

**LAW 678/2001**  
**on Preventing and Combating Trafficking in Human Beings**

**amended and supplemented by GEO no. 143/2002, Law 39/2003, GEO no. 79/2005**

**The Parliament of Romania** has adopted the present law

**CHAPTER I**

**General Provisions**

Art.1 – The present Law regulates the prevention and combat of trafficking in persons, as well as the protection and assistance granted to victims of trafficking which constitutes a violation of human rights and an offence to the dignity and integrity of the person.

Art.2 - Use of terms

For the purposes of this law:

1. "trafficking in persons" shall mean the offences referred to in articles 12 and 13;
2. "exploitation of a person" shall mean:
  - a) performing labor or services by force or by violating the legal norms regarding labor conditions, payment, health and security keeping such persons in a state of slavery or using other ways to deprive a person of his/her freedom or to force the person into submission;
  - b) compelling a person to engage in prostitution, in pornographic performances for the production and distribution of pornographic material, or in other forms of sexual exploitation;
  - c) harvesting of human organs;
  - d) engaging in other such activities that violate fundamental human rights and liberties.

**CHAPTER II**

**Prevention of Trafficking in Human Beings**

Art.3. In order to efficiently combat trafficking in human beings, the public authorities and institutions listed in this Chapter, the non-governmental organizations (NGOs) and other representatives of the civil society shall develop, independently or in conjunction, as the case may be, constant activities aimed at preventing trafficking in human beings, especially women and children.

Art.4. The Ministry of Foreign Affairs, the Ministry of Labor and Social Solidarity, the Ministry of Public Administration, the Ministry of Education and Research, the Ministry of Health and Family, the National Authority for Child Protection and Adoption, the Ministry of Interior, the Ministry of Justice as well as other governmental agencies with jurisdiction in the combat of trafficking in human beings, shall take the necessary steps to develop and implement, within their own jurisdictions, the National Action Plan to Combat Trafficking in Human Beings.

Art.5. (1) The Ministry of Foreign Affairs shall draw up a list of countries with a high potential for trafficking in human beings, which shall be distributed, upon request, to all concerned institutions.

(2) Having regard to the Law 123 / 2001 on the regime of foreign citizens in Romania, the Ministry of Foreign Affairs and the Ministry of Interior shall take the necessary steps to prevent access on the Romanian territory of foreign citizens about whom there is reasonable doubt to believe they are involved in trafficking of human beings, as established in accordance with this law.

Art.6. (1) The Ministry of Labor and Social Solidarity, through its specialized structures at central and territorial levels, shall work out and enforce special measures for the integration into the labor market of persons at high risk of being trafficked, especially women in very poor areas and social outcasts.

- (2) The National Agency for Employment shall develop information programs concerning the labour market and employees' rights, vocational and professional skills training programs for

particularly vulnerable victims of trafficking; as well as information programs for employers in order for the latter to grant such persons priority for job placement..

(3) The Ministry of Labor and Social Solidarity, jointly with the Ministry of Public Finances, shall consider the possibility of developing initiatives to stimulate companies that hire both persons at high risk of trafficking and trafficked victims who have attended vocational training courses and shall make proposals to this end..

Art.7. The Ministry of Public Administration shall produce and disseminate documentary materials on the risks entailed by persons, potential victims of trafficking.

Art.8. The Ministry of Education and Research supported by other relevant Ministries and in cooperation with NGOs active in the field, shall develop educational programs for parents and children, particularly for groups at high risk of falling victims to trafficking, with a view to preventing trafficking in human beings.

Art.9. (1) The Ministry of the Interior, through its specialized structures and with support from other ministries, shall compile and update a database on the phenomenon of trafficking in human beings, by monitoring and periodically assessing the phenomenon, and shall include both traffickers and victims of trafficking, as well as the legal entities involved in trafficking in human beings.

(2) Every six months, the Inspectorate General of the Police, following the approval of the Minister of the Interior, shall publish statistical information and assessment reports.

Art. 10. (1) The Ministry of Justice and the Public Ministry shall carry out periodical studies, based on their own information, with a view to identifying root causes and contributing factors to trafficking in human beings.

Art. 11. In order to prevent trafficking in human beings, NGOs shall cooperate with the relevant ministries and conduct information campaigns on trafficking in human beings and the risks trafficked victims are confronted with.

## **CHAPTER III**

### **Criminal Offences**

#### **Section I**

#### **Trafficking in human beings offences**

Art.12 - (1) It is an offence for anyone who recruits, transports, transfers, harbors or receives a person, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or by taking advantage of that person's inability to defend him-/herself or to express his/her will, or by giving, offering or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation and is punishable by imprisonment for 3 to 12 years and interdiction of certain rights.

