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**Evolution of the Penal Legislation in Romania
and Hungary, in the Post-Communist Era**



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Prevention and Combating of Trafficking in Persons

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Abstract:

Human trafficking is a modern version of slavery, representing one of the most worrying problems of our current society.

Far from being only a national phenomenon, human trafficking has reached a transnational, international level and, in the context of globalization, it continues to develop new dimensions that transform it in a malfeasant phenomenon, impossible to control, prevent or combat efficiently.

Every year, more and more persons become victims of human trafficking, being treated as pieces of merchandise that can be sold and bought. These victims are, usually, forced to work in sex industry, but also in agriculture or enterprises (in harsh working conditions), sometimes on the black market, being paid miserably or not being paid at all.¹

According to the latest Report of United Nations Office on Drugs and Crime (2012),² victims of human trafficking belonging to, at least, 136 different nationalities were detected in 118 countries worldwide between 2007-2010. Women and girls together account for about 75 percent of all trafficking victims detected globally.

Trafficking for the purpose of sexual exploitation accounts for 58 per cent of all trafficking cases detected globally, while trafficking for forced labor accounts for 36 per cent (the share of detected cases of trafficking for forced labor has doubled between 2008-2012)³. Victims trafficked for begging account for about 1.5 per cent of the victims detected globally and trafficking for the removal of organs has been detected in 16 countries in all regions of the world.⁴

Keywords: *human trafficking; Romania as a source/transit/destination country; European and domestic laws on trafficking in persons; new Criminal Procedure Code.*

1. Introduction

According to the *Trafficking in Persons Report 2013 of the State Department of U.S.A.*,⁵ Romania continues to be a source, transit and destination country for men, women and children that are trafficked especially for forced labor, as well as for women and children that are trafficked for sexual exploitation.

Men, women and children from Romania are trafficked towards European countries including Austria, Azerbaijan, Cyprus, Czech Republic, Denmark, Switzerland,

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¹ According to the brochure *Council of Europe Action against Human Trafficking* www.bice.md/UserFiles/File/publicatii/CE_Trafic.pdf.

² UNODC (2012), *Global Report on Trafficking in Persons*, UN. GIFT: Vienna - http://www.unodc.org/documents/data-and-analysis/glotip/Trafficking_in_Persons_2012_web.pdf

³ *Idem*.

⁴ *Idem*.

⁵ http://romania.usembassy.gov/2013_tip_ro.html.

France, Germany, Greece, Italy, Lithuania, Holland, Great Britain, Norway, Poland, Slovakia, Slovenia, Spain and Sweden, for forced labor, in agriculture, households, hotels and industry, as well as for begging and stealing. Men, women and children from Romania are trafficked towards European countries including Belgium, Cyprus, Switzerland, Finland, France, Germany, Greece, Malta, Holland, Portugal, Slovenia, Spain, Sweden and Hungary for sexual exploitation. Children represent at least one third of all trafficking victims of Romania.⁶

Romania was detected as a destination country for a small number of women coming from the Republic of Moldavia and for persons trafficked for forced labor from Serbia and Bangladesh.

At the same time, Romania represents an important route for the transit of victims from the Republic of Moldavia and Ukraine to Yugoslavia, Montenegro, Kosovo and from there to other western countries.⁷

According to the information provided by the Romanian Agency against Trafficking in Persons (A.N.I.T.P.),⁸ in 2013, 897 victims were registered in SIMEV records (The Integrated System of Monitoring the Human Trafficking Victims), of which 419 victims were trafficked and detected in 2013. In 2013, the tendency of decrease in the number of trafficked and detected victims was more obvious than in the previous years.

As to the gender distribution, in 2013 women were situated on the first place (77 per cent of all the victims).

Considering the age criterion, it seems that 52 per cent of all the victims were of age at the time they entered trafficking.

Taking into consideration the different types of exploitation, in 2013 the sexual exploitation accounted for about 66 per cent of all cases detected, followed by forced labor that accounted for 24 per cent. Victims forced into begging, pornography or stealing were also detected, but they accounted only for 6 per cent.

According to A.N.I.T.P. data, for about 54 per cent of the victims have been recruited by a friend or an acquaintance. The recruitment has been made directly, without intermediaries, in 94 per cent cases. Most of the victims were deceived by promises of a job abroad.

From *Trafficking in Persons Report 2013 of the State Department of U.S.A.*,⁹ it results that in Romania, in 2012, 867 cases of human trafficking were investigated by the authorities, while in 2011, there were 897 investigated. In 2012, 667 persons were sent up for jail and 427 were convicted for human trafficking, compared to the figures of 2011, when 480 persons were sent up for jail and 276 convicted for human trafficking.

Although A.N.I.T.P. sustains *"the strong decrease of the proportions of the phenomenon"*,¹⁰ due to the progress made in the field of prevention and combating of human trafficking and to the inter-institutional cooperation, on national and international level, we may doubt that this statistical decrease corresponds to a real decrease of the phenomenon.

⁶ Idem.

⁷ Olteî, I. G., *Trafficking in Persons. Juridical Frame*, The Review of Criminal Law, no. 2/2009, p. 123.

⁸ Document *"Statistical Situation of Human Trafficking Victims in 2013"* - <http://anitp.mai.gov.ro/ro/docs/studii/GRAFICE%202013.pdf>.

⁹ The report may be consulted at the link: http://romania.usembassy.gov/2013_tip_ro.html.

¹⁰ Document *"Statistical Situation of Human Trafficking Victims in 2013"* - <http://anitp.mai.gov.ro/ro/docs/studii/GRAFICE%202013.pdf>.

2. The Main International Normative Instruments regarding Trafficking in Persons

On international level, in the XXth century, a series of important normative acts were adopted in order to combat trafficking in persons.¹¹

Romania, in the post Communism years, has been one of the states, that has ratified the main international normative instruments that have been adopted in order to prevent and combat trafficking in persons.

