puff” (a slang term used for brothels in Germany).

From the victim CC's testimony:

“So, 2 weeks after I arrived in Germany, I was persuaded by AA to work as a prostitute, and he told me that he had very big debts and that if I couldn't do it after a week, he would find me another job. After that, AA and his friend took me to an apartment in Mainz, and his friend took care of making a profile on a website called Ladies where he posted the address where I was to practice prostitution, my photo and a contact telephone number.

**Means 3: Psychological coercion**

*[After the first client], I called AA and complained to him that I couldn't practice prostitution, but he insisted that I try again and that I would get used to it. I talked to him for about an hour, after which the phones started ringing again and again. [She continued to receive clients for the next few days]. Every day, I told AA that I wanted to go home as I didn't want to practice prostitution anymore, and he asked me to calm down. [...] That week, I earned around EUR1000, which AA took from me, saying he had to pay off debts. In the following days, AA told me that he still had debts of [around EUR1400] and that we would not be able to return to Romania until he paid these debts. The next week, we moved to another city [where she earned EUR400]. After that, AA came up with the idea that I should practice prostitution in a puff in Hanau.*

*[During the next two weeks, the victim CC was taken to two other brothels, each in a different city in Germany, and afterwards in a rented apartment in Kassel].*

That evening I talked to AA and told him that the apartment was miserable and I would only stay there until I earned the money to return to Romania. AA told me that I would not be able to leave, as all his friends knew that I was the one who had to pay his debt and that they would look for me. He also told me that if I agreed to

prostitution for one more week, he promised me that at the end of the week, we would return to Romania”.

#### **The exit**

*[The next morning CC was called by EE, a friend of AA, who told the victim CC that, in fact, the defendant AA has no debts and that with the money she earns, he buys drugs, has fun, that AA still commits thefts and that he is not interested in her, he only wants to earn money from her. In order to convince her, EE called AA in CC's presence and asked AA if he agreed to sell her to him for EUR1500. AA agreed, telling EE that there was no problem because he had nothing to gain from the victim CC except money. EE finally helped the victim CC to go to Romania by buying her a bus ticket to Romania].*

#### **Means 4: Threatening // Sextortion**

After CC returned to the country, AA also returned to Romania and contacted CC, trying to convince her to return to him. “He spoke to me nicely at first, telling me that he wanted to change, but seeing that I wanted to break all ties with him, he started threatening me with sharing some compromising photos I had taken in Germany when the ads were placed on the profile sites.”

#### **VERDICT CASE A:**

- between April and May 2015, by **taking advantage of the state of obvious vulnerability** of the injured person BB, determined by her age (20 years old), by the mental state of a person who had a child aged about 2 years old and who was not supported by her husband - BC, by **using “the loverboy method”**, the defendant AA **recruited** the victim BB, who became emotionally attached to the defendant, being misled by a fake sentimental relationship, but also by the false promise of finding a job abroad and obtaining large sums of money, **transported** the victim to Germany, where she was taken to an apartment in the town of x and where she was **sexually exploited**, being **physically and mentally forced** by the defendant to engage in prostitution, the money obtained by the victim from the “clients” with whom she had sexual relations being fully appropriated by the defendant.

#### **VERDICT CASE B:**

- between December 2015 and January 2016, by **taking advantage of the state of obvious vulnerability** of the victim CC, determined by her age (19 years), the mental state of a person who grew up and lived without her parents, who were working abroad, by **using “the loverboy method”**, the defendant AA **recruited** the injured person CC, who became emotionally attached to him, being misled by a fake sentimental relationship, but also by the false promise of finding a job abroad and obtaining large amounts of money, **transported** the victim to Germany, where in February 2016, having been **accommodated** in several rented apartments, she was

**sexually exploited** and **mentally coerced** by the defendant into prostitution in Hanau, x, Mainz and Kassel, the money obtained by the victim from the “clients” with whom she had sexual relations being fully appropriated by the defendant.

#### **CIVIL ASPECTS**

The victim, BB, submitted an application to join a civil action in the criminal proceedings without making any further clarifications in this regard [*therefore, her civil claim was rejected*].

The victim CC submitted an application to join a civil action in the criminal proceedings with a total amount of EUR25,000, of which EUR5,000 represent material damages, and EUR20,000 represent moral damages [*the Court rejected the civil claim for material damages as they could not be evidenced, but granted her civil claims for moral damages of RON40,000*].

#### **The penalty**

The defendant AA was sentenced to “the heaviest penalty of 3 (three) years' imprisonment, to which shall be added an increase of one-third of the total of the other penalties imposed, i.e., one year, resulting in a penalty of 4 (four) years' imprisonment” [*plus suspension of certain rights*].

#### **Seizure of assets**

Pursuant to Article 112(1)(e) of the Criminal Code, the amount of RON10,000 was confiscated from the defendant, amount of money obtained from the human trafficking offences and appropriated by the defendant.

*Source: The text was abridged, adapted and translated from Judgment no. RJ 86452de62/2023 of 16-Mar-2023, Court of Suceava<sup>9</sup>, sintact.ro*

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<sup>9</sup> *Ibidem*.