(2) Any trafficking offence committed under either of the following circumstances,

- a) offence committed by more than 2 perpetrators;
  - b) victim sustains grievous bodily or mentally harm;
  - c) offence committed by a public servant while performing his legal duties,
- is punishable by imprisonment for 5 to 15 years and interdiction of certain rights.

(3) In case the offence has resulted in the victim's death or suicide, the punishment shall be 15 to 25 years imprisonment and interdiction of certain rights.

Art. 13 - (1) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered an offence and shall be punished by imprisonment for 5 to 15 years and interdiction of certain rights.

(2) If the offence referred to in paragraph (1) is committed by means of threats and violence or use of other forms of coercion, of kidnapping, of fraud or of deception, of the abuse of power or by taking advantage of the minor's inability to defend himself or to express his will or by offering, by giving or receiving payments or benefits to achieve the consent of a person having control over the minor, it is punishable by imprisonment for 7 to 18 years and interdiction of certain rights.

(3) Acts referred to in paragraphs (1) and (2) committed under the circumstances set forth in article 12, paragraph (2) shall be sanctioned by imprisonment for 7 to 18 years and interdiction of certain rights for an offence established in accordance with paragraph (1) and 10 to 20 years imprisonment and interdiction of certain rights for an offence established in accordance with paragraph (2).

(4) Acts established in accordance with this article resulting in the death or suicide of the victim, shall be sanctioned by imprisonment for 15 to 25 years imprisonment and interdiction of certain rights.

Art. 14 - annulled by Law 39 of January 2003

Art. 15 - (1) Attempting to commit any of the offences established in accordance with articles 12- 13 is punishable as well.

(2) Organizing or directing other persons to commit an offence established in accordance with this Chapter shall be regarded as an organized offence and shall be punished as such;

Art. 16 – Offenders are also liable to criminal charges in cases where victims of trafficking have consented.

## Section II

### **Trafficking in human beings related offences**

Art. 17 - (1) The act of knowingly inducing or directly or indirectly facilitating, the entry or stay in the country's territory of a non-national in a trafficking situation as established in accordance with this law:

a) by use of fraudulent means, violence or threats or other forms of coercion, or

b) by the abuse of a position of vulnerability of a person due to his/her illegal entry or stay in Romania, pregnancy, disease and physical or mental disability, shall be regarded as a criminal offence and shall be punishable by sanctions as established for trafficking crime.

(2) Two years shall be added to the maximum of the sentence, in case the act referred to in paragraph (1) is repeatedly committed,

Art. 18 - (1) Anyone who exhibits, sells or disseminates, rents, distributes, produces or possesses with intent to disseminate, objects, films, photographs, slides, logos or other visual material that display sexual conduct or postures with a pornographic character, and show or involve persons under the age of 18 is treated as a child pornography offence and shall be punishable by 3 to 10 years imprisonment.

(2) The same sanction shall apply for offences implying the import or delivery of materials referred to in paragraph (1) to a carrier or supplier for the purpose of sale or distribution.

## Section III

### **Special provisions**

Art. 19. (1) Money, valuables or any other proceeds generated by criminal offences as established in accordance with this Law or that have been used to commit such offences, as well as the proceeds referred to in Article 118 of the Criminal Code are subject to special seizure as provided by this Article.

(2) Means of transportation used to transfer trafficked persons as well as real estates, if owned by offenders, used to accommodate such persons shall be regarded as property used to commit the crime

Art. 20. (1) A trafficked victim, who, as a result of his/her exploitation, has committed the offence of prostitution or begging, shall not be punished for it unless, before the prosecution for the crime, he/she informs competent authorities about it. The same shall apply to the victim who facilitates the arrest of the offenders, after the prosecution has begun or the offenders have been identified

(2) The person, who commits an offence under the present law and during the prosecution for the offence gives information and helps authorities identify and bring to justice other offenders of crimes stipulated in this law, shall benefit from mitigation of his sentence by half as imposed by the law.

## **CHAPTER IV**

### **Special provisions regarding the criminal procedure**

Art.21 – The criminal prosecution of the crimes stipulated in this Law shall be binding upon the prosecutor and the case shall be tried at first instance by the court.

Art.22 – In order to gather the necessary information to institute the criminal prosecution, undercover investigators can be used in accordance with the law

Art.23 - (1) When there is serious evidence or data that a person who is about to commit or has committed one of the crimes established in accordance with this Law is using information and telecommunications systems, the criminal investigation body, upon the prosecutor's authorization, can have access to and monitor those systems for a determined period of time.

