

I. Protective measures and policies

▪ Excerpt from the Criminal Code¹

Art. 209 – Slavery

Reducing or keeping a person in a state of slavery, as well as the trafficking in slaves shall be punishable with imprisonment from 3 to 10 years and deprivation on the exercise of certain rights.

Art. 210 – Trafficking in human beings

- (1) Recruitment, transportation, transfer, harboring or receipt of persons for exploitation purpose committed:
- a) by means of coercion, abduction, deception, or abuse of authority;
 - b) by taking advantage of the inability of a person to defend themselves or to express their will or of their blatant state of vulnerability;
 - c) by offering, giving and receiving payments or other benefits in exchange for the consent of an individual having authority over such person,

shall be punishable with imprisonment from 3 to 10 years and deprivation on the exercise of certain rights.

- (2) Trafficking in human beings committed by a public servant in the exercise of their professional duties and prerogatives shall be punishable with imprisonment from 5 to 12 years.
- (3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defense.

Art. 211 – Trafficking in minors

- (1) The recruitment, transportation, transfer, harboring or receipt of a child, in order to exploit it, shall be punished with imprisonment from 5 to 10 years and deprivation of certain rights.
- (2) The punishment is imprisonment from 7 to 12 years and deprivation of certain rights when:
- a) the offense was committed under art. 210 par. (1);
 - b) the offense was committed by a public official in the performance of duties;
 - c) the offense endangered the life of a minor;
 - d) the offense was committed by a family member of a minor or by a person who lives with the victim;
 - e) the offence was committed by a person in whose care, protection, education, security or treatment the minor was or the perpetrator abused his recognized position of trust or authority over the minor or his/her blatant state of vulnerability, caused by a physical or psychological disability, a situation of dependency or a situation of physical or psychological incapacity or any other cause.
- (3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defense.

Art. 213 - Pandering

- (1) The causing or facilitation of the practice of prostitution or the obtaining of financial benefits from the practice of prostitution by one or more individuals shall be punishable with imprisonment from 2 to 7 years and deprivation on the exercise of certain rights.

¹ <http://legislatie.just.ro/Public/DetailiiDocument/109855>.

- (2) In the event that a person was determined to engage in or continue the practice of prostitution through coercion, the penalty shall be imprisonment from 3 to 10 years and deprivation on the exercise of certain rights.
- (3) If such acts are committed against an underage person, the special limits of the penalty shall be increased by one-half.
- (3¹) If the offence from para. (3) was committed in one of the following circumstances:
 - a) the offence was committed by a family member of a minor or by a person who lives with the victim;
 - b) the minor was in the care, protection education, security or treatment of the perpetrator or the perpetrator abused his recognized position of trust or authority over the minor;
 - c) the offence was committed by a person who had previously committed a crime against the freedom and sexual integrity of the minor, a child pornography offence or pandering offence, the special limits of the penalty from para. (3) shall be increased by a quarter.
- (4) Practicing prostitution is understood as having sexual intercourse with various individuals for obtaining financial benefits for oneself or for another.

Art. 214 – Exploitation of mendicancy

- (1) An act of an individual who causes a minor or a person with physical or psychic disabilities to resort repeatedly to the public's mercy to ask for material help or profits from the financial benefits resulted from such an activity shall be punishable by imprisonment from 6 months to 3 years or with a fine.
- (2) If the act has been committed in the following circumstances:
 - a) by the parent, guardian, trustee or by the person under whose care the begging person is;
 - b) by means of coercion,

it shall be punishable by imprisonment from 1 to 5 years.

Art. 215 – Use of underage persons for mendicancy

The action of a person who is of age and has the capacity to work, who resorts repeatedly to the public's mercy to ask for material help, by using a minor for this purpose, shall be punishable by imprisonment from 3 months to 2 years or a fine.

Art. 216 - Use of an exploited person's services

The action of using the services listed under Art. 182 performed by a person about whom the beneficiary knows that they are a victim of trafficking in human beings or of trafficking of minors, shall be punishable by imprisonment from 6 months to 3 years of or with a fine, unless such action is a more serious offense.