Romania signed the *United Nations Convention against Transnational Organized Crime*, in Palermo, on December the 14th 2000 and *the two Protocols thereto*,¹² adopted in New York, on November the 15th 2000 and ratified these international instruments through the *Law no. 565/16.10.2002*.¹³

In Article 3^{a14} and Article 3^{c15} of the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime* ("the Protocol of Palermo") there are provided the definitions of the notions of "trafficking in persons" and "trafficking of children", that are recognized on international level.

As a consequence of the ratification of the *United Nations Convention against Transnational Organized Crime* and of *the two Protocols thereto*, Romania adopted two acts of Parliament, respectively the Law no. 678/2001 for the prevention and the combating of the trafficking in persons¹⁶ and the Law no. 39/2003 for the prevention

¹¹ For example: International Agreement for the Suppression of the "White Slave Traffic", Paris, 18 May 1904; International Convention for the Suppression of the White Slave Traffic, Paris, 4th May 1910; International Convention for the Suppression of the Traffic in Women and Children. Geneva, 30th September 1921; Slavery Convention, signed at Geneva on 25th September 1926 International Convention for the Suppression of the Traffic in Women of Full Age. Geneva, 11th October 1933; Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, Lake Success, New York, 21st March 1950; Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, Geneva, 7th September 1956; International Labor Organization Convention concerning the Abolition of Forced Labor no. 105/1957; The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979 by the UN General Assembly.

¹² 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.

¹³ The Law no. 565/2002 was published in the Official Journal of Romania, Part I, no. 813 from November the 8th 2002.

¹⁴ According to Article 3a of the Protocol of Palermo: «"Trafficking in person" shall mean the recruitment, transportation, transfer, harboring 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 labor or services, slavery or practices similar to slavery, servitude or the removal of organs».

¹⁵ According to Article 3c of the Protocol of Palermo «The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph (a) of this article». At the same time, the Protocol defines the term "child" in Article 3d: «"Child" shall mean any person under eighteen years of age».

¹⁶ The Law no. 678/2001 was published in the Official Journal of Romania, Part I, no. 783 from December the 11th 2001.

and the combating of the organized crime.¹⁷ In the latter one, trafficking in persons and the offences connected to it are considered serious crimes, which characterize as program offences the constitution and existence of the organized criminal group.

Moreover, Romania has also signed other important international instruments, such as *The Council of Europe Convention on Action against Trafficking in Human Beings*, adopted on the 3rd of May, 2005, signed by Romania in Warsaw, in May 2005 and ratified through Law no. 300/2006¹⁸ and *The European Union Plan on Best Practices, Standards and Procedures for Combating and Preventing Trafficking in Human Beings* [Official Journal C 311 of 9.12.2005].¹⁹

In respect of trafficking of children, other normative instruments have been adopted on international level, with express reference to the rights of children, trafficking of children and the action against any form of children exploitation. Romania is one of the states that signed these acts. Such international instruments are: *The Convention on the Rights of the Child*, adopted by the General Assembly of the United Nations Organization on November the 20th, 1989, entered into force in 1990 and ratified by Romania through the Law no. 18/1990;²⁰ *International Labor Organization no. 182/1999 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor*, adopted at 87th ILC session, in Geneva, (17 June 1999), entered into force in November the 19th, 2000 and ratified by Romania through Law no. 203/2000;²¹ *The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2001)*, entered into force in January 18, 2002, published in the Official Journal of Romania no. 601/27.09.2001, Part I.

As well as this, Romania signed at Lanzarote, together with other 23 member states of the Council of Europe, in October 25, 2007, the *Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (also known as "the Lanzarote Convention")*, adopted by the Committee of Ministers in July 12, 2007, entered into force in July the 1st, 2010 and ratified by Romania through Law no. 252/2010.²²

This Convention was adopted as a consequence of the worrying proportions reached by the sexual exploitation and sexual abuse of children on both national and international level. Moreover, the prevention and combating of such sexual exploitation and sexual abuse of children require international cooperation, in order to contribute efficiently to the common goals of providing assistance to victims and of protecting children against sexual exploitation and sexual abuse, whoever the perpetrator may be.²³

¹⁷ The Law no. 39/2003 was published in the Official Journal of Romania, Part I, no. 50 from January the 29th 2003.

¹⁸ The Law no. 300/2006 was published in the Official Journal of Romania, Part I, no. 622 from July the 19th 2006.

¹⁹ Dungan, P., *Organized Criminality and trafficking in persons*, vol. *Italian – Romanian Experiences in International Juridical Cooperation in the Field of Criminal Law*, ed. West University, Timisoara, 2010, p. 129.

²⁰ Republished in the Official Journal of Romania, Part I, no. 314 from June the 13th 2001.

²¹ Published in the Official Journal of Romania, Part I, no. 577 from November the 17th 2000.

²² Published in the Official Journal of Romania, Part I, no. 885 from December the 29th 2010.

²³ Pamfil, M. L., *The Protection of Children against Sexual Exploitation and Sexual Abuse*, *The Review of Criminal Law*, no. 2/2008, p. 97.

3. The Legislative Frame at the Level of European Union

Romania's Accession to European Union has implied the harmonization of the national legislation with the one of European Union, the adaptation of the structures and mechanism of the national public administration to the European ones, as well as the development of the administrative and juridical capacity of implementation of the European acquis.

In the field of human trafficking, the EU acquis comprises: *The European Convention on the Compensation of Victims of Violent Crimes* (Strasbourg, 24 November 1983); *Council of Europe Committee of Ministers Recommendation No. R(85) 11 to the Member States on the position of the victim in the framework of criminal law and procedure*; *Crime victims in the European Union. Reflexions on standards and action. Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee. COM (99) 349 final*, 14 July 1999; **Council Decision of 29 May 2000 to combat child pornography on the Internet**; 2001/87/EC Council Decision of 8 December 2000 on the signing, on behalf of the European Community, of the United Nations Convention against transnational organized crime and its Protocols on combating trafficking in persons, especially women and children, and the smuggling of migrants by land, air and sea; *Commission of the European Communities, Green Paper: Compensation to crime victims*, 28 September 2001; *Council Framework Decision 2001/220/JHA* of 15 March 2001 on the standing of victims in criminal proceedings; **2002/629/JHA: Council Framework Decision of 19 July 2002 on combating trafficking in human beings**; **Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography**; **Council Directive 2004/80/EC of 29 April 2004 relating to compensation to crime victims**; **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**; **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**; **Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating sexual abuse and sexual exploitation of children, and child pornography, replacing the Council Framework- Decision 2004/68/JHA**; **Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA**.