(2) The provisions in Articles 91<sup>1</sup> - 91<sup>5</sup> in the Criminal Procedure Code shall be applied accordingly.

Art.24 - (1) Court sessions in cases involving trafficking in human beings related offences as laid down in Article 13 and child pornography related offences as referred to in Article 18 shall not be open to the public.

(2) Court proceedings conducted under the provisions of paragraph 1 can be attended by parties, their legal representatives and defenders, as well as other persons whose presence is considered necessary by the court.

(3) In cases involving offences stipulated in this Law, a minor under 14 years of age shall be heard in the presence of one of the parents or the legal guardian or the foster parent the minor has been entrusted with for raising and education.

Art. 25 – Upon the victim's request, the Court can order a closed-doors session for cases provided in Articles 12 and 17.

## **CHAPTER V**

### **Protection of and assistance to victims of trafficking in persons**

Art. 26 – (1) Victims of crimes stipulated in this Law, as well as other victims of such crimes, shall be granted special physical, legal and social protection and assistance.

(2) Under the present law, the privacy and identity of victims of trafficking in persons shall be protected.

(3) Victims of crimes stipulated in this Law shall be are entitled to physical, psychological and social recovery.

(4) Underage victims of crimes stipulated in this Law shall be granted special protection and assistance according to age.

(5) Women victims of crimes stipulated in this Law, as well as women at high risk of becoming victims of such crimes shall be granted special social protection and assistance.

Art. 27. Upon request, the Ministry of the Interior shall provide physical protection for victims of trafficking in human beings on Romanian territory during the judicial process.

Art. 28. Upon request, Romanian citizens, victims of trafficking in human beings in other countries, shall be granted assistance by diplomatic missions and consular offices of Romania to those countries.

Art. 29. Through the diplomatic missions and consular offices of Romania, The Ministry of Foreign Affairs, within a reasonable period of time and without undue and unreasonable delay, shall issue, if need may be, identification documents for the repatriation of Romanian citizens victims of trafficking in human beings

Art. 30. (1) Through the diplomatic missions and consular offices of Romania, the Ministry of Foreign Affairs shall disseminate to all concerned persons information materials on the rights of victims of trafficking in human beings, as provided by legislations in Romania and the country of residence.

(2) Romania's diplomatic missions and consular offices shall notify foreign judicial authorities about national regulations in the field.

(3) The Romanian diplomatic missions and consular offices shall use their own electronic systems to publish information concerning the relevant legislation both in Romania and the host country, as well as addresses of centers for protection of and assistance to victims of trafficking in human beings or other related victims.

(4) Heads of Romania's diplomatic missions and consular bureaus shall assign a special diplomat from among their staff as responsible for the implementation of the repatriation procedures for Romanian citizens victims of trafficking in human beings, as established by this Law.

(5) The repatriation procedures for Romanian citizens victims of trafficking in human beings shall be developed by the Ministry of Foreign Affairs in conjunction with the Ministry of the Interior and the Ministry of Justice within 60 days of the enactment of the present Law.

Art. 31. The Ministry of the Interior, through its relevant structures, shall provide all border checkpoints with specially trained officers to identify and receive victims for referral to specialized institutions.

Art. 32. (1) Upon request, victims of trafficking in human beings can receive temporary accommodation in Centers for Protection and Assistance to Victims of Trafficking in Human Beings, set up by law and hereinafter called Centers, operating under the authority of local administrations in the counties of Arad, Botoșani, Galați, Giurgiu, Iași, Ilfov, Mehedinți, Satu-Mare and Timiș.

(2) The duration of the victim's stay in such Centers shall be determined by decision of the County Standing Delegation and shall not exceed 10 days.

(3) The duration of the victim's stay in such Centers can be extended, based on a request by judicial bodies, for up to 3 months or, as the case may be, for the duration of the criminal proceedings..

(4) The Centers are arranged and fit out in the way to appropriately provide civilized facilities for housing and personal hygiene, food, psychological and medical assistance.

Art. 33. Social workers with the local administration on whose jurisdiction the centers are operating, shall offer temporarily accommodated victims of trafficking information and counseling in order to benefit from the facilities the law provides for socially marginalized persons..

Art. 34 - (1) The Centers' structure and organization shall be approved by the Minister of Public Administration following notification of the Minister of the Interior.

(2) The Centers' staff shall be remunerated according to the law on the wage system for budgetary institutions personnel.

(3) The Centers' current and capital expenses shall be met by County Councils, as provided in article 33 paragraphs (1).

Art.35. (1) County employment agencies in counties on whose jurisdictions the Centers are set up and function, shall develop, where applicable, special short-term vocational and job training programs for the victims in the shelters..