Art. 216¹ – Use of child prostitution

Conducting any sexual act with a minor practicing prostitution shall be punishable with imprisonment from 3 months to 2 years or with a fine, unless such action is a more serious offense.

Art. 264 – Facilitation of illegal stay

- (1) The action of a person who facilitates by any means, the illegal stay on the Romanian territory of an individual who is a victim of a trafficking in human beings-related offence, of minors or migrants, who is not a Romanian citizen and does not reside in Romania, shall be punishable by imprisonment from 1 to 5 years and a deprivation on the exercise of certain rights. If the mean used is in itself an offense, the rules for multiple offenses shall apply.
- (2) When the action was committed:
 - a) in order to obtain a material gain , directly or indirectly;

b) by a public official in the performance of duties,

it shall be punishable by imprisonment from 2 to 7 years and a deprivation on the exercise of certain rights.

(3) When the acts set out in para. (1) and para. (2) are committed in relation to another alien who is on the Romanian territory illegally, the special limits of the penalty shall be reduced by one-third.

Art. 374 – Child pornography

(1) The production, possession, the purchase, storage, display, promotion, distribution and supplying, in any manner, of child pornography materials shall be punishable by imprisonment from 1 to 5 years.

(1¹) The punishment set out in para (1) applies to the incitement or recruitment of a minor for the purpose of his/her participation in a pornographic show, to obtaining benefits of such a show in which minors are involved or to the exploitation of a minor in any other way for producing pornographic shows.

(1²) Watching pornographic shows in which minors are involved shall be punishable by imprisonment from 3 months to 3 years or with a fine.

(2) If the actions set out in para. (1) have been committed through an electronic system or any other mean of electronic data storage, shall be punishable by imprisonment from 2 to 7 years.

(3) Accessing, without right, pornographic materials depicting minors through electronic systems or other electronic communications shall be punishable by imprisonment from 3 months to 3 years or with a fine.

(3¹) If the actions set out in para. (1), (1¹), (1²) and (2) have been committed in the following circumstances:

- a) by a family member of a minor or by a person who lives with the victim;
- b) by a person in whose care, protection, education, security or treatment the minor was or the perpetrator abused his recognized position of trust or authority over the minor;
- c) the action threatened the life of the minor;
- d) by a person who had previously committed a crime against the freedom and sexual integrity of the minor, a child pornography offence or pandering offence,

the special limits of the penalty shall be increased by a half.

(4) Through pornographic materials with minors is understood any material which displays a minor or an adult acting as minor with a sexually explicit behavior or which, despite not depicting a real person, it credibly simulates a minor with such a behavior, as well as any representation of the genitals of a child, for sexual purposes.

(4¹) Through pornographic show is understood the public display, directly, including through information and communication technology, of a minor involved in a sexually explicit behavior or of the genitals of a child, for sexual purposes.

(5) The attempt is punishable.

II. Measures of specialized assistance and support put in place for the children affected, and child-friendly procedures are in place to facilitate their participation in any investigations undertaken

According to the provisions of Law no. 272/2004, in any judicial or administrative proceedings concerning him, the child has the right to be heard. Hearing a child's opinion, depending on his/her age and degree of maturity, represents one of the core principles of the law.

According to the same law, it is compulsory to listen to a child who has reached the age of 10 years. However, a child younger than 10 can be heard, if the competent authority considers that the procedure is necessary for the clarification of the case. If the court determines the necessity to hear a child, it can summon him or her. A child may also request to be heard. In the event of a refusal, the competent

authority shall give a reasoned decision. The hearing takes place only in the council room, in the presence of a psychologist and only after a preliminary preparation of the child for this purpose. Before taking the statement, the child will be explained, in a language he/she understands, the purpose of the hearing. The person making the statement will present himself and explain what his role is and how the interview will be conducted. When possible, it is recommended to consult the child regarding the planning of his/her hearing. It is preferable for a child's statement to be prepared in advance, in collaboration with a professional.

