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Building the Evidence Base for Effective  
Antislavery Governance

# Romania Country Profile

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# About this report

This report was prepared by Dr Ana Valverde-Cano (Rights Lab Research Fellow in Antislavery Law and Policy), Dr Katarina Schwarz (Rights Lab Associate Director), and Dr Daniel Ogunniyi (Rights Lab Research Fellow).

The report is based primarily on research conducted from 2020-2021 and may not therefore consider more recent emerging evidence. Updates to the report to reflect new and emerging evidence are ongoing.

The authors welcome enquiries on the report and the project more broadly, which may be directed to Katarina Schwarz at [Katarina.Schwarz@nottingham.ac.uk](mailto:Katarina.Schwarz@nottingham.ac.uk)

# About the project

The report was produced to support the research project ‘Building the Evidence Base for Effective Antislavery Governance in the UK and the Top 20 UK Source Countries’, funded by the Modern Slavery and Human Rights Policy and Evidence Centre. The research team consisted of Dr Katarina Schwarz (Rights Lab, University of Nottingham), Dr Ana Valverde-Cano (Rights Lab), Dr Daniel Ogunniyi (Rights Lab), Alexandra Williams-Woods (CSIS, University of Liverpool), and Prof Jean Allain (Wilberforce Institute, University of Hull).

The **Rights Lab** is a University of Nottingham “Beacon of Excellence” and home to the world’s largest and leading group of modern slavery researchers. Through its five research programmes, impact team, and INSPIRE project, the Rights Lab is underpinning antislavery with an advanced research agenda, collaborating with civil society, business, and government, and elevating survivor-informed research as a key part of knowledge production to help end slavery.

The Wilberforce Institute at the University of Hull aims to advance fundamental knowledge of slavery and emancipation, informing policy, business practice and public debate at local, national and international levels. The Wilberforce Institute brings together experts in humanities, law and social sciences to help tackle this global problem head on.

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# 1. Overview of antislavery in Romania

## 1.1. The Walk Free Foundation's Global Slavery Index<sup>1</sup>

	Vulnerability		Prevalence			Government response		
	Ranking <sup>2</sup>	Score <sup>3</sup>	Ranking <sup>4</sup>	Absolute <sup>5</sup>	/ 1000 <sup>6</sup>	Ranking <sup>7</sup>	Score	Rating <sup>8</sup>
<b>2013</b>	<b>122</b> /162	35.96	<b>125</b> /162	23,000	1.13	-	-	-
<b>2014</b>	<b>123</b> /167	38.1	<b>139</b> /167	22,600	1.13	<b>37</b> /167	53.6 /100	B
<b>2016</b>	<b>130</b> /167	28.92	<b>32</b> /167	80,200	4.04	<b>72</b> /161	40.52 /100	B
<b>2018</b>	<b>121</b> /167	33.88	<b>81</b> /167	86,000	4.32	<b>72</b> /162	43.9 /100	B
<b>2019</b>	-	-	-	-	-	<b>30</b> /183	60.9 /100	7

2018 classification as 'net sending' or 'net receiving': **sending**

Although the nature of modern slavery makes measuring the phenomenon an inherently difficult task, the Walk Free Foundation's Global Slavery Index (GSI) aims to provide the 'best available data and information about the scale and regional distribution of modern slavery'.<sup>9</sup> This includes **national prevalence estimates** of the number of people experiencing modern slavery in each country, calculated on the basis of a predictive model that accounts for individual and country-level risk factors.

National prevalence estimates are analysed in the context of results of Walk Free's **Vulnerability Model**. This model uses 'statistical testing and processes to identify the factors that explain or predict the prevalence of modern slavery'.<sup>10</sup> The 2018 Vulnerability Model features five factors, made up of 23 distinct variables: governance issues, lack of basic needs, inequality, disenfranchised groups, and effects of conflict.

Walk Free also tracks **government responses** to modern slavery, tracking government efforts across five milestones: (1) survivors of slavery are identified and supported to exit and remain

<sup>1</sup> Walk Free Foundation, 'The Global Slavery Index 2013' (2013), available [here](#); 'The Global Slavery Index 2014' (2014), available [here](#); 'The Global Slavery Index 2016' (2016), available [here](#); 'The Global Slavery Index 2018' (2018), available [here](#) accessed 04 November 2020.

<sup>2</sup> Note: a higher ranking (closer to 1) indicates high vulnerability relative to other countries.

<sup>3</sup> Note: a higher score indicates increased vulnerability to modern slavery, with a median country score of 47.28 in 2018.

<sup>4</sup> Note: a higher ranking (closer to 1) indicates a high number of people experiencing modern slavery per 1000 in the overall population relative to other countries.

<sup>5</sup> Note: absolute prevalence measures the estimated number of people experiencing modern slavery in the country.

<sup>6</sup> Note: prevalence /1000 measures the number of people estimated to experience modern slavery per 1000 people in the overall population.

<sup>7</sup> Note: a higher ranking (closer to 1) indicates better government responses to modern slavery relative to other countries.

<sup>8</sup> Note: government response ratings are broken into scoring bands, with an A rating representing the strongest government response to modern slavery (with a score of 70-79.9), followed by BBB (60-69.9), BB (50-59.9), B (40-49.9), CCC (30-39.9), CC (20-29.9), C (10-19.9), and D (<0-9.9).

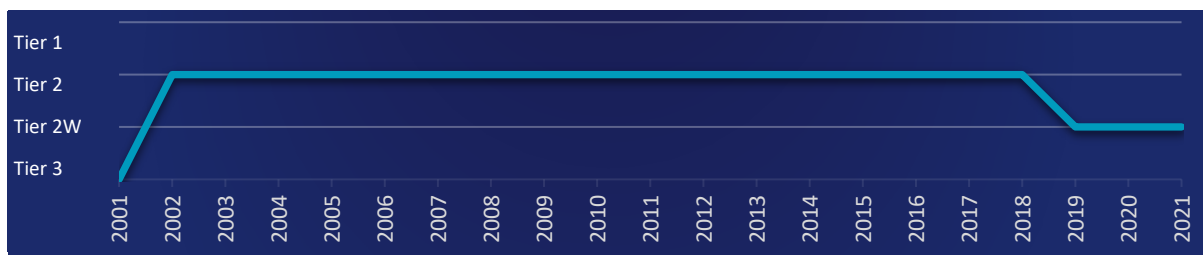
<sup>9</sup> Walk Free Foundation, 'Global Findings' (2018), available [here](#).

<sup>10</sup> Walk Free Foundation, 'Methodology: Vulnerability' (2018), available [here](#).

out of slavery; (2) criminal justice mechanisms function effectively to prevent modern slavery; (3) coordination occurs at the national and regional level, and governments are held to account for their response; (4) risk factors such as attitudes, social systems, and institutions that enable modern slavery are addressed; and (5) government and business stop sourcing goods and services produced by forced labour.<sup>11</sup>

It should be noted that the scope, methodology, and sources underpinning GSI findings has changed over the years. This means that data between different reporting years is not directly comparable.

## 1.2. TIP Rankings 2001-2020<sup>12</sup>



The TIP Report ranks countries into one of four tiers, as mandated by the Victims of Trafficking and Violence Protection Act 2000 (TVPA). A country's ranking is based on an assessment of the government's efforts to address trafficking in persons, rather than on the extent of trafficking within the country and considers government action against the TVPA's minimum standards.<sup>13</sup>

**Tier 1:** countries whose governments fully meet the TVPA's minimum standards for the elimination of trafficking. To maintain a Tier 1 ranking, the country must continue to make progress in its anti-trafficking efforts each year.

**Tier 2:** countries whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

**Tier 2 Watch List:** countries whose governments do not fully meet the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards, and for which:

- (a) the absolute number of victims of severe forms of trafficking is very significant or is significantly increasing;
- (b) there is a failure to provide evidence of increasing efforts to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and decreasing evidence of complicity in severe forms of trafficking by government officials; or
- (c) the determination that a country is making significant efforts to bring itself into compliance with minimum standards was based on commitments by the country to take additional steps over the next year.

**Tier 3:** countries whose governments do not fully meet the TVPA's minimum standards and are not making significant efforts to do so. Countries ranked as Tier 3 may be subjected to restrictions on non-

<sup>11</sup> Walk Free Foundation, 'Methodology: Government Response' (2018), available [here](#).

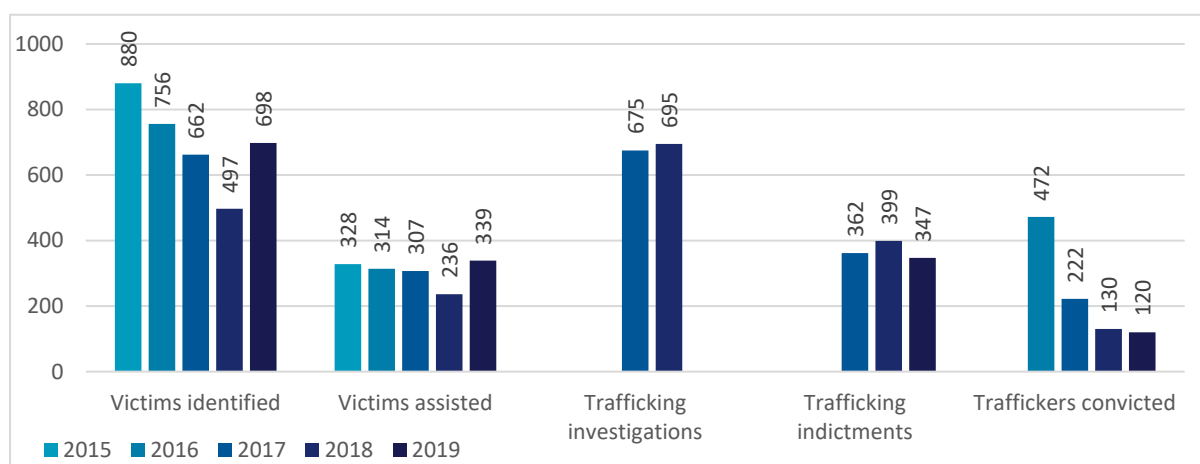
<sup>12</sup> US Department of State, '2020 Trafficking in Persons Report' (2020), available [here](#); (2019) available [here](#); (2018), available [here](#); (2017), available [here](#); (2016), available [here](#); (2015), available [here](#); (2014), available [here](#); (2013), available [here](#); (2012), available [here](#); (2011), available [here](#); (2010), available [here](#); (2009), available [here](#); (2008), available [here](#); (2007), available [here](#); (2006), available [here](#); (2005), available [here](#); (2004), available [here](#); (2003), available [here](#); (2002), available [here](#); (2001), available [here](#)

<sup>13</sup> Minimum standards for the elimination of trafficking are found in section 108, Victims of Trafficking and Violence Protection Act 2000 (United States), available [here](#).

humanitarian, non-trade foreign assistance from the US. Impositions of such restrictions are determined by the President.<sup>14</sup>

In the first year of TIP reporting, Romania was rated Tier 3, despite beginning high-level efforts to combat trafficking. At the time, Romania had no specific anti-trafficking law, there was a lack of resources for anti-trafficking activities, low-level corruption in the country, lack of prioritisation of anti-trafficking efforts, lack of direct government assistance for victims, and treatment of victims as ‘social outcasts’. In 2002, Romania improved to a Tier 2 rating—recognising that the Government was making significant efforts to comply with the minimum standards, but not yet fully compliant—a position which was maintained until 2019. In 2019, Romania fell in the TIP rankings to the Tier 2 Watch List and held this rating for 2020. In 2019, the drop was associated with a failure by the government to increase efforts upon the previous year, conviction of significantly fewer traffickers, identification of fewer victims, endemic corruption, alleged complicity in trafficking crimes continuing with impunity, lack of specialised training for judges, failures in witness protection, and lack of sufficient government funding for assistance and protection. This was characterised in 2019 as a ‘multi-year decline’ in anti-trafficking efforts. This trend carried through to 2020 when, despite identification of a higher number of trafficking victims, authorities investigated, prosecuted, and convicted fewer traffickers. The 2020 report further noted that Romanian authorities did not adequately screen for victims amongst vulnerable populations—notably asylum seekers, those engaged in commercial sexual activity, and children in government-run institutions—and that provision for child victims remained particularly inadequate.

### 1.3. Quantitative measures on anti-trafficking governance<sup>15</sup>



Measure	Year	Qty	Source
Trafficking cases	2019	532	[1]
Trafficking victims identified	2019	698 <sup>16</sup>	[1]

<sup>14</sup> See further Department of State (2020), above n 12, 40-41.

<sup>15</sup> Sources:

[1] US Department of State, above note 5.

[2] US Department of State, ‘2019 Trafficking in Persons Report’ (2019), available [here](#).