## APPENDIX 6

### List of interviews declined

#	ORGANISATION	NAME	POSITION	Address email where invitation was sent	Reason
<b>Regional law enforcement organisation</b>					
1	SELEC	Romulus Ungureanu	Director for Operations at SELEC, an international law enforcement organisation	Personal contact	NA
<b>EU agencies</b>					
2	EUROJUST	Main office		media@eurojust.europa.eu ton.vanlierop@eurojust.europa.eu jitsnetworksecretariat@eurojust.europa.eu	NA
3	EUROJUST	Daniela Buruiană	The Romanian national member of EUROJUST	Online form	NA
4	EUROPOL	Main office		press@europol.europa.eu	NA
5	DIICOT	Camelia Stoina	Head of the International Cooperation, Representation and Legal Assistance Service, Directorate for the Investigation of Organised Crime and Terrorism	cooperation@diicot.ro	Not able to participate due to a busy schedule

6	<b>Romanian Police, Centre for International Police Cooperation (CCPI)</b>	Mădălina Vlangăr	Director of CCPI (Centre for International Police Cooperation), Chief Police Commissioner	ccpi@mai.gov.ro	Not able to participate due to a busy schedule
7	<b>Prosecutor's Office of the High Court of Cassation and Justice (PÎCCJ)</b>	Nadina Spânu	Chief Prosecutor of the International Judicial Cooperation, International Relations and Programmes Service of the Prosecutor's Office of the High Court of Cassation and Justice	presa@mpublic.ro	Declined competence
<b>Offices of Romanian Attaché for Home Affairs</b>					
8	<b>Romanian Embassy in the Republic of Austria/ Slovenia/ Cyprus</b>	Dr. Cristian IONUȘ	Chief Police Commissioner Office of the Attaché for Home Affairs	cristian.ionus@mai.gov.ro viena.mai@mae.ro	Declined competence
9	<b>Romanian Embassy in the Kingdom of Belgium</b>	Mihaela Ignuță	Secretariat	bruxelles@mae.ro	NA
10	<b>Romanian Embassy in the Republic of Bulgaria</b>	Alexandru Iorgulescu	Chief Police Commissioner Attaché for Internal Affairs	sofia.mai@mae.ro	NA

11	<b>Romanian Embassy in the Republic of Cyprus</b>	Cristian Ionuș	Office of the Attaché for Home Affairs (based in Vienna)	cristian.ionus@mai.gov.ro	NA
12	<b>Romanian Embassy in the Kingdom of Denmark/ Finland</b>	Sandu Costelin	Attaché for Internal Affairs	sandu.cotelin@mai.gov.ro	Needed institutional approval. NA
13	<b>Romanian Embassy in the Republic of France</b>	Dl. Daniel Răucea	Attaché for Internal Affairs	paris.mai@mae.ro	NA
14	<b>Romanian Embassy in the Federal Republic of Germany</b>	Tudor Vișan	Chief Police Commissioner Attaché for Internal Affairs	contact@informatiiconsulare.ro	NA
15	<b>Romanian Embassy in the Federal Republic of Greece</b>	Ioana Constantinescu	Chief Police Commissioner Attaché for Internal Affairs	atena@mae.ro	NA
16	<b>Romanian Embassy in Hungary</b>	Ciprian Maftei	Attaché for Internal Affairs	budapesta@mae.ro contact@informatiiconsulare.ro	NA
17	<b>Romanian Embassy in Ireland</b>	Ioan-Nuțu UNGUREAN	Chief Police Commissioner Attaché for Internal Affairs	dublin@mae.ro	Redirected to Ministry of Internal Affairs
18	<b>Romanian Embassy in the Republic of Italy</b>	Georgeta Bădilă	Chief Police Commissioner Attaché for Internal Affairs	roma@mae.ro contact@informatiiconsulare.ro	NA

19	<b>Romanian Embassy in the Republic of Lithuania</b>	Dragoş Florea	Office of the Defence Attaché Colonel - based in Warsaw	varsovia.aparare@mae.ro	NA
20	<b>Romanian Embassy in the Grand Duchy of Luxembourg/ Kingdom of the Netherland</b>	Iulian Şova	Chief Police Commissioner Attaché for Internal Affairs	iulian.sova@mai.gov.ro contact@informatiiconsulare.ro	NA
21	<b>Romanian Embassy in the Republic of Poland</b>	Tudor Costin	Chief Police Commissioner Attaché for Internal Affairs	aaipolonia@mai.gov.ro	NA
22	<b>Romanian Embassy in the Kingdom of Spain</b>	-	Office of the Attaché for Home Affairs (police cooperation)	madrid.mai@mae.ro	NA
23	<b>Romanian Embassy in the Kingdom of Sweden</b>	-	Office of the Attaché for Home Affairs based in Copenhagen	aaidanemarca@mai.gov.ro	NA







**EDITURA  
UNIVERSITĂȚII  
DIN ORADEA**

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