The Community legislation regarding the protection of crime victims has been transposed in our national legislation through the Law no. 211/2004 regarding certain measures for the protection of crime victims.²⁴

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 represents the latest normative instrument adopted in the field of human trafficking.

In order to prevent human trafficking, the Directive requests that Member States: discourage demand through education and training; lead information and awareness-

²⁴ Published in the Official Journal of Romania, Part I, no. 505 from June the 4th 2004.

raising campaigns; train the officials likely to come into contact with victims of trafficking; take the necessary measures to establish as a criminal offence the use of services, sexual or other, of a person who is a victim of trafficking. The position of a European anti-trafficking Coordinator is established in order to ensure a consistent approach to combating this phenomenon in the EU.

The *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* [COM(2012) 286 final – Not published in the Official Journal] presents a strategy designed to focus on concrete measures that will support the transposition and implementation of Directive 2011/36/EU, bring added value and complement the work done by governments, international organizations and civil society both in EU and non-EU countries. The strategy identifies the following five priorities for the EU to focus on:

- identifying, protecting and assisting victims of trafficking;
- stepping up the prevention of trafficking in human beings;
- increased prosecution of traffickers;
- enhanced coordination and cooperation among key actors and policy coherence;
- increased knowledge of and effective response to emerging concerns related to all forms of trafficking in human beings.

Within the above priorities, the Communication outlines a number of actions which the European Commission proposes to implement over the next five years, alongside EU countries, European External Action Service, EU institutions, EU agencies, international organizations, non-EU countries civil society and the private sector.

4. National Legislative Background

4.1. The Main National Regulations in the Field of Trafficking in Persons

Following the ratification of the United Nations Convention against Transnational Organized Crime, together with the two Additional Protocols, through Law no. 565/2002, Romania has adopted two legislative instruments, namely *Law no. 678/2001 on preventing and combating trafficking in persons*²⁵ and *Law no. 39/2003 on preventing and combating organized crime*,²⁶ law in which trafficking in persons and the offences related to trafficking in persons are qualified as serious offences which characterize, as program offence, the creation and existence of the organized criminal group.

Law no. 678/2001 was the main national regulation in the field of preventing and combating trafficking in persons until the entry into force of the new Penal Code.²⁷

This law contained provisions relating to the prevention of trafficking in persons, the offences regarding trafficking in persons and related to trafficking in persons, the protection and support of the victims of trafficking in persons, international cooperation, as well as the special provisions concerning judicial procedure (concerning the criminal prosecution and trial of the offences under Law no. 678/2001).

²⁵ Law no. 678/2001 was published in the Official Journal of Romania, Part I, no. 783 from December 11th 2001.

²⁶ Law no. 39/2003 was published in the Official Journal of Romania, Part I, no. 50 from January 29th 2003.

²⁷ Adopted through *Law no. 286/2009*, published in the Official Journal of Romania, Part I, no. 510 from July 24th 2009.

Therefore, trafficking in persons was regulated for the first time as a distinct form of crime by Law no. 678/2001, a law which has undergone many changes due to the issuing, over the years, of several emergency ordinances and laws, with a view to the transposition on the national level of the European and international legislation regarding trafficking in persons.

From the perspective of the incriminated offences, Law no. 678/2001 distinguished between two categories of offences, namely: offences regarding trafficking in persons and offences related to trafficking in persons.

In the group of the offences regarding trafficking in persons, the legislator provided the following: trafficking in persons (Article 12), trafficking of children (Article 13), using the services of an exploited person (Article 14¹), organizing the offences regarding trafficking in persons or related to trafficking in persons [Article 15 para.(2)], and, in the second category, the offence provided by Article 17 of the law and child pornography (Article 18).

As regards the offence of trafficking in persons, incriminated in Article 12, Law no. 678/2001 observed the definition contained in Article 3a of the Palermo Protocol, in a very faithful reproduction (with small differences in linguistic terms), definition which establishes trafficking in persons as a complex process, for which the doctrine has identified three constitutive elements: action, means and purpose.²⁸

According to Article 12 para. (1) of Law no. 678/2001, the offence of trafficking in persons constituted 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 profiting from the impossibility of those persons to defend themselves or to express their will or of the offering, giving, accepting or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation, and was punishable with imprisonment from 3 to 10 years and the prohibition of certain rights.

Along with trafficking in persons, Law no. 678/2001 regulated, in Article 13, the offence of trafficking of children, as a species of the offence of trafficking in persons, distinguished from it through the special quality of the passive subject, namely that of minor, an aspect which has called for the specific regulation of this offence. In its standard form, from the perspective of the definition agreed upon in the foreign literature, the offence supposes only two elements, the action and, respectively, the purpose, lacking the means.

According to the definition contained in Article 13 para. (1) of Law no. 678/2001, by trafficking of children, one understood the recruitment, transportation, transfer, harbouring or receipt of a child, for the purpose of exploitation, and was punished with imprisonment from 5 to 15 years and the prohibition of certain rights.

In Article 14¹ of Law no. 678/2001, the legislator incriminated the use of the services of a person whom is known by the beneficiary to be a victim of trafficking in persons or of children, thus incriminating also the behaviour of the consumer of such services, the act being punishable by imprisonment from 6 months to 3 years or a fine, if it did not constitute a more serious offence.

The law also provided, in Article 2 section 2, what was meant by "exploitation of persons", namely: the execution of a work or performance of services by force or

²⁸ Turner, J., *Patterns of Human Trafficking*, p. 1, Course of specialization in International Criminal Law, with the theme "Human trafficking for the purpose of their sexual exploitation", International Institute of Higher Studies in Criminal Sciences, Syracuse, 23 May – 2 June 2010.

violation of the legal rules on working conditions, wages, health and safety; the keeping in a state of slavery or other similar methods of deprivation of freedom or servitude; the forcing into prostitution, begging, pornographic representations with a view to the production and dissemination of pornographic materials or other forms of sexual exploitation; the removal of organs, tissues or cells of human origin, in violation of the legal provisions; the carrying out of other such activities which violate the fundamental human rights and freedoms.