[3] GRETA (Council of Europe), ‘Reply from Romania to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties’ (22 October 2019) GRETA(2018)26\_ROM\_rep, available [here](#).

<sup>16</sup> 518 sex trafficking; 138 labour trafficking, including forced begging and forced theft; and 42 victims of attempted trafficking.

Trafficking victims identified	2018	497 <sup>17</sup>	[3]
Trafficking victims identified	2017	662 <sup>18</sup>	[3]
Trafficking victims identified	2016	756 <sup>19</sup>	[3]
Trafficking victims identified	2015	880 <sup>20</sup>	[3]
Identified victims assisted	2019	339	[1]
Trafficking victims assisted	2018	236 <sup>21</sup>	[3]
Trafficking victims assisted	2017	307 <sup>22</sup>	[3]
Trafficking victims assisted	2016	314 <sup>23</sup>	[3]
Trafficking victims assisted	2015	328	[3]
Trafficking investigations	2018	695	[2]
Trafficking investigations	2017	675	[2]
Traffickers indicted by Prosecutors	2019	347	[1]
Traffickers indicted by Prosecutors	2018	399	[1]
Traffickers indicted by Prosecutors	2017	362	[1]
Traffickers convicted	2019	120 <sup>24</sup>	[1]
Traffickers convicted	2018	130	[1],[2]
Traffickers convicted	2017	222	[1],[2]
Trafficking convictions	2016	472	[2]
Participation in joint investigative teams (JITs)	2019	80	[1]
Participation in JITs	2018	36	[1]
Participation in JITs	2017	44	[1]
Awareness campaigns organised by ANTIP	2019	86	[1]
Funds specifically allocated for implementation of the National Strategy against Trafficking in Persons for the period 2018-2022	2018	0	[1]
Training for border police officers	2018	25	[2]
Training for trafficking responders (judges, prosecutors, police, psychologists etc)	2018 (Sept – Nov)	105	[2]
Awareness campaigns organised by ANTIP	2018	36	[1]

<sup>17</sup> 335 sex trafficking; 100 labour trafficking; 26 forced begging; 8 forced theft; and 28 victims of other forms of exploitation.

<sup>18</sup> 454 sex trafficking; 79 labour trafficking; 35 forced begging; 43 forced theft; and 50 victims of other forms of exploitation.

<sup>19</sup> 530 sex trafficking; 132 labour trafficking; 68 forced begging; 4 forced theft; and 22 victims of other forms of exploitation.

<sup>20</sup> 498 sex trafficking; 180 labour trafficking; 69 forced begging; 11 forced theft; and 122 victims of other forms of exploitation.

<sup>21</sup> Of which 133 received assistance provided by a public institution; 70 by NOGs; and 33 received assistance by organisms in public-private partnership.

<sup>22</sup> Of which 215 received assistance provided by a public institution; 48 by NOGs; and 44 received assistance by organisms in public-private partnership.

<sup>23</sup> Of which 166 received assistance provided by a public institution; 88 by NOGs; and 60 received assistance by organisms in public-private partnership.

<sup>24</sup> Although 37 convicted traffickers received suspended sentences, and three postponed prison sentences, the remaining 80 traffickers received sentences from one to more than 10 years' imprisonment.



## 2. Treaty commitments<sup>25</sup>

Instrument	Ratification date
1926 Slavery Convention	N/A
1953 Protocol to the Slavery Convention	13 November 1957
1930 Forced Labour Convention	28 May 1957
2014 Protocol to the Forced Labour Convention	N/A
1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery	12 April 1957
1957 Abolition of Forced Labour Convention	03 August 1998
1966 International Covenant on Civil and Political Rights (ICCPR)	09 December 1974
1966 Optional Protocol to the ICCPR	20 July 1993
2005 Council of Europe Convention on Action against Trafficking in Human Beings	21 August 2006
1990 Convention on the Protection of the Rights of All Migrant Workers and Members of their Families	N/A
1998 Rome Statute of the International Criminal Court	11 April 2002
1999 Worst Forms of Child Labour Convention	13 December 2000
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children	4 December 2002
2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	18 October 2001
2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	10 November 2001
2011 Domestic Workers Convention	N/A
<b>Regional and bilateral instruments</b>	
1950 European Convention for the Protection of Human Rights and Fundamental Freedoms	20 June 1994
2005 Council of Europe Convention on Action against Trafficking in Human Beings	21 August 2006
2005 Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism	21 February 2007
2015 Council of Europe Convention against Trafficking in Human Organs	N/A
<b>Key International Commitments</b>	
1948 Universal Declaration of Human Rights	
1985 Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power	
2005 UN Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law	
2015 UN Sustainable Development Goals (5.3, 8.7)	

<sup>25</sup> UN Treaty ratification info sourced from UN Treaty Collection available [here](#); ILO Convention ratifications available [here](#); Rome Statute ratification status available [here](#). Membership data on the 2017 Call to Action is found at Delta8.7, 'Call to Action' available [here](#), accessed 04 November 2020.



## 3. General country context

### 3.1. Constitutional structure

The Republic of Romania operates a unitary, democratic, multiparty parliamentary system with a bicameral legislature. According to the 1991 Constitution, as amended in 2003,<sup>26</sup> legislative authority resides in the Chamber of Deputies and the Senate, both elected by popular vote under a system of proportional representation.<sup>27</sup> The Romanian executive branch has two main components: the Government and the President. The President, who is directly elected for a five-year term and a maximum of two terms, nominates the candidate to Prime Minister on the basis of consultations with the political party or coalition holding the majority in the Parliament (Article 81 of the 1991 Constitution).<sup>28</sup> While the powers of the President mostly lie in the sphere of foreign affairs and national defence,<sup>29</sup> the Prime Minister serves as the head of the government and leads the government's actions along with the designated Ministers and other members specified by organic law, which constitutes the Cabinet (Article 102 of the 1991 Constitution).<sup>30</sup> The judicial system is headed by the High Court of Cassation and Justice, which ensures the uniform interpretation of the law by the other courts, including: the courts of appeal; the tribunals; the specialised tribunals; the district courts and the military courts.<sup>31</sup> As is the case in almost all the new democracies of Central and Eastern Europe, the 1991 Constitution established a strong Constitutional Court mirroring the Austro-German model that serves as the guardian of the supremacy of the Constitution (Article 142 of the 1991 Constitution).<sup>32</sup>

The Romanian constitutional system envisages elements of both the monist and dualist doctrine: according to Article 11(2) of the Constitution, treaties or agreements are part of Romanian law once they are ratified by Parliament.<sup>33</sup> International human rights treaties hold a privileged position within the Romanian legal hierarchy, as Article 20(2) provides that in case of any inconsistency between human rights treaties to which Romania is a party and national laws, the human rights treaties shall take precedence, unless the Romanian Constitution or laws contain more favourable provisions.<sup>34</sup> EU law also holds a privileged position of primacy over national norms based on Article 168, the so-called accession clause.<sup>35</sup> The Romanian legal system is a civil law system, and does not recognize legal precedent as *stare decisis*.<sup>36</sup> Administratively, Romania is divided into 41 counties and Bucharest.<sup>37</sup>

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<sup>26</sup> See an unofficial English translation of the Romanian Constitution [here](#).

<sup>27</sup> Britannica Encyclopaedia, 'Romania' (17 October 2020), available [here](#).

<sup>28</sup> The model of organisation of the executive power in Romania is that of the two-headed or dual executive. See Dragoş Valentin Dinca, *The Romanian Administrative System – French Inspiration and National Adaptation* (Editura Economică, 2012) p 43, available [here](#); Eurydice, 'Romania- Main Executive and Legislative Bodies' (22 January 2019), available [here](#).

<sup>29</sup> Elena Simina Tanasescu, 'The President of Romania, Or: The Slippery Slope of a Political System' (2008) 4 *European Constitutional Law Review* 64, 70 ff.

<sup>30</sup> See further Alina Sturzu, 'The presidentialization of the Romanian political system: an interplay between structures and contingencies' (2011) 11(2) *Studia Politica: Romanian Political Science Review* 2, 309, 311 ff.

<sup>31</sup> European Justice (EU), 'Judicial systems in Member States – Romania' (2016), available [here](#). See also Article 126 of the 1991 Constitution.

<sup>32</sup> Viorica Vita, 'The Romanian Constitutional Court and the Principle of Primacy: To Refer or Not to Refer?' 16(6) *German Law Journal* 1623, 1626 ff.

<sup>33</sup> Article 11(2): 2 treaties ratified by Parliament, in conformity with the law, are part of national law.

<sup>34</sup> See further Viorica Vita, above n 32, 1630 ff.

<sup>35</sup> For a discussion, see *ibid*, pp. 1630 and ff.

<sup>36</sup> Dana Neacşu, 'Doing Legal Research in Romania' (Globalex, 2005), available [here](#).

<sup>37</sup> See further Dragoş Valentin Dinca, above n 28, 138.

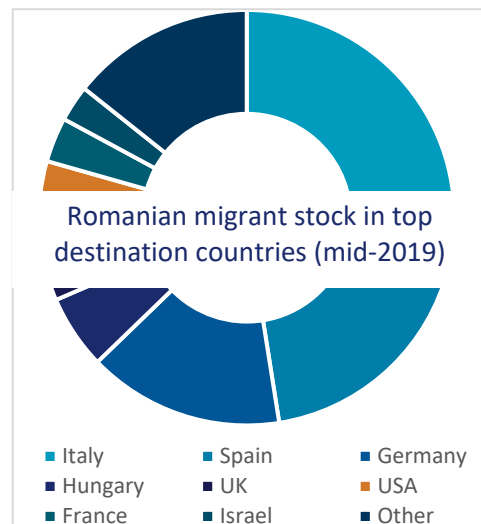
### 3.2. Political context

2017 marked a turnaround in Romania’s political landscape, in which anti-corruption policy emerged as the most relevant theme, replacing the traditional left-right cleavage.<sup>38</sup> The ruling party since 2016—a centre-left coalition—and the Prime Minister Mihai Tudose from the Social Democratic Party (PSD) attempted to amend the Criminal Code to decriminalise some types of corruption offenses, triggering a conflict with the President and European institutions.<sup>39</sup> Nationwide and regular protests were staged by civil society groups.<sup>40</sup> Recurrent appeals to the Constitutional Court forced it to become more active in the political arena, further straining the constitutional system.<sup>41</sup>

These events have shaped the political discourse and subsequent succession of governments since Prime Minister Mihai Tudose was forced out of office by his own ruling PSD.<sup>42</sup> The BTI Report anticipated that ‘this political alignment –for-versus-against the anti-corruption agenda– largely overlaps with the prevailing alignment in Europe, pitting pro-European progressives against euroskeptic populists, meaning that the alignment in Romania could gain greater structural depth’.<sup>43</sup> On November 2019 Presidential elections took place and Klaus Iohannis was re-elected. Ludovic Orban of the centre-right National Liberal Party (PNL) was then designated as Prime Minister, although he was ousted three months later by a motion of censure tabled by the social-democratic opposition. Nonetheless, the COVID-19 crisis has prompted the re-designation of Orban with an identical cabinet.<sup>44</sup>

### 3.3. Migration profile

Emigration continues to be a dominant migration pattern in Romania. At mid-2019 the country’s emigrant population was estimated to be 3.6 million, while the number of international migrants residing in the country was estimated to be 426,200 (2.4% of the total population).<sup>45</sup> Romania’s accession to the EU has profoundly impacted migration patterns to specific OECD countries.<sup>46</sup> Although Romanians could not immediately benefit from the free movement of workers in all EU countries, they nonetheless had the fundamental right to move and reside



<sup>38</sup> ‘Romania’s political parties have used anti-corruption policy to position themselves and as a strategy to get rid of political opponents’. BTI, ‘BTI 2020 Country Report’ (2020) 3, available [here](#).

<sup>39</sup> Commission (EU), ‘Report from the Commission to the European Parliament and the Council On Progress in Romania under the Cooperation and Verification Mechanism’ (Communication) (2018) 851 final, p 8, available [here](#); Venice Commission (Council of Europe), ‘Opinion on amendments to the Criminal Code and the Criminal Procedure Code adopted by the Venice Commission at its 116th Plenary Session’ (Opinion 930/2018, 20 October 2018), available [here](#).

<sup>40</sup> Samuel Osborne, ‘Romania protests: Hundreds of thousands march against decree decriminalising corruption offences’ *Independent* (02 February 2017), available [here](#). See further International Amnesty, ‘Romania 2019’ (2020), available [here](#).

<sup>41</sup> Romania Insider, ‘Romania’s Constitutional Court rejects draft amendment for banning amnesty and pardoning for corruption’ *Romania Insider* (16 July 2019), available [here](#).

<sup>42</sup> DW, ‘Romania’s democracy in danger after Mihai Tudose resignation’ *DW* (16 January 2018), available [here](#); Freedom House, ‘Freedom in the World 2020 - Romania’ (2020), available [here](#).