(2) The agencies referred to in paragraph (1) shall give trafficked victims priority to labor counseling and mediation services with the view to identifying jobs.

Art. 36. Romanian citizens victims of trafficking in human beings, shall have priority to social housing provided by Local Councils in their residential areas.

Art. 37. Romania assists foreign citizens victims of trafficking in human beings in returning to their countries of origin, without undue and unreasonable delay, by providing safe transportation to the Romanian borders, if not otherwise stipulated in bilateral agreements.

Art. 38. (1) Foreign victims of trafficking in human beings can be accommodated in special Centers established according to GEO 194/2002 on the aliens' regime to Romania amended and supplemented, without being necessary their taking into public custody. To this end, the centers' administration shall set up facilities apart from those arranged for aliens in public custody

(2) Foreign victims of trafficking in human beings who have applied for some form of protection can be accommodated in centers especially set up according to the GEO 102/2000 regarding the status and regime of the refugees to Romania.

(3) The accommodation of persons as established in paragraph (1) shall be approved by the head of the Aliens' Authority, based on the written request of competent authorities.

(4) Victims of trafficking in human beings accommodated in centers shall be provided counseling and information, in particular as regards the applied judicial and administrative procedures in a language they can understand;

(5) Persons referred to in paragraphs (1) and (2) are entitled to psychiatric and psychological assistance, as well as medical and social care in a language they can understand.

(6) Medical assistance, medicine and food for persons referred to in paragraph (1) shall be provided according to legal norms applicable to foreign citizens in public custody..

Art.39. (1) In cases where alien victims of trafficking in human beings have no identification documents or they have been lost, stolen or destroyed, the Consular Relations Directorate within the Ministry of Foreign Affairs or other competent bodies of the Ministry of Public Administration shall issue new passports or travel documents, as appropriate.

Art. 39<sup>1</sup> (1) Foreign citizens about whom there is reason to believe that they are victims of trafficking shall be entitled to up to 90 days to recover or escape from the influence of the traffickers and to take a decision regarding their cooperation with the competent authorities, during which period the Aliens' Authority, upon request of the prosecutor or the court, shall grant permission to remain on the Romanian territory. While recovering, foreign victims shall be granted all rights under provisions of article 38.

(2) During or after the reflection period has expired, alien victims of trafficking in human beings may be granted, upon personal request, a temporary residence permit as established in GEO 194/2002, republished, amended and supplemented.

Art. 40. In cases where victims of trafficking are brought to Romania by a transport company, allegedly illegitimate, that company shall have the obligation to provide housing and meals for the duration established by the Ministry of the Interior and shall cover, in accordance to the law, all expenses regarding their transportation to the Romanian border.

Art. 41. –Minors accompanying victims of trafficking in human beings or who are themselves victims shall be subjected to provisions laid down in Law 123/2001 on minors.

Art. 42. – Associations and foundations certified as providers of social services to victims of trafficking in human beings, such as: accommodation, food, psychiatric, psychological and legal counseling and medical care shall be granted financial state or, as may be necessary, local aid, in accordance with the law.

Art. 43 – Victims of crimes as established in accordance with the present law shall be entitled to r information on the applicable legal and administrative procedures.

Art. 44 – Persons referred to in Article 43 are entitled to mandatory legal assistance in exercising their rights during the criminal proceedings provided by the law, at all stages of the criminal trial and as well as civil claims when parties in legal actions against persons who commit offences under the present law.

**International Cooperation**

Art. 45 – In accordance with the present law, there shall be established liaison officers with the Ministry of the Interior, as well as liaison magistrates at the level of prosecutors' offices attached to tribunals, to ensure mutual consultation with liaison officers or magistrates from other countries for coordinated actions during the criminal procedures.

Art. 46 –A point of contact shall be established within the Ministry of the Interior and at the Prosecutor's Office attached to the Supreme Court of Justice to develop exchanges of information regarding the investigation and prosecution of offences under the present law with counterpart institutions from other countries.

Art. 47 – (1) International transport companies shall have the obligation to verify, on issuing the travel document, whether their passengers are in possession of the identity documents required for entry into the transit or receiving country.

(2) The obligation referred to in paragraph (1) shall be applied to the driver of the international transport vehicle on admitting passengers aboard and the documents checking officers.

**CHAPTER VIII****Final Provisions**

Art. 48. In order to identify the victims of trafficking in human beings, the officers of the Ministry of the Interior shall conduct controls in private or public institutions as well as on the premises of business companies, irrespective of their owner or holder, in accordance with the law.

Art. 49 – The Regulations to apply the present law shall be adopted by Government decision within 60 days from its entering into force.