The incrimination of the behaviour of the consumer of services provided by exploited persons was introduced in the national legislation through Law no. 230/2010²⁹ which brought some amendments to Law no. 678/2001, in the context in which Article 19 of the *Council of Europe Convention on action against trafficking in human beings* requires the signatory parties to incriminate, in their national legislations, the use of such services with the knowledge that the person is a victim of trafficking in human beings.

In studying the phenomenon of trafficking in persons, with the aim of preventing and combating it, one has reached the pertinent conclusion that the trafficking in persons would not exist if there were no demand for the services offered as a result of exploitation.³⁰ Without demand, there is no offer. And without an offer, the chance of exploitation would disappear.

If the provider of services, obtained as a result of the exploitation of human beings, is punished by law, so should the consumer or beneficiary of such services, who acts knowingly.

If a person is guilty of exploiting another human being, so is the person who, having knowledge of the respective exploitation, chooses to enjoy the services of such exploited persons.

By means of Article 15 para. (2) of Law no. 678/2001, the legislator incriminated distinctly also the organizing of the offences regarding trafficking in persons, punishable by the same penalty as the organized crime.

In the category of the offences related to trafficking in persons, Article 17 of Law no. 268/2001 incriminated the act of determining or permitting, with knowledge, either directly or through an intermediary, the entering or remaining on the country's soil of a person who is not a Romanian citizen, subject to trafficking in persons in one of the following ways: using against these persons fraudulent means, violence, threats or any other forms of coercion or abusing the special condition in which those persons found themselves, due to their illegal or precarious situation of entry or stay within the country, or because of pregnancy, disease or infirmity or a deficiency, physical or mental. The act was punished with the penalty provided by law for the offence of trafficking in persons.

Also an offence in connection to the trafficking in persons is that of child pornography, regulated in two normative forms in Article 18 of Law no. 678/2001. According to Article 18 para. (1), the standard form of the offence consisted in the act of exposing, selling or spreading, leasing, distributing, manufacturing or otherwise producing, transmitting, providing or making available or holding with a view to

²⁹ Published in the Official Journal of Romania, Part I, no. 812 from December 6th 2010.

³⁰ Smith, L., *The Problem of Demand*, article prepared for The course of specialization in International Criminal Law, with the theme "Human trafficking for the purpose of their sexual exploitation", International Institute of Higher Studies in Criminal Sciences, Syracuse, 23 May – 2 June 2010.

spreading items, films, pictures, slides, emblems or other visual supports representing sexual positions or acts, having a pornographic nature, showing or involving minors under the age of 18. The variation assimilated to the offence was regulated in para. (2) of Article 18 and consisted in the import or delivery of items, from among those referred to in para. (1), to a carrier or supplier, for the purpose of their sale or distribution. The offence, in both forms, was sanctioned with imprisonment from 3 to 10 years.

The drafting of Law no. 678/2001 represented one of the objectives of the *National Action Plan to Combat Trafficking in Human Beings*, adopted by Government Decision no. 1216/2001,³¹ law which aimed to identify the causes of vulnerability of the persons faced with trafficking in persons, its effects and forms, establishing the groups of people at risk of being trafficked and the measures for eliminating the actions of traffic.³²

Along with Law no. 678/2001, was adopted through Government Decision no. 299/2003³³ also its *Regulation of implementation* in order to ensure consistency of action by the national coordination of the operations to combat trafficking in persons, as a result of the creation of the Inter-ministerial Working Group for the coordination and evaluation of the activities to prevent and combat trafficking in persons.

In addition, for the purpose of harmonization with European standards, were adopted a *National Strategy against Trafficking in Persons 2006-2010*³⁴ and a *National Action Plan* for its implementation.³⁵

At the same time, by joint Order³⁶ of the Minister of Administration and Interior, the Minister of Education, Research and Youth, the Minister of Public Health, the Minister of Labour, Family and Equal Opportunities, the President of the National Authority for Child Protection, the president of the National Agency for Equal opportunities for women and men, the president of the National Agency for employment, the president of the National Agency for Roma, was ordered the establishment, organization and functioning of the Thematic Working Group for the national coordination of the activities to protect and assist the victims of trafficking in persons, and by a subsequent joint Order³⁷ of the Minister of Administration and Interior, the Minister of Education, Research and Youth, the Minister of Public Health, the Minister of Labour, Family and Equal Opportunities, the President of the National Authority for Child Protection, the Minister of Foreign Affairs, the General Prosecutor and the Minister of Justice, was approved the National mechanism for the identification

³¹ Government Decision no. 1216/2001 for the approval of the *National Action Plan to Combat Trafficking in Human Beings*, published in the Official Journal of Romania no. 806 from December 17th 2001.

³² Oltei, I. G., *Trafficking in Persons. Juridical Frame*, The Review of Criminal Law, no. 2/2009, p. 124.

³³ Government Decision no. 299/2003 was published in the Official Journal of Romania no. 206 from March 13th 2003.

³⁴ Government Decision no. 1654/2006 for the approval of the *National Strategy against Trafficking in Persons 2006-2010*, published in the Official Journal of Romania, Part I, no. 967 from December 4th 2006.

³⁵ Government Decision no. 1720/2006 for the approval of the *National Action Plan 2006 - 2007* for the implementation of the *National Strategy against Trafficking in Persons 2006-2010*, published in the Official Journal of Romania, Part I, no. 1009 from December 19th 2006; Government Decision no. 982/2008 for the approval of the *National Action Plan 2008 - 2010* for the implementation of the *National Strategy against Trafficking in Persons 2006-2010*, published in the Official Journal of Romania, Part I, no. 660 from September 19th 2008.

³⁶ Published in the Official Journal of Romania, Part I, no. 799 from November 23rd 2007.

³⁷ Published in the Official Journal of Romania, Part I, no. 849 from December 17th 2008.

and referral of victims of trafficking, whose aim is to establish the procedures for identifying the victims of trafficking in persons and entrusting them to the providers of protection and assistance services.