<sup>43</sup> BTI, above note 29, p. 3.

<sup>44</sup> Andrei Chirileasa, ‘Comment: How the coronavirus has changed the political landscape in Romania’ *Romania Insider* (20 May 2020), available [here](#).

<sup>45</sup> Migration Data Portal (2020), available [here](#).

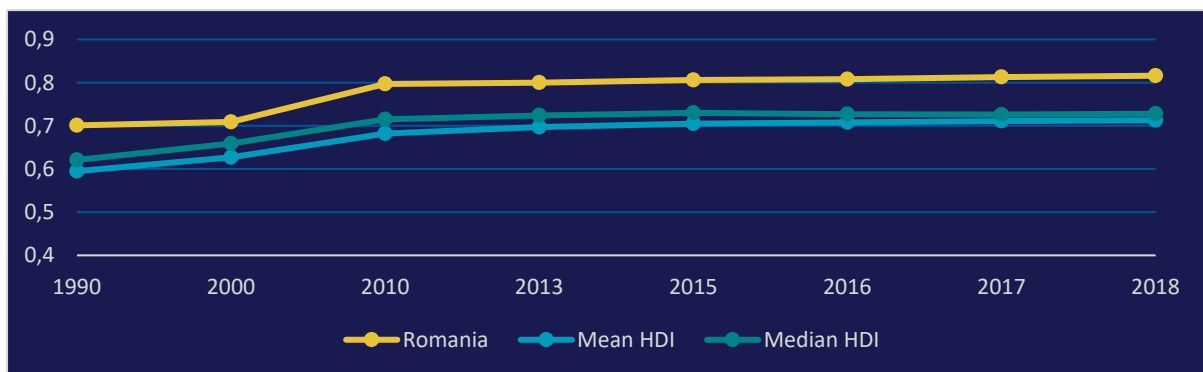
<sup>46</sup> Margaret Uccellini argues that this process began before, along with the negotiation process: see Margaret Uccellini, ‘Outsiders’ After Accession: The case of Romanian migrants’ (2010) 4(2) *Political Perspectives* 70.

freely within the EU, as enshrined in Article 21,<sup>47</sup> which gave them additional pathways. While the United States, Canada, and Hungary were popular destinations for migrants during the first years after the fall of communism, migration patterns have shifted towards Italy and Spain in the past two decades.<sup>48</sup> Nowadays, Italy harbours the largest community of Romanians abroad, and Romanian workers tend to proliferate in the tertiary and building sector, and in agriculture.<sup>49</sup> The recent global economic crisis led to diversions of Romanian migration flows to Germany and later the United Kingdom,<sup>50</sup> and to an intensification of circular and return migration.<sup>51</sup> In 2018, emigration of Romanians to OECD countries increased slightly (by 2%), mainly to Germany (54%), the UK (11.9%) and Italy (10.2%).<sup>52</sup>

The Romanian General Inspectorate for Immigration's report on the overview of its activity on asylum and migration in 2019 indicated that Moldova, Turkey, and China were the countries of origin of the majority of the 84,228 third country nationals with a right to stay in Romania. The number of work permits issued for workers mainly from Vietnam, Nepal, India, and Turkey was 29,800. Regarding asylum applications, Romania received 2,592 in 2019, predominantly from Syria, Iraq, Afghanistan, and Algeria. Of the 1,183 asylum applications processed, 563 were admitted and either granted refugee status (287) or subsidiary protection (276).<sup>53</sup>

### 3.4. Development profile

#### 3.4.1. Human Development Index<sup>54</sup>



The Human Development Index (HDI) measures average life expectancy, level of education and income for each country in the world. Each country is given a score between 0 and 1 - the

<sup>47</sup> Commission (EU), 'Report from the Commission to the Council on the Functioning of the Transitional Arrangements on Free Movement of Workers from Bulgaria and Romania' (Communication) (2011) 0729 final, available [here](#).

<sup>48</sup> OECD, 'Chapter 2 Recent trends in emigration from Romania' in *Talent Abroad: A Review of Romanian Emigrants* (OECD Publishing, Paris, 2019), available [here](#).

<sup>49</sup> See Mihaela Simionescu, European economic integration and migration in Romania (2019) 32(1) *Economic Research-Ekonomska Istraživanja* 3607, 3608-3609. For further in-depth analysis, see Jobst Koehler et al, 'Migration and the economic crisis in the European Union: Implications for policy' (IOM, 2010), available [here](#).

<sup>50</sup> OECD, above n 48. See also Daniela Gabriela Cozma and Margareta Bocancia, 'The trend of the Romanian migration flow explained by means of statistical models' (2019) 11(3) *CES Working Papers* 234.

<sup>51</sup> Mihaela Simionescu, above n 49, 3609. See also Anzelika Zaiceva and Klaus Zimmermann, 'Returning home at times of trouble? Return migration of EU enlargement migrants during the crisis', in Martin Kahanec and Klaus Zimmermann (eds.), *Labor migration, EU enlargement, and the great recession* (Springer, 2016) 397-418.

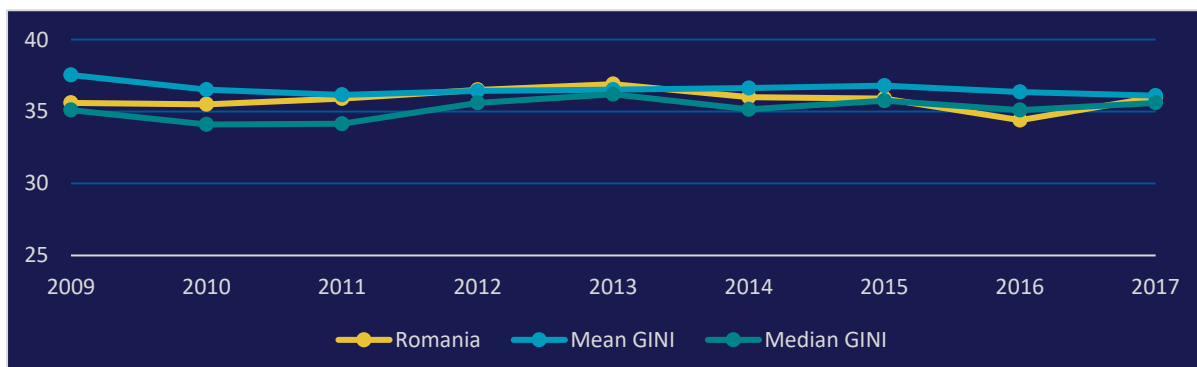
<sup>52</sup> OECD, 'International Migration Outlook 2019- Romania' (2019), available [here](#).

<sup>53</sup> Romanian General Inspectorate for Immigration (IGI), 'Evaluarea activității polițiștilor inspectoratului general pentru imigrări în anul 2019' (2019), available [here](#). See also, in English: EWSI, '2019 statistical data on migrants and refugees in Romania' (18 February 2020), available [here](#).

<sup>54</sup> UNDP, 'Human Development Indicators - Romania' (2019), available [here](#).

closer a country gets to 1, the more developed it is.<sup>55</sup> Romania's scores place it in the 'Very High Human Development' grouping.

### 3.4.2. GINI Co-efficient<sup>56</sup>



Gini index measures the extent to which income distribution or consumption expenditure among individuals or households within an economy deviates from a perfectly equal distribution. A Gini index of 0 represents perfect equality, while an index of 100 implies perfect inequality.<sup>57</sup>

### 3.4.3. United Nations Sustainable Development Goals<sup>58</sup>

Year	Rank	Score
2020	38	74.78
2019	42	72.7
2018	44	71.2
2017	35	71.4
2016	41	67.5

The Sustainable Development Reports assess implementation of, and progress towards, the 2015 UN Sustainable Development Goals. The SDG Index and Dashboards summarise countries' current performance and trends across the 17 SDGs. All SDGs are weighted equally in the index. Changing indicators, data, and methodology used to determine rankings and scores mean that SDG index results are not comparable over time.<sup>59</sup>

As noted by the European Commission's annual report on Romania, the country 'is making progress towards achieving the United Nations' Sustainable Development Goals (SDGs). Areas where progress is more evident refer to SDG 17 "Partnership for the goals", with all its associated indicators showing an improving performance during the last five years. Relatively similar performances are found for SDG 1 "No poverty" and SDG 13 "Climate action". Notwithstanding this improving performance, current levels for some of these indicators are significantly lower than the EU average, particularly for SDG 4 "Quality education", where all indicators are below the EU average, and closely followed by SDG 1 "No poverty" and SDG 3 "Good health and wellbeing".<sup>60</sup>

<sup>55</sup> UNDP, 'Human Development Reports', available [here](#).

<sup>56</sup> World Bank, 'Gini index (World Bank estimate) – Romania' (2017), available [here](#).

<sup>57</sup> World Bank, 'Metadata Glossary', available [here](#).

<sup>58</sup> Sustainable Development Report (2020), available [here](#). See Ministry of Environment (Romania), 'Romania's Voluntary National Review 2018' (2018), available [here](#).

<sup>59</sup> Bertelsmann Stiftung and Sustainable Development Solutions Network, 'Sustainable Development Report 2019' (June 2019) 19.

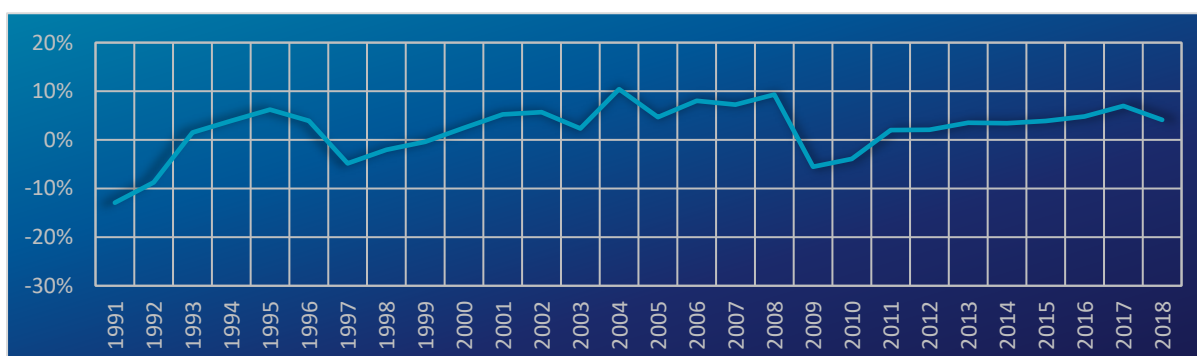
<sup>60</sup> Commission (EU), 'Country Report Romania 2020- 2020 European Semester: Assessment of progress on structural reforms, prevention and correction of macroeconomic imbalances, and results of in-depth reviews under Regulation (EU) No 1176/2011' (Communication) (2020) 150 final, 15, available [here](#).

### 3.4.4. GDP Rates

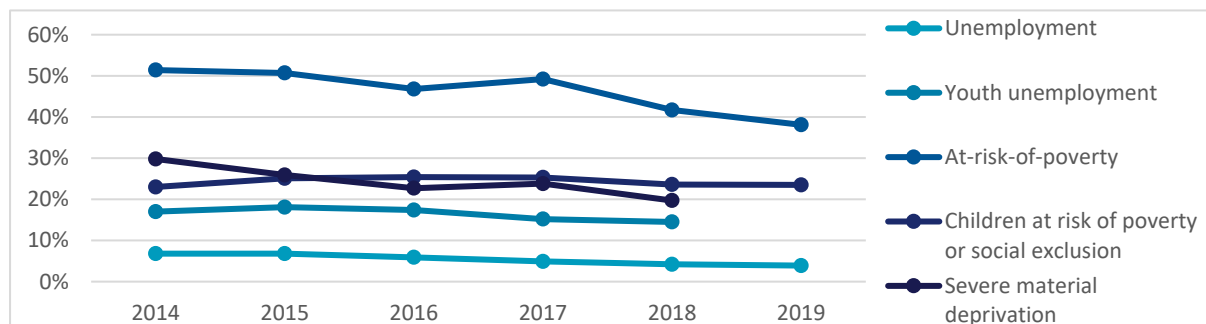
GDP per capita (current US\$)<sup>61</sup>



Romania GDP Growth Rate



Other relevant indicators<sup>62</sup>



## 3.5. Romania's Human Rights Record

Notwithstanding Romania's overall improvement of its SDG indicators, significant human rights issues persist, including:

- **Discrimination against Roma.** Roma people continued to experience widespread discrimination and social exclusion, especially in the fields of education, health, housing, and employment.<sup>63</sup> They were disproportionately affected by extreme poverty and inequality compared to non-Roma, which the Special Rapporteur on extreme poverty considered correlated with societal attitudes towards Roma people and government (in)action.<sup>64</sup> Other abuses against Roma have been widely documented, such as racist hate

<sup>61</sup> World Bank, 'GDP per capita (current US\$) – Romania' (2019), available [here](#).