The different actors involved in care proceedings have the obligation to inform the children about the ways in which they can express and communicate their opinions/ wishes/ proposals regarding the living environment, about the services received and the activities in which they are involved.

According to DIICOT, if, from a child's hearing and the additional evidence gathered, result suspicions regarding a situation of abuse, in line with the provisions of Art. 96(1) of Law No. 272/2004, the General Directorate of Social Assistance and Child Protection (DGASPC) shall be notified. If there is evidence regarding the perpetration of an offence, the direct notification of the DGASPC shall include information on the investigation status, as well as all the necessary details for the underage victim to be provided the necessary support and protection services.

III. Measures adopted to ensure prevention of trafficking and child pornography

▪ Preventive actions organized by ANITP in 2020

Among the most important preventive activities who had minors as their main or secondary target group of ANITP in 2020, we would like to mention:

- Preventive campaign "Give him/her freedom! Do not pay for his/her exploitation", carried out as part of the project "Reducing the amplitude of trafficking in human beings through a better information of the citizens". The campaign brought together a significant number of relevant actors in the field (governmental and non-governmental) – ANITP, the Ministry of Education, the Ministry of Foreign Affairs, eLiberare Association, AIDRom Association, World Vision Romania Foundation and INCA Romania Association.
- "Human Trafficking Prevention Week" campaign, organized with the occasion of the EU Anti-Trafficking Day (18 October). Preventive activities were held both offline and online.
- Promoting the video-animation of the campaign "Are you a victim of trafficking in human beings? You have rights!". Based on the data provided by a national TV station, the animation reached 3.297.000 beneficiaries.
- Three videos on trafficking in human beings made by two well-known Romanian vloggers (Atenție Cad Mere and Doza de Cultură Generală) with 1.000.000, respectively 420.000 followers on their YouTube channels.
- ANITP and Save the Children Romania continued promoting the message of the preventive campaign on trafficking of minors "Inform yourself to be protected!"

Besides the national preventive campaigns and actions, several other campaigns targeting children and youngsters have been developed at regional level: "Be safe online", "Choose your online friends wisely" and „Real friends, not on the internet”.

Furthermore ANITP and the Directorate for Combating Organized Crime², the Romanian Border Police, eLiberare Association and INCA Romania Association organized preventive actions at the border, as part of the common action plan EMPACT – Joint Action days on THB – Child Trafficking for Labor Exploitation: 14-18.09.2020 - Joint Action days at European level/ EMPACT Joint Action days on THB for Labor Exploitation and 05-09.10.2020 - Joint Action days at European level/EMPACT Joint Action days on THB – Child Trafficking for Labor Exploitation.

² Specialized structure of the Romanian Police.

▪ ***The Automated National Registry of persons who have committed sexual offenses, exploited persons or minors***

The automated *National Registry* was organized in order to prevent and combat acts of a sexual nature, exploitation of persons or minors, provided and punished by criminal law:

- Art. 210 (trafficking in human beings);
- Art. 211 (trafficking of minors);
- Art. 213 (pandering);
- Art. 214 (exploitation of mendicancy);
- Art. 215 (use of underage persons for mendicancy);
- Art. 216 (use of an exploited person's services);
- Art. 216¹ (use of child prostitution);
- Art. 218 (rape);
- Art. 219 (sexual aggression);
- Art. 220 (sexual intercourse with a minor);
- Art. 221 (sexual corruption of minors);
- Art. 222 (recruiting minors for sexual purposes);
- Art. 223 (sexual harassment);
- Art. 299 (use of office for sexual purposes);
- Art. 374 (child pornography);
- Art. 375 (assault on morals);
- Art. 377 (incest);
- The above-mentioned offences, as they were described by Law no. 15/1968 on the Criminal Code of Romania³ or in special laws, with the same constitutive elements.

³ Change of the Criminal Code in 2013.