As one may notice, the creation of an effective legislative framework represented a concern not only internationally, but also nationally, and thus a series of national laws and special provisions referring to trafficking of children, children's rights and the fight against all forms of children exploitation were also adopted, such as:

- *Law no. 272/2004 on the protection and promotion of children's rights*³⁸ stipulating the responsibility of parents and local communities in raising and educating children and laying the foundations of inter-institutional cooperation as regards, in any circumstances, the superior interest of the child;³⁹

- *Government Decision no. 1443/2004 regarding the method of repatriation of unaccompanied Romanian children in another state and special protection measures in their favour*;⁴⁰

- *joint Order no. 123-429/2004 of the National Authority for Child Protection and Adoption and the Ministry of Administration and Interior*;⁴¹

- *Government Decision no. 1295/2004 approving the National Action Plan to prevent and combat trafficking of children*;⁴²

- *Government Decision no. 1769/2004 approving the National Action Plan to eliminate the exploitation of children through labour*;⁴³

- *Government Decision no. 1504/2004 approving the National Action Plan to prevent and combat child sexual abuse and sexual exploitation of children for commercial purposes*;⁴⁴

- *Government Decision no. 617/2004 on the establishment and organization of the National Steering Committee on preventing and combating the exploitation of children through labour, with its subsequent amendments and completions*;⁴⁵

- *Government Decision no. 76/2008 amending and supplementing Government Decision no. 617/2004 on the establishment and organization of the National Steering Committee on preventing and combating the exploitation of children through labour*;⁴⁶

- *Government Decision no. 860/2008 approving the National Strategy for the protection and promotion of children's rights 2008-2013 and of the Operational Plan for the implementation of the National Strategy for the protection and promotion of children's rights 2008-2013*;⁴⁷

- *Government Decision no. 867/2009 prohibiting hazardous work for children*;⁴⁸

- *Government Decision no. 49/2011 approving the Methodology-framework on prevention and intervention in a multidisciplinary team and network in cases of violence against children and domestic violence and the Methodology of multi-disciplinary and*

³⁸ Republished in the Official Journal of Romania, Part I, no. 159 from March the 5th 2014.

³⁹ Oltei, I. G., *Trafficking in Persons. Juridical Frame*, The Review of Criminal Law, no. 2/2009, p. 128.

⁴⁰ Published in the Official Journal of Romania, Part I, no. 873 from September the 24th 2004.

⁴¹ Published in the Official Journal of Romania, Part I, no. 1150 from December 6th 2004.

⁴² Published in the Official Journal of Romania, Part I, no. 802 from August the 31st 2004.

⁴³ Published in the Official Journal of Romania, Part I, no. 1028 from November the 8th 2004.

⁴⁴ Published in the Official Journal of Romania, Part I, no. 878 from September the 27th 2004.

⁴⁵ Published in the Official Journal of Romania, Part I, no. 391 from May 3rd 2004.

⁴⁶ Published in the Official Journal of Romania, Part I, no. 72 from January 30th 2008.

⁴⁷ Published in the Official Journal of Romania, Part I, no. 646 from September 10th 2008.

⁴⁸ Published in the Official Journal of Romania, Part I, no. 568 from August 14th 2009.

*inter-institutional intervention regarding exploited children and children at risk of being exploited through labour, children victims of trafficking in persons, as well as Romanian migrant children, victims of other forms of violence in other states.*⁴⁹

At present, *Government Decision no. 1142/2012*⁵⁰ approved the *National Strategy against trafficking in persons for 2012-2016 and the National Action Plan 2012-2014 for the implementation of the National Strategy against trafficking in persons for the period 2012-2016*, having as main objectives: boosting prevention activities and civil society participation in their implementation; improving the quality of protection and assistance to the victims of trafficking in persons with a view to their social reintegration; improving the institutional capacity to investigate the offences of trafficking in persons, especially the cases of trafficking of children, as well as the tracking of the criminal profit by criminal prosecution; increasing the capacity to collect and analyse data regarding trafficking in persons; optimization and extension of the process of inter-institutional and international cooperation to support the implementation of the national strategy against trafficking in persons.

4.2. Other national legislative instruments referring to trafficking in persons

Alongside the normative acts which expressly regulate the sphere of human trafficking, at national level there are other legislative instruments applicable to it, such as:

- *Law no. 682/2002 on the protection of witnesses, with its subsequent amendments*, which establishes the measures to protect the witness's identification data, the place of their domicile/residence, as well as the possibility of hearing the witness by appropriate technical means, without their actual presence in the room in which the judicial activity is being carried out;

- *Law no. 39/2003 on preventing and combating organized crime, with its subsequent amendments*, which defined the "organized criminal group" (until the entry into force of the new Penal Code) and qualified the trafficking of persons and the related offences as being part of the serious program offences which may enter the scope of the organized criminal group;

- *Law no. 211/2004 on certain measures which ensure the protection of the victims of offences, with its subsequent amendments and completions*, which transposes into national law the provisions of the European Convention on the Compensation of Victims of Violent Crimes (1983), as well as those of the Recommendation R/85/11 on the standing of victims in criminal proceedings, ensuring the right of victims to be informed, to receive counselling and legal aid, financial compensation;

- *Law no. 302/2004 on international judicial cooperation in criminal matters, republished*, allows the transferring of judicial proceedings in cases of trafficking in persons, preparation of letters rogatory or the presentation before foreign courts of witnesses or experts;

- *Law no. 508/2004 regarding the establishment, organization and functioning within the Public Ministry of the Directorate for Investigating Organized Crime and Terrorism, with its subsequent amendments and completions*, which establishes the material

⁴⁹ Published in the Official Journal of Romania, Part I, no. 117 from February 16th 2011.

⁵⁰ Published in the Official Journal of Romania, Part I, no. 820 from December 6th 2012.

competence of the this institution in the investigation of the cases of trafficking in persons.