<sup>62</sup> Commission (EU), above n 60, 77.

<sup>63</sup> Human Rights Council, 'Compilation on Romania Report of the Office of the United Nations High Commissioner for Human Rights' (A/HRC/WG.6/29/ROU/2, 9 November 2017), 2.

<sup>64</sup> Human Rights Council, 'Report of the Special Rapporteur on extreme poverty and human rights on his mission to Romania' (A/HRC/32/31/Add.2, 8 April 2016) para. 13.

crimes and speeches directed against them;<sup>65</sup> excessive use of force by the police;<sup>66</sup> and violence in detention centres.<sup>67</sup>

- **Endemic official corruption.** With a rank of 70 out of 180 according to Transparency International,<sup>68</sup> corruption has been identified as one of the major challenges in Romania. The recent reform of the justice system will likely affect the ability of the judiciary to investigate high-level corruption.<sup>69</sup> 'The judiciary took steps to prosecute and punish officials who committed abuses, but authorities did not have effective mechanisms to do so and delayed proceedings involving alleged police abuse and corruption, with the result that many of the cases ended in acquittals. Impunity for perpetrators of human rights abuses was a continuing problem'.<sup>70</sup>
- Against a backdrop of **widespread discrimination against women and girls**, institutional efforts to effectively address violence and harmful practices against them remain inadequate.<sup>71</sup>
- Abuse against **institutionalised persons with disabilities** has also been reported in Romania. Inadequate teacher training and lack of investment to make schools accessible enables and perpetuates discrimination against children with disabilities in education. According to the European Centre for the Rights of Children with Disabilities, abuses against children in special schools, including violence by staff, were reportedly frequent in Romania.<sup>72</sup>

### 3.6. Social support systems

By and large, the Romanian social protection system covers standard social risks, and is based on a three-pillar system: the first pillar is mandatory and based on contributions; the second is mandatory for persons under 35 years of age and voluntary for those aged 35-45; and the third is voluntary.<sup>73</sup> The insurance scheme covers old-age pensions; survivor pensions; work accidents and occupational illnesses; invalidity pensions; sickness benefits; health insurance; unemployment benefit; family support benefits; child-raising allowance; state child benefits; and maternity benefits.<sup>74</sup> The social assistance scheme allows people in situations of material deprivation to receive services or benefits from the State, including benefits to families and single persons whose income is below the guaranteed minimum income, and benefits and

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<sup>65</sup> See Committee against Torture, 'Concluding observations on the second periodic report of Romania' (CAT/C/ROU/CO/2, 5 June 2015) para. 10; and Committee on the Elimination of Discrimination against Women, 'Concluding observations on the combined seventh and eighth periodic reports of Romania' (CEDAW/C/ROU/CO/7-8, 24 July 2017) para. 36.

<sup>66</sup> Amnesty International, above n 40. Relevantly, the European Court of Human Rights has condemned Romania for police ill-treatment of four Roma, stating that in Romania 'Roma communities are often confronted with institutionalised racism and are prone to excessive use of force by the law-enforcement authorities'. See *Lingurar v. Romania* (2018).

<sup>67</sup> US Department of State, '2019 Report on Human Rights Practices- Romania' (2019), available [here](#).

<sup>68</sup> Transparency International, 'Corruption Perceptions Index' (2019), available [here](#).

<sup>69</sup> US Department of State, above n 67; Commission (EU), above n 60, 58; see further Commission (EU), above n 39.

<sup>70</sup> US Department of State, above n 67.

<sup>71</sup> *Ibid*, Human Rights Council, above n 63, 7.

<sup>72</sup> US Department of State, above n 67.

<sup>73</sup> See Brîndușa Marian, 'The evolution of the social security system in Romania' (2018) 8(2) *Law Review* 76, 84 ff.

<sup>74</sup> For a detailed description of the conditions and features, see: US Social Security, 'Social Security Programs Throughout the World-Europe' (2018), available [here](#); Commission (EU), 'Your social security rights in Romania' (2020).



social services provided to people with disabilities and elderly persons who require long-term care.<sup>75</sup>

Notwithstanding the comprehensiveness of the Romanian social support system, the public spending on healthcare in Romania remained very low (5.2% of Romania's GDP) in comparison with the average in the EU (9.8%). Additionally, while the health status of the Romanian population is improving, access to protection mechanisms remain unequal within the Romanian population.<sup>76</sup> The European Commission noted that 'about 11% of the population remains uninsured and has only access to a restricted basket of services. The percentage of population covered by a form of health insurance has been decreasing, with a significant urban-rural gap. A large share of self-employed workers in agriculture and of the rural Roma population is not covered by health insurance. Plans to expand primary care services under this restricted basket by 2023 are underway'.<sup>77</sup>

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<sup>75</sup> The social services include homecare (îngrijire la domiciliu); care at day centres (îngrijire în centre de zi); care at residential centres (îngrijire în centre rezidențiale). On another hand, the social benefits include allowance for disabled persons (indemnizație pentru persoanele cu handicap); attendant allowance (indemnizație de însoțitor). See Commission (EU), above n 60, 34.

<sup>76</sup> Ibid, 37.

<sup>77</sup> Ibid, 38.

## 4. National modern slavery context

### 4.1. Modern slavery profile

While Romania remains predominantly a source country for sex trafficking and labour trafficking victims spread across Europe, human traffickers also exploit domestic and foreign victims in Romania, especially from Vietnam and the Philippines. Significantly, minors represent nearly 50% of identified trafficking victims in Romania.<sup>78</sup> The primary destination countries for Romanian victims are Italy, Spain, Germany, and the United Kingdom.<sup>79</sup>

The statistical data concerning human trafficking offences for the period 2015-2019 collected by the Romanian government shows that the most prevalent type of exploitation was forced prostitution and sexual exploitation (65.62% of the total victims identified), followed by forced labour—including coercion to commit minor offences, such as theft or illegal cigarette production<sup>80</sup>—(18%), and forced begging (7%). Romanian authorities detected a decrease in the latter form of exploitation from previous years.<sup>81</sup> Labour trafficking was found in various sectors, including agriculture, construction, hospitality, manufacturing, and domestic service in Romania and other European countries.<sup>82</sup>

Regarding modus operandi, the 'loverboy' method is often mentioned as a common form of female recruitment for sexual exploitation and forced prostitution in Romania.<sup>83</sup> The 'loverboys' are described as:<sup>84</sup>

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...agents who approach attractive and vulnerable young girls, offering them undying love, treating them to extravagant gifts, and seducing them to migrate to a rich country where they can build a life together. False documents are provided for travel, and the loverboy usually sends the young woman in advance by train or plane and tells her to meet a friend upon arrival. That friend is almost always a slave trader or brothel owner.

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Although not reflected in the Romanian government's statistical data, both the 2020 and 2019 US TIP Reports point to a rise in Romanian women recruited for sham marriages in Western Europe, who are forced into prostitution or labour after entering these marriages.<sup>85</sup> Trafficking in human beings for the purpose of sham marriages most commonly targets girls or young women. Romanian girls and women are typically trafficked into Western member states and forced to marry Asian men, mostly Pakistanis and Indians.<sup>86</sup>

False employment promises or job offers have emerged as the most frequent mode of recruitment, particularly through online recruitment platforms.<sup>87</sup> Notwithstanding this, the

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<sup>78</sup> US Department of State (2019), above n 12, 393; US Department of State (2020), above n 12, 419.

<sup>79</sup> GRETA (Council of Europe), 'Reply from Romania to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties' (GRETA(2018)26\_ROM\_rep, 22 October 2019), 40-41, available [here](#).

<sup>80</sup> RACE in Europe, 'Trafficking for Forced Criminal Activities and Begging in Europe' (Anti-Slavery, 2014) 53, available [here](#).

<sup>81</sup> GRETA (Council of Europe), above n 79, 41.

<sup>82</sup> US Department of State (2019), above n 12, 393; US Department of State (2020), above n 12, 419.

<sup>83</sup> GRETA (Council of Europe), above n 79, 41.

<sup>84</sup> Siddharth Kara, *Sex Trafficking: Inside the Business of Modern Slavery* (Columbia University Press, 2017), 9.

<sup>85</sup> US Department of State (2019), above n 12, 393; US Department of State (2020), above n 12, 419.

<sup>86</sup> Europol, 'Situation Report Trafficking in human beings in the EU' (2016), 29, available [here](#).

<sup>87</sup> GRETA (Council of Europe), above n 79, 41; Zuzanna Muskat-Gorska et al, 'The role of the internet in trafficking for labour exploitation' (International Trade Union Confederation, Anti-slavery International, Churches' Commission for Migrants in Europe, 2018), 11, available [here](#).

Romanian government's statistical data reported an increase in the proportion of victims recruited by friends or acquaintances, which facilitated victims' trust in the credibility of the offer.<sup>88</sup> Research also suggests that a significant number of Romanian victims of forced labour are internally trafficked.<sup>89</sup> A study conducted in 2013 concerning forced begging in Romania recognised 'differences in trends between those who were trafficked within Romania and those who were sent abroad. Those exploited domestically were usually disabled, children or homeless and most were already practicing begging. Domestic traffickers usually operate on their own or in small groups and many exploit their own children or family members'.<sup>90</sup>

Concerning victims' profile, low levels of education and rural origins were identified as important contributing factors for becoming victims of trafficking. The majority of victims in Romania (73%) were female, and children represented 50% of the total.<sup>91</sup> Children in State custody were particularly vulnerable to forced labour and forced begging, especially in small towns.<sup>92</sup> The US TIP Reports note that institutionalised children are also highly vulnerable to sex trafficking, particularly girls living in government-run homes and placement centres for disabled persons.<sup>93</sup>

According to the statistics, perpetrators were predominantly Romanian citizens either males or females, acting in organised groups or independently. When they acted in family clans or ethnic groups, they did not function as a hierarchical structure but as a horizontal 'business', so the profits obtained from the criminal activities were equally shared.<sup>94</sup>

## 4.2. Causes and drivers of modern slavery and transnational trafficking

Causes or drivers of human trafficking and modern slavery are multiple and overlapping. As highlighted by the report of the University of Bedfordshire/IOM, there are different risk factors which increase vulnerability. These factors are structured into five levels (individual, household and family, community, structural and situational) interacting with each other, creating the conditions for exploitation and modern slavery to emerge.<sup>95</sup>

At the individual level, variables such as low living standards; unemployment rates; low education levels; rural origins; and forced marriage arrangements have reportedly played an important role as contributing factors to trafficking.<sup>96</sup> Additionally, recruitment methods are sometimes related to close personal and family ties, for example, when trafficking is arranged by the families of young women and minors. This occurs frequently in cases of child trafficking, where parents and close relatives are part of the recruitment circle.<sup>97</sup> Therefore, there are also risk factors at household and family level and the community level.

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<sup>88</sup> GRETA (Council of Europe), above n 79, 41.

<sup>89</sup> Commission (EU), 'Study on case-law relating to trafficking in human beings for labour exploitation' (2015), 26, available [here](#).

<sup>90</sup> RACE in Europe, above n 80, 69. See in-depth ANTIP, 'Trafficking in Persons for Begging – Romania Study' (October 2013), available [here](#).

<sup>91</sup> Ibid, 41-42; US Department of State (2019), above n 12, 393; US Department of State (2020), above n 12, 419.

<sup>92</sup> GRETA (Council of Europe), above n 79, 41.

<sup>93</sup> Ibid.

<sup>94</sup> Ibid, 42.

<sup>95</sup> Patricia Hynes et al, "'Vulnerability" to human trafficking: a study of Viet Nam, Albania and the UK' (IOM, University of Bedfordshire and IASR, 2018), 15, available [here](#).

<sup>96</sup> Iulia Badea Caramello, 'A Case Study of Sex Trafficking in Romania' (2013) 20 ff; Adelina Tamaş, Alina Moise, Claudia Preduţ, and Nadia Medvichi (ANTIP), 'Trafficking in persons for begging -Romania study-' (2013) 31, available [here](#).

<sup>97</sup> Europol, above n 86, 18.

At structural level, widespread discrimination against women and Roma communities may explain their prevalence among trafficking victims.<sup>98</sup> The socio-economic situation in the country also acts as a contributing factor to trafficking. Many reports refer to the connection between modern slavery-related practices and limited economic opportunities. In Romania, poverty rates and economic inequality remain high; the cycle of poverty is difficult to break and people's access to social and essential services is uneven.<sup>99</sup> In particular, large-scale unemployment of Roma populations and engagement in economic activities in the 'grey' and 'black' sectors are identified as a key risk factors in Romania.<sup>100</sup>

### 4.3. Particularly vulnerable groups

By and large, membership of a particular ethnic group has been identified as a vulnerability factor to be exploited by traffickers in Romania, partly due to the discrimination they face in other spheres. Accordingly, it has been proved that **Roma people** are at greater risk of trafficking—especially trafficking for the purposes of street crime and begging—because of a number of socio-economic factors such as poverty, social exclusion, discrimination, lack of formal education, and inadequate social assistance systems.<sup>101</sup> In these cases, individual vulnerability factors and drivers themselves do not differ substantially between different populations. Rather, these vulnerability factors are exacerbated by discrimination, and denial of access to relevant services and entitlements that would alleviate risks.