The provisions of *Law no. 39/2003 on preventing and combating organized crime*,⁵¹ adopted following the ratification of the United Nations Convention against Transnational Organized Crime, with its two additional protocols, offered a legal definition of the organized criminal group, incriminating, simultaneously, the initiation, set up of an organized criminal group, adherence or support in any way of such a group, in Article 7 para. (1) of Law no. 39/2003. The offence provided by Article 7 para. (1) of Law no. 39/2003 was punished with imprisonment from 5 to 20 years and the prohibition of certain rights, without the penalty applied being higher than the sanction prescribed by law for the most serious offence which entered the scope of the organized criminal group.

According to Article 2 letter (a) of Law no. 39/2003, by organized criminal group was understood *“a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with this Convention, in order to obtain, directly or indirectly, a financial or other material benefit; it is not considered as organized criminal group that group which was formed occasionally, with a view to the immediate perpetration of one or several offences and which has no continuity, determined structure or pre-established roles for its members within the group”*, and, according to Article 2 letter (b), section 12 of the law, the trafficking in persons and the offences related to trafficking in persons were classified as serious offences which characterized as program offences the constitution and existence of the organized criminal group.

The entry into force of Law no. 39/2003 repealed the provisions of Article 14 of Law no. 678/2001, regulating an aggravated form of the offences of trafficking in persons and trafficking of children, incident in the case of their perpetration by a person who belonged to an organized group.

The Law no. 187/2012 for the implementation of Law no. 286/2009 on the Penal Code, applicable as from February 1st 2014, repealed the provisions of Articles 7-10 and 13, following the entry into force of the new Penal Code, which incriminates, in Article 367 of the Penal Code, the offence of establishment of an organised criminal group, and the definition of the organized criminal group is also offered by the new Penal Code, in Article 367 para.(6) of the Penal Code, as it expressly results from the provisions of Article 2 letter (a) of Law no. 39/2003, as amended.

Although the offences of trafficking in persons or trafficking of children are no longer expressly provided in the category of serious program offences, according to the amendments brought to Article 2 of Law no. 39/2003, by Law no. 187/2012, they continue to be part of this group of serious offences which fall under Law no. 39/2003, whereas, according to the same Article 2, as amended, serious offences are those for which the law provides the penalty of life imprisonment or imprisonment with a special maximum limit of at least 4 years. According to the provisions of Articles 210 and 211 of the Penal Code, for the offences of trafficking in persons and trafficking of children, in their standard form, the special maximum limit of the prison sentence is 10 years.

⁵¹ Law no. 39/2003 was published in the Official Journal of Romania, Part I, no. 50 from January 29th 2003.

Until the entry into force of the new Criminal Procedure Code,⁵² in terms of procedure, Law no. 39/2003 provided certain rules applicable to the prosecution and sanctioning of the offences provided by Article 7 (including the serious program offences), respectively:

- the possibility of the confiscation in kind or equivalent of the goods acquired by means of the program offences of the organized group, and of the gains or other material benefits obtained from these goods (Article 13 of Law no. 39/2003).
- the impossibility to oppose the banking and professional secrecy (except for the professional secrecy of the lawyer), to the prosecutor and, respectively, the court, which could require in writing the data and information deemed necessary.
- if there were solid indications regarding the perpetration of the offences provided in Article 7, for the purpose of gathering evidence or identifying the perpetrators, the prosecutor was entitled to order the surveillance of bank accounts and their related accounts or of the communication systems (Article 15).
- the authorization to conduct supervised deliveries, under certain conditions (Article 16).
- the authorization to use undercover police officers from the specialized structures of the Ministry of Interior (Article 17).
- the possibility to use informants to gather data regarding the perpetration of offences and the identification of the perpetrators, under certain conditions, informants eligible for financial rewards, under the law (Articles 21-22).

Upon the entry into force of the new Criminal Procedure Code, on February 1st 2014, the procedural rules provided by Articles 13, 15, 16, 17 of Law no. 39/2003 were repealed, being taken over, in a specific way, by the provisions of the new code, which, moreover, extends the applicability of the special techniques of interception to private spaces as well.

As regards the victims of the trafficking in persons, their main rights, regulated in the national normative acts, are the following:

- the right to physical protection, the victims of trafficking in persons benefitting, on demand, by protection from the Ministry of the Interior, under the conditions of Article 113 of the Criminal Procedure Code, if they are parties in the criminal trial, according to Article 24 para.(1) of the Government Decision no. 299/2003 and Article 27 para. (1) of Law no. 678/2001. The victims of trafficking in persons received in the assistance and protection centres are informed regarding the applicable judicial and administrative proceedings, as well as regarding the possibility to benefit, according to law, from the specific measures for the protection of witnesses, in accordance with the provisions of Article 54 of Law no. 678/2001.
- the right to free social and psychological assistance from the part of specialized staff from the Centres for assistance and protection of the victims of trafficking in persons, established by Law no. 678/2001, as well as by the services of protection of the victims and social reintegration of offenders, which function next to the courts, according to Article 7 of Law no. 211/2004. Also, according to Article 27 para. (2) of Law no. 678/2001, the National Agency against Trafficking in Persons, in cooperation with the interested institutions, as well as non-governmental organizations, international

⁵² Law no. 255 from July 19th 2013 for the application of Law no. 135/2010 regarding the Criminal Procedure Code and the amendment and completion of certain normative acts which contain criminal procedure provisions repealed Articles 11, 14-19 and 23 from Law no. 39/2003.

organizations and representatives of the civil society engaged in the protection and assistance of the victims of trafficking in persons, provide them with the psychological support and assistance necessary for their social integration.

- the mandatory legal assistance is provided to the victims of trafficking in persons, under Article 44 para. (1) of Law no. 678/2001, in order for them to be able to exercise their rights during criminal proceedings, as prescribed by law, in all phases of the criminal trial, and to be able to support their complaints and civil claims against the persons who have committed the offences of trafficking in persons or related to the trafficking in persons, in which they are involved. In case the provisions of Article 44 of Law no. 678/2001, which stipulate in this respect, are not met, the sanction is the absolute nullity, according to Article 281 of the new Criminal Procedure Code (according to the old Criminal Procedure Code, under Article 197 para. (2), the sanction was relative nullity). According to the provisions of Article 44 para. (2) of Law no. 678/2001, the victims of the trafficking in persons are also entitled to free legal assistance under Law no. 211/2004.