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[T]here are no significant differences between generally understood vulnerability factors and the vulnerability factors present in Roma communities, they are disproportionately represented because these vulnerability factors are significantly exacerbated by the discrimination they face in their home country. This discrimination creates barriers preventing Roma from accessing public services such as schools, health and social services and employment opportunities which would reduce their vulnerability to trafficking.<sup>102</sup>

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Constituting nearly 50% of identified trafficking victims in Romania, **minors** also represent a particularly vulnerable group. Traffickers have been reported to have subjected institutionalised and Romani children to trafficking and other forms of exploitation, predominantly forced begging and sex trafficking.<sup>103</sup>

The majority of the identified victims in Romania are **women** (73%) subjected to sexual exploitation<sup>104</sup> and early marriages.<sup>105</sup> This fact may indicate that being a woman constitutes a risk factor for becoming a trafficking victim. Women's vulnerability derives from the interplay of gender discrimination and inequalities related to race, class, nationality, etc.<sup>106</sup>

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<sup>98</sup> RACE in Europe, above n 80, 69.

<sup>99</sup> Commission (EU), above n 60, 40, 54. See further Raluca Tomşa, Alexandra Hosszu, and Gelu Duminičă, 'Trafficking of human beings in Romania: 497 registered victims and 130 convicted traffickers?' (Agentia Impreuna, 2019), 9-10.

<sup>100</sup> Kamelia Dimitrova, Slavyanka Ivanova, and Yva Alexandrova (Center for the Study of Democracy), 'Child trafficking among vulnerable Roma communities. Results of country studies in Austria, Bulgaria, Greece, Italy, Hungary, Romania and Slovakia' (2015), 15, available [here](#).

<sup>101</sup> RACE in Europe, above n 80, 69.

<sup>102</sup> Ibid, 21.

<sup>103</sup> See US Department of State (2019), above n 12, 393; US Department of State (2020), above n 12, 418 ff.

<sup>104</sup> GRETA (Council of Europe), above n 79, 42.

<sup>105</sup> Human Rights Council, above n 63, 7.

<sup>106</sup> Letizia Palumbo and Alessandra Sciorba, 'Vulnerability to Forced Labour and Trafficking: The case of Romanian women in the agricultural sector in Sicily' (2015) 5 *Anti-Trafficking Review*, 100.

**Persons with disabilities** are also a particularly vulnerable population among Romanian victims. According to an ANTIP's study on trafficking in persons for begging, 'disabled victims are manipulated by means of promises related to surgical interventions abroad, purchase of prosthesis or medical appliances required by such individuals and/or various expensive medical interventions that cannot be performed in Romania'.<sup>107</sup>

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<sup>107</sup> Adelina Tamaş, Alina Moise, Claudia Preduţ and Nadia Medvichi (NATIP), 'Trafficking in persons for begging. Romania Study' (NATIP and Swiss Government, 2013) 32, available [here](#).

## 5. Antislavery governance frameworks

### 5.1. Legislative measures

#### 5.1.1. Romania's Constitution 1991

Forced labour is prohibited under Article 42 of the 1991 Constitution, after a general provision recognising the freedom to work in Article 41 ('Everyone has a free choice of his/her profession, trade or occupation, as well as work'):

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#### Article 42.

(1) Forced labour is prohibited.

(2) Forced labour does not include:

a) activities of doing the military service, as well as activities performed in lieu thereof, according to the law, due to religious or conscience-related reasons;

b) the work of a sentenced person, carried out under normal conditions, during detention or conditional release;

c) any services required to deal with a calamity or any other danger, as well as those which are part of normal civil obligations as established by law.

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Other relevant provisions include the right not to be subjected to torture or to any kind of inhuman or degrading treatment (Article 22); individual freedom and protection from unlawful restrictions on freedom of movement (Articles 23 and 25, respectively); and the right of children and youth not to be exploited or subjected harmful activities (Article 49).

It is important to note that Article 20(2) of the 1991 Constitution recognises the primacy of human rights treaties ratified by Romania over its domestic legislation if they are more beneficial in terms of rights, which means that the Council of Europe Anti-Trafficking Convention's provisions take precedence over national provisions in case of contradiction, unless the domestic provision is more favourable in terms of human rights.<sup>108</sup>

#### 5.1.2. Romanian Penal Code 2009<sup>109</sup>

The Penal Code was enacted in 2009 and entered into force in February 2014. As a result, the criminalisation of trafficking in persons, which was previously envisaged within Law No. 678 on Preventing and Combating Trafficking in Persons 2001 (Anti-trafficking law), is now provided in Articles 182 (exploitation of persons), 210 (trafficking in persons), 211 (trafficking in children), and 367 (aggravating circumstance when committed by a criminal organisation) of the Penal Code.<sup>110</sup> The definition of trafficking mirrors the Palermo Protocol, constituted by three elements: action, means, and purpose. The 'means' element renders consent irrelevant when expressed by a victim of trafficking, and is not required to constitute trafficking in minors. The Penal Code prescribes a basic framework of penalties ranging from three to ten years'

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<sup>108</sup> GRETA (Council of Europe), 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania. First evaluation round' (GRETA(2012)2, 31 May 2012) 16, available [here](#).

<sup>109</sup> See an English unofficial translation of Law no. 286 on the Criminal Code 2009, as subsequently amended, available [here](#).

<sup>110</sup> For an analysis of Articles 210 and 211, see: GRETA (Council of Europe), 'Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania. Second Evaluation Round' (GRETA(2016)20, 30 September 2016) 34-36.

imprisonment, to five to twelve years' imprisonment, with the latter range being engaged when prescribed aggravating circumstances are present:

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**Article 210. Trafficking in human beings**

(1) Recruitment, transportation, transfer, harbouring or receipt of persons for exploitation purposes:

- 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 by no less than 3 and no more than 10 years of imprisonment and a ban 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 by no less than 5 and no more than 12 years of imprisonment.

(3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defence.

**Article 211. Trafficking in minors**

(1) Recruitment, transportation, transfer, harbouring or receipt of a juvenile for the purpose of their exploitation shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

(2) If such act was committed under the terms of Art. 210 par. (1) or by a public servant while in the exercise of their professional duties and prerogatives, it shall be punishable by no less than 5 and no more than 12 years of imprisonment and a ban on the exercise of certain rights.

(3) The consent expressed by an individual who is a victim of trafficking does not represent an acceptable defence.

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Article 182 defines what 'exploitation of a person' means for the purposes of trafficking offence:

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**Article 182. Exploitation of a person**

Exploitation of a person means:

- a) forcing a person to carry out work or a task;
  - b) enslavement or other similar procedures to deprive of freedom or place in bondage;
  - c) forcing persons into prostitution, pornography, in view of obtaining and distributing pornographic material or any other types of sexual exploitation;
  - d) forcing into mendicancy;
  - e) illegal collection of body organs, tissues or other cells.
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Other relevant provisions include the prohibitions of: slavery (Article 209); forced labour (Article 212); forced prostitution (Article 213); forced begging (Article 214); and use of an exploited person's services (Article 216 in conjunction with article 182).

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### **Article 209- Slavery**

Pressing of keeping an individual in a state of slavery, as well as the trafficking in slaves shall be punishable by no less than 3 and no more than 10 years of imprisonment and a ban on the exercise of certain rights.

### **Article 212- Pressing into forced or compulsory labour**

An act of compelling a person, in cases other than the ones established by the legal stipulations, to work against their will or to compulsory labour shall be punishable by no less than 1 and no more than 3 years of imprisonment.

### **Article 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 by no less than 2 and no more than 7 years of imprisonment and a ban on the exercise of certain rights.

(2) In the event that a person was determined to engage in or continue the practice of prostitution through coercion, the penalty shall be no less than 3 and no more than 10 years of imprisonment and a ban 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.

(4) Practicing prostitution means having sexual intercourse with various individuals for the purpose obtaining financial benefits for oneself or for others.

### **Article 214- Exploitation of beggary**

(1) An act of an individual who causes a juvenile or a person having physical or psychic disabilities to resort repeatedly to the public's pity in order to ask for material help or benefits from financial benefits from such activity shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine.

(2) If such act is committed in the following situations: a) by a parent, guardian, curator or by the person under whose care the begging person is; b) by means of coercion, it shall be punishable by no less than 1 and no more than 5 years of imprisonment.

### **Article 216 -Use of an exploited person's services**

The action of using the services listed under Art. 182, provided by a person about whom the beneficiary knows that they are a victim of trafficking in human beings or of trafficking of underage persons, shall be punishable by no less than 6 months and no more than 3 years of imprisonment or by a fine, unless such action is a more serious offense.

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According to the Romanian authorities, general provisions of the Penal Code (Articles 24 and 25 concerning moral or physical constraint) apply to victims of trafficking in persons who were involved in illegal activities (criminal, civil or administrative ones), during their exploitation. This provision act as exemption clauses.<sup>111</sup>

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<sup>111</sup> GRETA (Council of Europe), above n 79, 29-30.



### 5.1.3. Law No. 678 on Preventing and Combating Trafficking in Persons 2001, as subsequently amended (Anti-trafficking law)

The Anti-trafficking Law provides the legal framework for measures to prevent trafficking in persons and to protect and assist its victims, including provisions ensuring: mandatory legal assistance;<sup>112</sup> assistance and special physical, legal, and social protection; identity protection; procedural rights; and the setting up of shelters for temporary housing of victims of trafficking.<sup>113</sup>

Article 39(1) and 39(2) provide for a reflection and recovery period of up to 90 days for foreigners and Romanian citizens when there are good reasons to believe that they are victims of trafficking, in accordance with the requirements of Article 13 of the Council of Europe Convention on Action against Trafficking in Human Beings. This period is granted for the purpose of recovering, escaping from the influence of traffickers or taking a decision regarding their cooperation with the competent authorities. During this period, presumed victims are entitled to counselling, medical and social assistance, and, upon their request, accommodation in shelters or protected homes.<sup>114</sup> 'Temporary residence rights can be granted by the General Inspectorate for Immigration if the presence of a foreign national in Romania is necessary for the criminal proceedings, as well as any legal proceedings for the recovery of outstanding wages from the employer, and as long as the foreign national does not pose a threat to public order or national security. The residence permit is granted for up to six months and is extendable for another six months'.<sup>115</sup>

### 5.1.4. Criminal Procedure Code 2011 (CPC)<sup>116</sup>

The Criminal Procedure Code establishes provisions relevant to modern slavery and human trafficking, including: ensuring protection of witnesses and victims before, during and after procedure (Articles 125-130, 148 CPC); establishing rights of victims, such as the right to be informed and assisted by interpretation services (Articles 81, 111-113);<sup>117</sup> providing for mandatory legal assistance (Article 93); establishing a right to compensation (Articles 19, 20, 24 and 25); and outlining safeguarding provisions limiting public hearings (Article 325).<sup>118</sup>

Article 138 allows special procedure techniques for combatting trafficking, including the interception of communications; locating or tracking through technical means; obtaining data on a person's financial transactions; detention, surrender or searching of mail; use of

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<sup>112</sup> Article 44 states that: During all the phases of the criminal proceedings, in order to be able to exercise their legal rights and to support their civil claims and claims against the persons who committed the offenses provided by this law, the THB victims benefit of mandatory legal assistance.

<sup>113</sup> GRETA (Council of Europe), above n 110, 22, 40.

<sup>114</sup> GRETA (Council of Europe), above n 110, 29, 33.

<sup>115</sup> GRETA (Council of Europe), above n 110, 28.

<sup>116</sup> Law no. 135 on the Criminal Procedure Code 2010, as subsequently amended. See an unofficial English translation [here](#).

<sup>117</sup> See GRETA (Council of Europe), above n 79, 4 ff. They include: 'a) the right to be informed about their rights; b) the right to propose the administration of evidence by the judicial bodies, to raise exceptions and to draw conclusions; c) the right to make any other requests related to solving the criminal side of the case; d) the right to be informed, within a reasonable time, regarding the stage of the criminal prosecution, to his express request, provided that he indicates an address in the territory of Romania, an e-mail address or electronic mail, to which this information to be communicated to them; e) the right to consult the file, according to the law; f) the right to be heard; g) the right to ask questions of the defendant, witnesses and experts; g1) the right to benefit free of charge of an interpreter when he / she does not understand, express himself or herself or cannot communicate in Romanian. In urgent cases, technical means of communication may be used, if it is considered necessary and does not prevent the exercise of the rights of the injured person; g2) the right to be informed of the translation into a language that he understands of any solution for not being sent to court, when he does not understand the Romanian language; h) the right to be assisted by a lawyer or represented; i) the right to call a mediator, in the cases allowed by law; j) other rights provided by law' (p. 26).