- the healthcare for the victims of trafficking in persons is provided in accordance with the regulations governing the field of health insurance, according to Article 27¹ of Law no. 678/2001.

- the right to reintegrate the students victims of trafficking in persons in the education system, according to the specificity of the trauma suffered, according to Article 16, letter (h) of the Government Decision no. 299/2003.

- the right to professional reintegration, under which the persons with high risk of being trafficked and the victims of trafficking in persons benefit with priority from the services provided by the National Agency for Employment, namely by the county employment agencies.

- the right to be informed, in accordance with Article 4 of Law no. 211/2004, by the first judicial body to which they present themselves, in a language they understand, regarding: the services and organizations which provide counselling or other forms of assistance to the victim, according to their needs; the prosecution body to which they may file a complaint; the right to legal assistance and the institution where they can address themselves in order to exercise this right; the conditions and procedure for free legal aid; the procedural rights of the injured party and of the civil party; the conditions and procedure in order to benefit from the provisions of Article 113 of the Criminal Procedure Code, as well as from the provisions of Law no. 682/2002 on the protection of witnesses, with its subsequent amendments; the conditions and procedure for the granting of financial compensations by the state; the right to be informed, in case the accused is deprived of freedom, respectively, sentenced to imprisonment, of its release in any form, under the Criminal Procedure Code.

- the right to confidentiality regarding the identity and private life of the victims, according to Article 26 of Law no. 678/2001.

4.3. Aspects regarding the regulation of the New Penal Code with respect to trafficking in persons

Upon the entry into force of the new Penal Code of Romania on the 1st of February, 2014, adopted by the Law no. 286/2009, published in the Official Journal of Romania, Part I, no. 510 from July the 24th 2009, the offences that fell under the Law no. 678/2001 were repealed.

Following the change of optics of the legislator of the new Penal Code, some of these offences have been provided in the new Penal Code of Romania, in Title I of the Special Part of the Code, dedicated to offences committed against the person.

With respect to Romania, the high incidence and frequency in time of the offences regarding or related to trafficking in persons, in which our country has been and is involved, either as a source, transit or destination country, and the constant exploitation of certain vulnerable persons, in the form of forcing them to practice prostitution or begging, for example, led the Romanian legislator to consider such criminal behavior a constant, first order problem of our society, which requires to be regulated in the Romanian Penal Code.

Under the name "Trafficking and exploitation of vulnerable persons", the legislator of the new Penal Code of Romania has grouped in Chapter VII of Title I eight offences, namely: slavery (Article 209), trafficking in persons (Article 210), trafficking of children (Article 211), submission to forced or compulsory labor (Article 212), pandering (Article 213), exploitation of begging (Article 214), using a minor for purposes of begging (Article 215), using the services of an exploited person (Article 216).

Child pornography was not included by the legislator of the new Penal Code in Chapter VII of Title I, but in Title VIII, Chapter I, concerning offences against public order, which is regulated by the Article 374 of the Penal Code.

Regarding trafficking in persons, the new Penal Code stipulates a definition of this offence, similar to that contained in Article 12 of the Law no. 678/2001, without providing the aggravated versions of the offence, contained in Article 12 para. (2) and (3) of the Law no. 678/2001, excepting the one referring to the offence committed by a public official in the performance of his duties, which is provided in para. (2) of Article 210 of the Penal Code.⁵³

According to Article 210, para. (3) of the Penal Code *"the consent of a victim of trafficking shall not be considered a justification cause"*, provision which is similar to the one contained in Article 16 of the Law no. 678/2001, that stipulated that *"the consent of a victim of trafficking does not preclude the criminal liability of the perpetrator."*

Both regulations are inspired by the Article 3, letter b) of the Protocol from Palermo, according to which: *"The consent of a victim of trafficking in persons to the intended exploitation set forth in letter a) of the present article, shall be irrelevant where any of the means set forth in subparagraph. a) was used"*.

The above-mentioned provision of the new Penal Code was necessary, in order to prevent the operation of the victim's consent as a justification cause, given the fact that according to Article 22 of the Penal Code, the victim's consent could have had such a legal effect, as long as the law would not have specifically excluded the justifying effect.

Regarding the regime of sanctions, the special maximum of imprisonment duration was modified from 12 years (as it was provided in the Law no. 678/2001) to 10 years for the standard form of the offence, along with the special maximum of the aggravated

⁵³ Article 12 of Law no. 678/2001: *"(2) Trafficking in persons committed in one of the following circumstances:*

a) by two or more persons together;

b) causing a serious injury to the health or physical integrity of the victim;

c) by a public official in the performance of his duties,

is punishable by imprisonment from 5 to 15 years and the prohibition of certain rights.

(3) If the deed has had as a consequence the death or the suicidal of the victim, the penalty is imprisonment from 15 to 25 years and the prohibition of certain rights".

form [when the deed is committed by a public official, according to Article 210 para. (2) of the Penal Code], that was reduced from 15 years (as it was provided in Law no. 678/2001) to 12 years.

The new Penal Code essentially takes over the stipulations of the Law no. 678/2001 in terms of trafficking of children (Article 211 Penal Code), renouncing the aggravated forms of the offence, that have also not been provided in case of trafficking in persons, and changing the maximum limits of the punishment.

The provisions of Article 211 para. (1) of the Penal Code respect the rigors of Article 3c of the Palermo Protocol.

Under the provisions of Article 211 para. (1) of the Penal Code, trafficking of children, in its standard form, involves *“the recruitment, transportation, transfer, harbouring or receipt of a child, with the purpose of exploitation”* without being necessary for the perpetrator to use the means provided by Article 210 para.(1) of the Penal Code. The use of the means provided by Article 210 para.(1) Penal Code attract the aggravation of the offence, foreseen under Article 211para.(2) of the Penal Code.

The sanctioning regime has been changed, for both the standard and aggravated forms of the offence. The special maximum of imprisonment punishment was reduced from 12 years to 10 years, for the standard form of the offence. For the aggravated forms, referred to in para. (2) of Article 211, the maximum of the imprisonment punishment was reduced from 15 years to 12 years.