<sup>118</sup> *Ibid*, 37

undercover investigators and collaborators; and obtaining data generated or processed by providers of public electronic communications networks.<sup>119</sup>

#### 5.1.5. Law 211 on measures to ensure the information, support and protection of the victims of crime 2004<sup>120</sup>

This law stipulates further rights for victims of crime (Article 4), including the right to be informed and protected; the right to access free legal assistance 'by request' if certain conditions are met (Article 14-15);<sup>121</sup> and the right to access compensation schemes (Articles 21-27). Specific provisions related to safeguards for children are also envisaged.<sup>122</sup>

#### 5.1.6. Law No. 292 on Social Assistance 2011<sup>123</sup>

Apart from the general provisions, this law contains specific provisions on social services aimed at victims of trafficking in human beings, including: Article 56 (social services for preventing and combating poverty and social exclusion risk); Articles 62 (reintegration services); and 63 (social services).

#### 5.1.7. Ordinance No. 25 on the Employment of Foreigners in Romania 2014<sup>124</sup>

Within this Ordinance, a temporary residence permit shall be issued to the victims of trafficking (Article 130).<sup>125</sup>

#### 5.1.8. Law No. 272 on the Protection and Promotion of Children's Rights 2004<sup>126</sup>

Article 98 and 99 envisage provisions for ensuring children's protection from trafficking and exploitative practices.

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#### Article 98.

(1) The Ministry of Administration and Internal Affairs and the National Authority for the Protection of the Rights of the Child, in cooperation with the Ministry of Education and Research, will undertake the necessary steps in order to adopt all legal, administrative and educational measures that are destined to ensure the efficient protection against any forms of internal or international child trafficking, for any purpose or in any form, including by the child's own parents.

(2) For this purpose, the public authorities referred to under paragraph (1) have the responsibility to elaborate a national strategy for the prevention and eradication of this phenomenon, including an internal mechanism for coordinating and monitoring the already accomplished activities.

#### Article 99.

(1) The child has the right to be protected against any form of exploitation.

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<sup>119</sup> GRETA (Council of Europe), above n 110, 38.

<sup>120</sup> See an unofficial English translation [here](#).

<sup>121</sup> 'Free legal assistance is granted, upon request, (...) in compliance with the conditions established in art. 14 paragraph (2), if the monthly income per family member of the victim is at most equal to the minimum gross basic salary in the country established for the year in which the victim made the request for free legal assistance': GRETA (Council of Europe), above n 79, 8.

<sup>122</sup> See further: *ibid*, 35 ff.

<sup>123</sup> See unofficial English translation [here](#).

<sup>124</sup> See unofficial English translation [here](#).

<sup>125</sup> Human Rights Council, '2018 National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21' (A/HRC/WG.6/29/ROU/1, 27 December 2017) 14.

<sup>126</sup> See unofficial English translation [here](#).

(2) The public authorities and institutions, according to their responsibilities, adopt specific regulations and enforce adequate measures in order to prevent, among others:

- a) the illegal transfer and the failure of returning of the child;
- b) the conclusion of adoptions, either national or international, for any other purposes than the best interests of the child;
- c) sexual exploitation and sexual violence;
- d) the kidnapping and trafficking in children, for any purpose and in any form;
- e) the involvement of children in armed conflicts;
- f) the forced development of children's abilities to the detriment of their harmonious physical and mental development;
- g) the exploitation of the children by the media;
- h) the exploitation of children as part of scientific researches or experiments.

#### 5.1.9. Law No. 682 on the Protection of Witnesses 2002<sup>127</sup>

Pursuant to Article 2 of this law, trafficking in human beings is considered a 'serious offence', entailing access to specific witness protection measures for witnesses in criminal proceedings.

#### 5.1.10. Law No. 122 on Asylum 2006<sup>128</sup>

Under this law, foreign victims of trafficking applying for international protection can be accommodated in designated centres organised in accordance with this law.

#### 5.1.11. Labour Code 2003<sup>129</sup>

Forced labour is prohibited under Article 4 of the Labour Code, and child labour it is also prohibited under Article 13, which establishes 16 as the minimum age of employment with stipulated exceptions.

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#### **Article 4. Prohibition of forced labour**

- (1) Forced labour shall be prohibited.
  - (2) Forced labour means any work or service imposed on a person under threat or for which he/she did not freely express his/her consent.
  - (3) The work or activity imposed by the public authorities for the following purposes shall not constitute forced labour:
    - a) pursuant to the law on the compulsory military service;
    - b) for the fulfilment of the civic duties established by law;
    - c) on the basis of a final judicial conviction, under the terms of the law;
    - d) in case of an act of God, respectively in case of war, disasters or disaster danger such as: fire, flood, earthquake, serious epidemic and epizootic, animal or insect invasions and, generally, in all circumstances threatening the life or the normal living conditions of the entire population or a part of it
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<sup>127</sup> See unofficial translation [here](#).

<sup>128</sup> See unofficial translation [here](#).

<sup>129</sup> See unofficial translation [here](#).

### 5.1.12. Other relevant Government Ordinances and Decisions

As listed by Romanian Authorities in their 2019 Report to GRETA, other relevant Ordinances include:

- Government Decision No. 299/2003 for the approval of the Regulation for the application of the provisions of Law no. 678/2001 on preventing and combating trafficking in persons.
- Government Decision No. 1.443/2004 on the methodology for the repatriation of unaccompanied Romanian children and the provision of special protection measures for them.
- Government Decision No. 617/2004 on the establishment and organization of the National Steering Committee for the Prevention and Combating of the Exploitation of Child Labour.
- Government Decision No. 1.238/2007 for the approval of the National Specific Standards for specialized services for assistance and protection of victims of trafficking in persons.
- Government Decision No. 867/2009 on the prohibition of hazardous work for children.
- Government Decision no. 49/2011 for the approval of the Framework Methodology on Multidisciplinary and Networking Prevention and Intervention in Child Violence and Domestic Violence and of the Multidisciplinary and Interinstitutional Intervention Methodology on Exploited Children Who are Involved in Occupational Risks, child victims of trafficking, as well as Romanian migrant children victims of other forms of violence on the territory of other states.<sup>130</sup>

## 5.2. Prosecution

In 2019, authorities registered 532 new trafficking cases—a decrease from 695 in 2018, 675 in 2017, and 864 in 2016. Prosecutors indicted 347 alleged traffickers, compared with 399 in 2018, 362 in 2017, and 358 in 2016. Courts convicted 120 cases in 2019, a continuing a decrease from 130 in 2018, 222 in 2017, and 472 in 2016. 37 convicted traffickers received suspended sentences, three postponed prison sentences, and the remaining 80 traffickers received sentences from one to more than 10 years' imprisonment.<sup>131</sup> Two units were responsible for prosecuting trafficking cases: the Organized Crime and Terrorism Investigation Directorate (DIICOT) and the Department for Combating Organized Crime (DCCO).<sup>132</sup>

Concerns regarding widespread complicity and failure to incriminate officials or government employees have been outlined as major challenge for effective law enforcement in Romania.

[While the government did not collect data on complicit officials, NGOs, journalists, and human rights activists reported alleged complicity in trafficking crimes by](#)

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<sup>130</sup> GRETA (Council of Europe), above n 79, 42-43.

<sup>131</sup> See US Department of State (2020), above n 12, 417; US Department of State (2019), above n 12, 392.

<sup>132</sup> US Department of State (2020), above n 12, 417; GRETA (Council of Europe), above n 110, 9.

government officials, particularly with officials exploiting minors and acting as accomplices to traffickers.<sup>133</sup>

Inadequate application of offences such as pandering or pimping in trafficking cases, lack of personnel and material resources, varying anti-trafficking efforts across the country, and a lack of understanding of trafficking, were also identified as major hindering factors for effective law enforcement, particularly concerning the evidence-gathering process and police cooperation.<sup>134</sup> For instance, the 2020 TIP Report criticised 'police and members of the gendarmerie, particularly in rural areas and small towns, for being unaware of the exploitation potential in commercial sex, leading to a failure to check for indicators of force, fraud, or coercion when encountering individuals in commercial sex'.<sup>135</sup>

### 5.3. National policies and plans

#### 5.3.1. National Strategy against Trafficking in Persons for the period 2018-2022<sup>136</sup>

The action plan mainly aims at five targets:

1. Strengthening and diversifying the measures to prevent trafficking in persons.
2. Improving the quality of protection and assistance provided to victims of trafficking in persons for their social reintegration.
3. Developing the capacity to investigate crimes of trafficking in persons and trafficking in minors.
4. Increasing the quality of disseminated information regarding the phenomenon of trafficking in persons.
5. Developing and extending the cooperation process between the national and international relevant actors involved in the fight against human trafficking, as well as increasing the diplomatic efforts to prevent and combat trafficking and to protect the Romanian citizens in the countries of destination.<sup>137</sup>

The National Agency against Trafficking in Persons (ANITP) monitors and evaluates the implementation of the National Strategy and the related National Action Plans, which are funded through the budgets of the responsible ministries and agencies, EU funds, and foreign donors.<sup>138</sup>

#### 5.3.2. Strategy of the government of Romania for the inclusion of the Romanian citizens belonging to Roma minority for the period 2012–2020.<sup>139</sup>

This strategy aims to ensure the social and economic inclusion of Romanian citizens belonging to the Roma minority, by implementing integrated policies in the fields of education,

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<sup>133</sup> US Department of State (2020), above n 12, 417: 'In May 2019, DIICOT indicted the former police chief of a south eastern Romanian town for allegedly protecting a trafficking network while leading the local police inspectorate. The media reported a transnational trafficking network used bribes and pressure to induce the police into hiring an officer to serve in the General Police Inspectorate. The media also mentioned traffickers negotiated other jobs and transfers within the police force and offered the police information about rival criminal groups in order to eliminate their competitors. Additionally, several NGOs expressed suspicion that staff working in placement centres for minors and residential centres for persons with disabilities facilitated trafficking in persons'.

<sup>134</sup> US Department of State (2020), above n 12, 418; GRETA (Council of Europe), above n 110, 37 ff; ANITP, 'Transnational Study on the Characteristics of Policies in the Field of Trafficking in Human Beings for Labour Exploitation (2009-2011)', 14, 18, 28, available [here](#).

<sup>135</sup> US Department of State (2020), above n 12, 418.

<sup>136</sup> See unofficial translation [here](#).

<sup>137</sup> Ibid, 18. See also Commission (EU), 'Together Against Trafficking in Human Beings' (2018), available [here](#).

<sup>138</sup> GRETA (Council of Europe), above n 110, 9. GRETA noted that 'it would appear that the funding is not sufficient and/or is not made available in a timely manner.'

<sup>139</sup> See unofficial translation [here](#).

employment, health, housing, culture, and social infrastructure. For instance, ensuring decent living conditions in disadvantaged communities.<sup>140</sup>

### 5.3.3. National Strategy on social inclusion and poverty reduction for 2015-2020<sup>141</sup>

The National Strategy on social inclusion and poverty reduction refers to vulnerable groups, such as homeless people and street children, and identifies priority interventions. The strategy pursues two general action lines, reducing poverty and promoting social inclusion, through policies targeting individuals (employment, social benefits, access to finance, education, health, housing) or communities (rural areas and marginalised urban communities, including the Roma).<sup>142</sup>

### 5.3.4. National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence for the Period 2018-2021

The National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence adopts an integrated approach, and provides specific measures for promoting work-life balance and the active contribution of men towards preventing and combating all forms of violence against women.<sup>143</sup>

## 5.4. Victim support and assistance frameworks

In 2019, authorities identified 698 victims (compared to the 497 victims identified in 2018, 662 in 2017 and 757 in 2016), of which 327 were minors.<sup>144</sup> According to the government, there are 5 shelters (3 government and 2 NGO-run) designated for trafficking victims.<sup>145</sup> The three government-run shelters have the capacity to accommodate 18 adults, and also house domestic violence victims.<sup>146</sup> Although children represented a significant proportion of identified victims (47%), no specialised services were offered, resulting in re-traumatisation of children.<sup>147</sup>

Trafficking victims have a right to a reflection period up to 90 days in order to recuperate, avoid traffickers' influence, and make a decision regarding cooperation with the responsible authorities.<sup>148</sup> This period of State support is extended up to six months for children.<sup>149</sup> Victims' cooperation with authorities in criminal proceedings entitles them to a temporary residence permit (six-months, renewable), although no temporary residence permit can be issued on the basis of their personal situation.<sup>150</sup> The victim support and assistance framework also includes free legal aid if other requirements are met, access to health care, and access to state

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<sup>140</sup> Ibid, 4.

<sup>141</sup> See summary [here](#).

<sup>142</sup> See Luana Pop, 'National strategies to fight homelessness and housing exclusion – Romania' (ESNP, 2019) 5.

<sup>143</sup> See further Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), 'Report submitted by Romania pursuant to Article 68, paragraph 1 of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Baseline Report)' (GREVIO/Inf(2020)5, 11 February 2020) 19, available [here](#).

<sup>144</sup> These statistics included victims from ongoing investigations and prosecutions initiated in previous years.

<sup>145</sup> GRETA (Council of Europe), above n 79, 57.

<sup>146</sup> US Department of State (2020), above n 12, 418.

<sup>147</sup> US Department of State (2019), above n 12, 392.

<sup>148</sup> GRETA (Council of Europe), above n 79, 6.

<sup>149</sup> This maximum period of three months of State support was considered 'too short by those interviewed for the Romanian research. In many cases it was found that support was limited in scope and duration – offering crisis support rather than proper social integration to help trafficked persons out of vulnerability': Focus on Labour Exploitation (FLEX), Fairwork, and ADPARE, 'Identification & Support of Victims of Trafficking for Labour Exploitation in the Netherlands, the UK and Romania' (European Union, 2015) 21, available [here](#).

<sup>150</sup> GRETA (Council of Europe), above n 79, 59.

compensation under certain circumstances, including in the event that traffickers' assets are not seized but a guilty verdict was reached.<sup>151</sup>

Notwithstanding authorities' revision and improvement of the existing National Victim Identification and Referral Mechanism, the 2020 US TIP Report noted that identification was hampered by a lack of official proactivity in identifying victims, particularly among vulnerable populations and individuals in commercial sex. Instead, 'authorities fined persons in commercial sex, even if they were minors, without looking for trafficking indicators'.<sup>152</sup> The lack of proactive identification particularly affects institutionalised children, and leaves children in placement centres vulnerable to trafficking.<sup>153</sup> Against this backdrop, the Labour Inspectorate does not have in its mandate the investigation of forced labour, and inspections are usually reactive, following a complaint issued, and not proactive.<sup>154</sup>

Reports also identified the following shortcomings in Romania's victim support and assistance framework: lack of funding for NGO assistance,<sup>155</sup> inadequacy of health and protection services;<sup>156</sup> varying quality in assistance depending on the facility; and lack of access to assistance from either public institutions or NGOs.<sup>157</sup> Concerning the rights of victims of trafficking during criminal procedures, a report from Association Pro Refugiu summarised the main factors affecting victim protection and safeguarding:

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1. The lack of application of the reflection and recovery period;
  2. The lack of adequate legal aid and representation in court;
  3. The lack of specialized judges;
  4. The trial of trafficking cases in open court;
  5. The hearing of the victims in front of traffickers;
  6. The publication of the full name of victims'.<sup>158</sup>
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The 2020 US TIP Report also pointed to the difficulties in accessing compensation due to the high costs of the fees necessary to initiate civil trials.<sup>159</sup>

## 5.5. National institutions and inter-departmental coordination

The **National Agency against Trafficking in Persons (ANITP)**, subordinated to the Ministry of Internal Affairs, coordinates the national anti-trafficking policy. It has 15 regional offices—interdisciplinary teams at regional level—which include representatives of institutions and

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<sup>151</sup> US Department of State (2020), above n 12, 418.

<sup>152</sup> Ibid.

<sup>153</sup> Ibid.

<sup>154</sup> Focus on Labour Exploitation (FLEX), Fairwork, and ADPARE, above n 149, 15.

<sup>155</sup> GRETA noted that, 'despite plans to allocate more state funding to NGOs, they have relied to a great extent on international and private donors to fund the provision of assistance to victims of trafficking, including the employment of staff assisting victims, such as doctors, lawyers, psychologists and social workers': GRETA (Council of Europe), above n 110, 24.

<sup>156</sup> 'While the government relied on NGOs to accommodate and assist victims, it did not allocate grants directly to NGOs due to legislation precluding direct funding. [...] NGOs also covered victims' emergency medical care costs because the government lacked financial assistance, and medical care required payment upfront': ibid

<sup>157</sup> 'As in past years, fewer than half of identified victims received assistance. In 2019, 49 percent (339) of identified victims received assistance from public institutions, public-private partnerships, and NGOs, compared with 48 percent in 2018 and 46 percent in 2017': See US Department of State (2020), above n 12, 418. Further US Department of State (2019), above n 12, 392.

<sup>158</sup> Silvia Antoaneta Berbec and Mirela Gorunescu (Association Pro Refugiu), 'Legal Analysis of the Rights of Trafficked Persons- Romania' (Association Pro Refugiu, 2017) 21, available [here](#).

<sup>159</sup> US Department of State (2020), above n 12, 19.



NGOs active in the field of trafficking in persons.<sup>160</sup> The ANITP acts as National Rapporteur and organises ad hoc meetings with the **Inter-ministerial Working Group on Combating Trafficking in Persons**, although ANITP has taken over its responsibilities in implementing and monitoring anti-trafficking policy in practice.<sup>161</sup>

The **Romanian National Referral Mechanism** sets up a framework with standardised identification methods and referral procedures. Once a person is identified as a presumed/potential victim—either formally through law enforcement officials, or informally by NGOs and other social service providers—they are granted a 90-day reflection and recovery period and are referred to a service provider and to the ANITP for monitoring.<sup>162</sup>

The **Directorate for Investigating Organised Crime and Terrorism** (DIICOT) within the Prosecutor's Office attached to the High Court of Cassation is the main body investigating and prosecuting organised crimes, including human trafficking. Apart from DIICOT, the **Department for Countering Trafficking in Persons** within the Police (DCCO) is specialised in investigating trafficking in persons cases.<sup>163</sup>

## 5.6. Training and capacity-building for responders

Various training courses have been provided to build the capacity of relevant professionals and frontline actors in Romania, such as lawyers, law enforcement officers, prosecutors and judges. The ANITP organised 160 trainings for judiciary and frontline officials on victim identification and assistance, and the Border Police General Inspectorate organised three trainings for 15 border police officers that focused on working with vulnerable persons.<sup>164</sup> As described in the 2019 Reply from Romania's government to the GRETA Questionnaire for the evaluation of the implementation of the Council of Europe Anti-Trafficking Convention in Romania, the government 'has organised seven training sessions aimed at improving the capacity of 105 specialists (judges, prosecutors, police officers, social assistants, psychologists, lawyers, bailiffs, representatives of ANITP regional centres and NGOs) to ensure the access of THB victims to financial compensations'.<sup>165</sup> Likewise, the National Institute of Magistrates (NIM) assured training for judges and prosecutors on international judicial cooperation and techniques for investigating trafficking.<sup>166</sup> Notwithstanding these efforts, the Association Pro Refugiu found training of officials and NGO organizations was insufficient, particularly for assessing the victims' situation, and ensuring protection and assistance.<sup>167</sup>

## 5.7. Public awareness raising

ANITP organised awareness-raising activities targeting the general public and specific groups. There were both live events (meetings, posters, flyers, audio-video spots, distribution of materials with anti-trafficking messages and information) and Internet-based events, for

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<sup>160</sup> GRETA (Council of Europe), above n 110, 8; GRETA (Council of Europe), above n 79, 43. It has been pointed out that 'while in practice the coordination of key actors works well on a national level, there is only partial cooperation at the regional or local level with almost no cooperation at the community level': Focus on Labour Exploitation (FLEX), Fairwork, and ADPARE, above n 149, 12.

<sup>161</sup> GRETA (Council of Europe), above note 95, 8.

<sup>162</sup> Ibid, p 21; Focus on Labour Exploitation (FLEX), Fairwork, and ADPARE, above n 149, 13.

<sup>163</sup> GRETA (Council of Europe), above n 110, 9.

<sup>164</sup> Ibid, 418.

<sup>165</sup> GRETA (Council of Europe), above n 79, 16.

<sup>166</sup> Ibid.

<sup>167</sup> Silvia Antoaneta Berbec and Mirela Gorunescu (Association Pro Refugiu), above n 158, 49.



instance through Facebook and online contests.<sup>168</sup> These activities were carried out in different settings, such as schools,<sup>169</sup> and reached large sectors of the population. For instance, according to the ANITP, a single campaign in 2018 reached 55,000 direct beneficiaries and over 530,000 indirect beneficiaries.<sup>170</sup> However, the second GRETA Report noted that awareness-raising efforts were less intense in rural areas than in urban settings, despite the fact that many victims of trafficking in Romania originate from rural areas.<sup>171</sup> It has been also highlighted that, while the government made efforts to reduce the demand for commercial sex acts, it did not make efforts to reduce the demand for forced labour.<sup>172</sup> Finally, concerning the widespread practice of de facto child marriages in rural areas, the Committee on the Rights of the Child has recommended Romania conduct awareness-raising campaigns regarding the negative consequences of such marriages.<sup>173</sup>

## 5.8. Efforts to address vulnerabilities and drivers

The main instrument addressing gender equality and economic inclusion of women in Romania is the National Strategy for the Promotion of Equal Opportunities and Treatment for Women and Men and Preventing and Combating Domestic Violence for the Period 2018–2021, with an integrated approach. Other measures included in the 'Legislative package to implement the Istanbul Convention' are described in the Baseline Report presented by Romania pursuant to ratification of the Istanbul Convention: Ordinance No. 24/2019 for amending and supplementing Law no. 211/2004 regarding measures to ensure the protection of victims of crime, as well as other normative acts; Law No. 174/2018 amending and supplementing Law No. 217/2003 for the prevention and combating of violence in the family, republished, with subsequent amendments and completions; Law No. 178/2018 amending and supplementing the Law No. 202/2002 on gender equality and treatment between women and men republished, GD No. 476/2019 for amending and supplementing of the Methodological Norms for applying the provisions of Law no. 197/2012 regarding quality assurance in the field of social services.<sup>174</sup>

Concerning Roma communities, the government of Romania adopted the National Strategy for the inclusion of the Romanian citizens belonging to Roma minority (2012–2020). However, the Committee on Economic, Social and Cultural Rights has expressed concern 'that no baseline study had been conducted to ground the policy measures in accurate data, there was a lack of indicators to assess progress in implementing the strategy, and budget allocations were insufficient for its effective implementation'.<sup>175</sup>

More generally, the National Strategy on social inclusion and poverty reduction for 2015–2020 refers to vulnerable people and establishes strategies for reducing poverty and promoting social inclusion.<sup>176</sup>

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<sup>168</sup> GRETA (Council of Europe), above n 110, 13.

<sup>169</sup> 'Raising awareness of THB amongst children is done through the educational system. For example, in the first semester of the school year 2013–2014, about 1,000 local and regional awareness raising activities were held, involving 155,000 students, 6,700 teachers and 2,200 parents. In the first semester of the school year 2015–2016, 841 activities were organised involving 150,000 students and parents and 7,200 teachers': *ibid*, 15.

<sup>170</sup> GRETA (Council of Europe), above n 79, 53.

<sup>171</sup> GRETA (Council of Europe), above n 110, 13.

<sup>172</sup> US Department of State (2019), above n 12, 393.

<sup>173</sup> Human Rights Council, above n 63, 7.

<sup>174</sup> Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO), above n 143, 40.

<sup>175</sup> Human Rights Council, above n 63, 9.

<sup>176</sup> See Luana Pop, above n 142, 5.

## 5.9. Frameworks for international coordination

Romania participates in regular exchanges of information on combating human trafficking with EU Member States and non-EU countries through cooperation frameworks such as Europol, Interpol, and the Southeast European Law Enforcement Centre (SELEC). For instance, Romanian authorities have concluded bilateral agreements on mutual assistance with the government of Belgium, Italy, the Republic of Moldova, the Netherlands and Turkey, and set up a Romanian-French Working Group on Unaccompanied Children.<sup>177</sup> As regards countries with which Romania has no bilateral agreement, the general system applies as regulated by Law No. 302/2004 on International Judicial Cooperation in Criminal Matters, which it is based on the principle of reciprocity.<sup>178</sup>

Joint Investigation Teams (JITs) have also been set up to carry out investigations and cross-border surveillance, mainly with the United Kingdom, French, and German authorities.<sup>179</sup> By means of example, the 2009-2010 joint investigation with the UK led to the dismantling of a Romanian child trafficking network—the ‘Tandarei case’<sup>180</sup>—which Europol considered one of the biggest in Europe.<sup>181</sup>

## 5.10. Key challenges for effective antislavery governance

In view of the above, the areas remaining as key challenges for the implementation of an effective antislavery framework are:

### Misidentification of victims

Despite Romania’s improvements in victim identification through the revision of the National Identification and Referral Mechanism,<sup>182</sup> profound gaps in its application hinder the proper application of anti-trafficking provisions. Lack of understanding of the crime of trafficking and lack of training for relevant actors contribute to this challenge of misidentification and failure to identify victims of modern slavery and trafficking.<sup>183</sup>

### The role of corruption and official complicity

Widespread corruption, coupled with alleged involvement of officials in trafficking offences, entail a raft of issues for efforts to effectively address modern slavery and human trafficking. Among other impacts, corruption and complicity prevent effective prosecution and hamper victims’ access to protection and compensation schemes.<sup>184</sup>

### Structural imbalances

As has been widely documented, there is an over-representation of Roma people as both victims and traffickers within the Romanian context. Roma people tend to be disproportionately affected by poverty, social exclusion, discrimination, and many lack formal

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<sup>177</sup> GRETA (Council of Europe), above n 110, 42. Also Commission (EU), above n 137.