In the case of the offence of trafficking of children, *“the consent of a victim of trafficking shall not represent a justificative cause”* [Article 211 para. (3) Penal Code].

The new Penal Code in Chapter VII, dedicated to the Trafficking and exploitation of vulnerable persons, provides the incrimination of the consumer’s behaviour, taking over the similar regulation of Article 14¹ of the Law no. 678/2001.

The indictment of the consumers’ behavior, who are acting with the knowledge that they use the services (as provided in Article 182 of the Penal Code), of a victim of trafficking in persons (according to Article 210 of the Penal Code) or of trafficking of children (according to Article 211 of the Penal Code) defines the contents of the offence provided in Article 216 of the Penal Code.⁵⁴

The sphere of services, as foreseen in Article 182 of the Penal Code includes:

- the execution of a work or performance of services by force;
- the keeping in a state of slavery or other similar methods of deprivation of freedom or servitude;
- the forcing into prostitution, with a view to the production and dissemination of pornographic materials or other forms of sexual exploitation;
- the forcing into begging;
- the illegal removal of organs.

If the above-mentioned services are not performed and are not being used in the context of exploitation of trafficking victims, they will not represent constitutive elements of the studied offences.

⁵⁴ Article 216 New Penal Code: *“The use of the services provided in art. 182, performed by a person whom is known by the beneficiary to be a victim of trafficking in persons or trafficking of children, is punishable by imprisonment from 6 months to 3 years or fine, if the deed does not represent a more serious offence”*.

4.4. Brief aspects regarding the criminal prosecution and trial of the analysed offences

For the offences of trafficking in persons, trafficking of children and child pornography, the criminal prosecution is mandatorily carried out by specialized prosecutors from the Directorate for Investigating Organized Crime and Terrorism, according to Article 12 para. (1) letter (b) point (i) of Law no. 508/2004, regardless whether they were or were not committed under the conditions of the organized criminal group provided under Article 367 para. (6) of the Penal Code.

For the offences provided by Article 12 para. (1) of Law no. 508/2004, committed by minors or against minors, the criminal prosecution is carried out by prosecutors specifically appointed for this purpose by the General Prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice [Article 12 para. (2) Law no. 508/2004].

The jurisdiction for the judgment in the first instance of the offences of trafficking in persons and trafficking of children belongs to the tribunal, and in the case of child pornography, the jurisdiction for the judgment in the first instance belongs to the tribunal, only in the conditions of the carrying out of the criminal prosecution by the Directorate for Investigating Organized Crime and Terrorism, according to Article 36 of the Criminal Procedure Code. In case the defendant or the victim is a minor, the judgment must be made by specialized panels of judges. The prosecutor's presence at the trial is mandatory. The prosecutors from the prosecutors' offices attached to the competent courts participate in the trial, drawing conclusions and exercising the means of appeal, except for the cases where the prosecutors from the Directorate for Investigating Organized Crime and Terrorism inform the prosecutors' offices attached to the competent courts and the court that they will participate directly.

In the case of the offences of trafficking of children and child pornography, the legislator derogated from the rule of the publicity of the hearing, providing that these hearings are secret. The failure to observe the provisions of Article 24 of Law no. 678/2001 is sanctioned by relative nullity, given that the provisions of Article 281 of the Criminal Procedure Code protect the publicity which can never be violated in favour of the secret hearing (the same was the sanction according to Article 197 para. (2) of the 1969 Criminal Procedure Code).

In the situation in which in a respective case are being subject to judgment other offences as well, apart from those strictly enumerated by the legislator in the text of Article 24 of Law no. 678/2001, the court must conduct the entire procedure in conditions of publicity, in order to ensure the transparency of the administration of justice.

According to Article 25 of Law no. 678/2001, during the trial of offences of trafficking in persons, upon the request of the injured person, the court may declare a closed-door hearing.

5. Conclusions

Despite all legislative instruments, adopted on international, European and national level, the combating of trafficking in persons continues to represent a serious and constant problem of our society.

The handsome profits make human trafficking a very tempting business in many countries of the world. United Nations Organization has foreseen that human trafficking is likely to become the main sector of interest of organized crime, exceeding drug trafficking. Many organized criminal groups consider human trafficking an easier and less risky business than other business on the market, considering the fact that the legislation in the field has proven to be insufficiently efficient and the legal sanctions grow pale in comparison to those provided for drug or gun trafficking.⁵⁵

The human trafficking phenomenon is much too complex to be combated or prevented without efficient political, social and juridical instruments on national and international level.

Legislative instruments are inefficient, if active, practical measures are not taken in order to identify the victims among the vulnerable categories of population (like illegal immigrants).

The efforts made on international level in order to improve the data-collection and data-analyzing systems regarding human trafficking victims tend to remain useless,⁵⁶ if the efforts made on national level in order to protect and support the victims of human trafficking are diminished, as a consequence of the lack of government funds.

Complex tools are necessary, as human trafficking is a complex phenomenon.

The campaigns of informing, rendering sensitize and educating the vulnerable persons on the subject of human trafficking together with the actions meant to discourage the users of such services represent one of the most important tools in preventing human trafficking.

One may consider that there are sufficient legislative instruments on national and international level in order to combat human trafficking. The key consists in using them in an efficient manner.

If the new Romanian Criminal Code will prove to be such an efficient instrument, it remains to be seen.

⁵⁵ Cherif, M. (coordonator), *Addressing International Human Trafficking in Woman and Children for Commercial Sexual Exploitation in the 21st Century*, The International Human Rights Law Institute, DePaul University College of Law, p. 18.

⁵⁶ UNESCO Trafficking Statistics Project - <http://www.unescobkk.org/index.php?id=1022>; International Organization of Migration, Data and Research on Human Trafficking - <http://iom.ch/jahia/jsp/index.jsp>; Vermeulen G., Paterson N., *The MONTRASEC demo: A Bench-Mark for Member State and EU Automated Data Collection and Reporting on Trafficking in Human Beings and Sexual Exploitation of Children*, IRCP series, vol. 36, Maklu Publishers, 2010.