<sup>178</sup> GRETA (Council of Europe), above n 110, 42.

<sup>179</sup> European Commission (EU), above n 89, 99.

<sup>180</sup> The traffickers recruited hundreds of children from poor Roma communities in the southern part of the country and exploited them in the UK in forced begging or forced theft: US Department of State (2020), above n 12, 417. See further Kamelia Dimitrova, Slavyanka Ivanova, and Yva Alexandrova (Center for the Study of Democracy), above n 100, 22.

<sup>181</sup> US Department of State (2020), above n 12, 417.

<sup>182</sup> GRETA (Council of Europe), above n 79, 3.

<sup>183</sup> US Department of State (2020), above n 12, 417 ff; Silvia Antoaneta Berbec and Mirela Gorunescu (Association Pro Refugiu), above n 158, 49.

<sup>184</sup> Silvia Antoaneta Berbec and Mirela Gorunescu (Association Pro Refugiu), above n 158, 49.

education and cannot adequately access social assistance systems. These disproportionate experiences have been identified as contributing factors to trafficking.<sup>185</sup>

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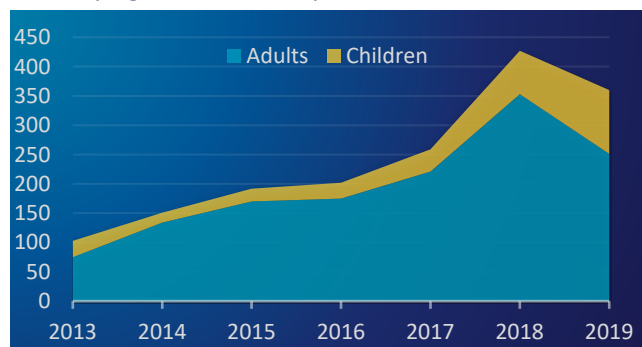
<sup>185</sup> RACE in Europe, above n 80, 69.

## 6. Experiences of modern slavery of Romanian nationals in the UK

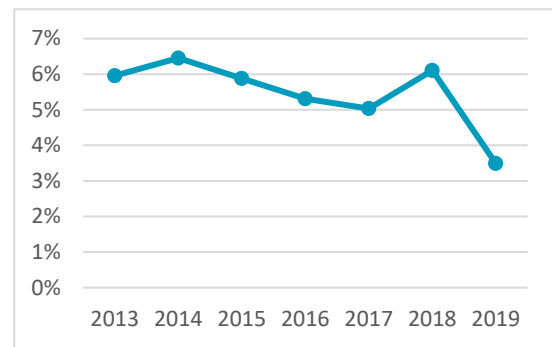
### 6.1. Romanian nationals in the UK National Referral Mechanism

Romanian nationals have consistently been in the top twenty nationalities represented in National Referral Mechanism referrals, typically representing 5-6% of all referrals. The number of Romanian nationals referred into the NRM increased year on year from 2013-2018, rising from 104 referrals in 2013 to 427 cases in 2018. The number of Romanian nationals decreased slightly in 2019 to 371, although an additional 8 potential victims were recorded as British Romanian, Hungarian Romanian, Moldovan Romanian, Romanian Hungarian, Romanian Italian, Spanish Romanian, or Turkish Romanian. Adults have always made up the majority of Romanian nationals referred into the NRM, with between 17 (2014) and 109 (2019) Romanian nationals referred who were minors at the time of their exploitation from 2013-2019.<sup>186</sup> In this period, the proportion of Romanian nationals referred, as a proportion of all referrals, has

Number of Romanian nationals referred into the NRM by age at time of exploitation



Proportion of potential victims referred into the NRM that are Romanian nationals



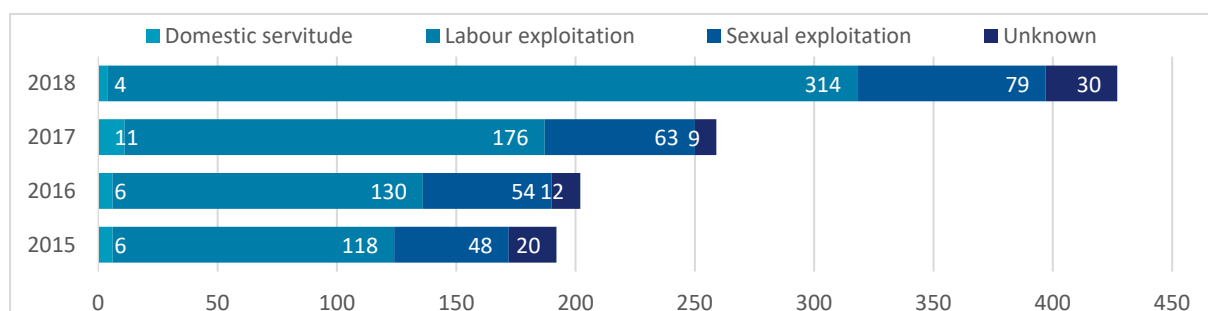
remained relatively steady, although with a drop to 3.5% of all referrals in 2019.

Romanian nationals referred into the NRM typically experience labour exploitation, representing 61-74% of cases from 2015-2018. This is followed by sexual exploitation, representing 19-27% of Romanian nationals referred into the NRM from 2015-2018. Only a small proportion of Romanian potential victims recorded as having experienced domestic servitude, and no cases of organ harvesting have been reported. While gender data was not disaggregated by nationality from 2015-2019, NRM reports included such data in the 2013 and 2014 reports. In these years, referrals were relatively balanced between males and females,

<sup>186</sup> Home Office, 'National Referral Mechanism Statistics UK: End of Year Summary 2019: Data tables' 2<sup>nd</sup> edn available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2018' (2019) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2017' (2018) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2016' (2017) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2015' (2016) available [here](#); National Crime Agency, 'National Referral Mechanism Statistics – End of Year Summary 2014' (2015) available [here](#); National Crime Agency, 'United Kingdom Human Trafficking Centre: National Referral Mechanism Statistics 2013' (2014) available [here](#).

with 40% male referrals and 60% female in 2013, and 55% male referrals and 45% female in 2014.

Number of Romanian nationals referred into the NRM by exploitation type<sup>187</sup>



## 6.2. Typical journeys from Romania to the UK for trafficking victims

The 2017 UK Gangmasters and Labour Abuse Authority (GLAA) Report on 'The nature and scale of labour exploitation across all sectors within the United Kingdom' suggested that minibuses and coach services provide routes from Lithuania, Romania, and Bulgaria, which are frequently paid for by the potential exploiter, with the worker accruing a debt to which labour is bonded.

Potential victims are often unable to provide any address or working location details at the UK border. This may be a means of protecting their exploiter or be information that they have not been provided with prior to travel. Some workers may be relocated several times. Some victims have travelled independently or with family or friends, simply looking for a better quality of life; it is after they have reached the UK that they are vulnerable to exploitation.<sup>188</sup>

Austria has been highlighted as a key transit point for victims originating from Central and Eastern Europe, including Romania, who are later transferred to other destinations.<sup>189</sup>

## 6.3. Experiences of exploitation and working conditions

Research suggests that Romanian workers are more vulnerable to poor or degrading working conditions than other nationalities in the UK. An assessment of labour exploitation by sectors by GLAA intelligence has identified several common themes, including the most common victim profile:<sup>190</sup>

Where reported, victims across most sectors are described as being male adults of Romanian nationality. Some companies have reported an increase in the number of Romanians from the Roma gypsy traveller community. The only sectors that Romanian nationals do not feature at all are shellfish gathering and nail bars.

Romania is one of the primary countries of origin for worker exploited within agricultural sector, alongside Bulgaria. Romanian nationals are also represented as a key demographic in worker exploitation in: food service, catering and hostelry; car washes; warehouse and

<sup>187</sup> Ibid. Note that exploitation type data is not disaggregated by nationality in the 2013, 2014, or 2019 data and these years are therefore excluded.

<sup>188</sup> UK GLAA, 'The nature and scale of labour exploitation across all sectors within the United Kingdom' (2017) 16, available [here](#).

<sup>189</sup> Europol, above n 86, 21.

<sup>190</sup> Ibid, 19.

distribution; food processing; manufacturing; recycling and waste disposal; cleaning; construction; and food packaging.<sup>191</sup> The trafficking of Romanian nationals for forced criminality is also occurring on a large scale within the UK.<sup>192</sup>

Romanian organised criminal gangs tend to have hierarchical structure which operate with small and mobile groups of victims controlled by few members. 'These criminal groups often use physical violence, threats and coercion against their victims, who experience severe physical and psychological dependence'.<sup>193</sup> It is not infrequent the correlation between the nationality of victims and exploiters: the shared common language and cultural similarities facilitate recruitment and control during exploitation.<sup>194</sup>

#### 6.4. Consequent effects of trafficking on survivors

It is widely documented that human trafficking exerts psychological effects on survivors that persist after intervention, and even after community reintegration. Effects include anxiety, depression, alienation, disorientation, aggression, suicidal ideation, attention deficit, and posttraumatic stress disorder (PTSD). In this context, community support and coping mechanisms may mitigate these effects.<sup>195</sup> A 2013 study on effects of trafficking on women survivors suggests the applicability of the cognitive models of post-traumatic stress disorder and depression to this population. The importance of personalised, trauma-informed psychological therapy, which takes account of the chronic abuse experienced by female survivors of human trafficking both before and during their exploitation, is emphasised as central to effective and sustained recovery and reintegration.<sup>196</sup>

#### 6.5. Particular needs, requirements, and considerations for support and engagement

The importance of support provided by migrant community members to trafficked persons in general has been explored and noted in existing research. Research targeting Romanian nationals specifically has also found that family ties and engagement with their embassies or consulates overseas were important sources of support.<sup>197</sup> While it is important to ensure that engagement with migrant communities in diaspora contexts does not bring survivors back into contact with their exploiters or their associates, engagement with these communities can help support recovery and community reintegration.

Romanian victims of labour trafficking tend not to self-identify as victims, preventing them from accessing support or seeking help. This has particularly been recorded in cases of labour exploitation, and exacerbated where those experiencing exploitation have limited knowledge of the relevant legal frameworks and rights in the UK.

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<sup>191</sup> Ibid, 22-28.

<sup>192</sup> RACE in Europe, above n 80, 22.

<sup>193</sup> Europol, above n 86, 18.

<sup>194</sup> UK GLAA, above n **Error! Bookmark not defined.**, 3.

<sup>195</sup> See David Okech et al, 'Social Support, Dysfunctional Coping, and Community Reintegration as Predictors of PTSD Among Human Trafficking Survivors', (2018) 44 *Behavioral Medicine* 209, 209-218, and Asefch Haileselassie Reda, 'An investigation into the experiences of female victims of trafficking in Ethiopia' (2018) 11 *African and Black Diaspora: An International Journal* 87.

<sup>196</sup> Melanie Abas et al, 'Risk factors for mental disorders in women survivors of human trafficking: a historical cohort study' (2013) 13 *BMC Psychiatry* 9.

<sup>197</sup> Focus on Labour Exploitation (FLEX), Fairwork, and ADPARE, above n 149, 13.

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There was a sense that exploitation was a question of bad luck rather than a crime. This sense gives rise to shame and rejection of the victim status. There is also an impression that trafficking only occurs in illegal and hidden industries whereas most victims are recruited through legal job placement agencies, and leave with an engagement contract between the work and the recruiter or labour contract.<sup>198</sup>

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Identified victims repatriated to Romania have been flagged as at high risk of re-trafficking in Romania because economic pressure to contribute to or support family members, coupled with lack of State support, meant that they have few options but to return immediately to the job market, even if this implies accepting exploitative working arrangements.<sup>199</sup>

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<sup>198</sup> Ibid, 16

<sup>199</sup> Ibid, 32.

## 7. The impact of COVID-19

### 7.1. The Government's response to COVID-19

On 16 March 2020, the Romanian government declared a state of emergency for 30 days (subsequently extended) and implemented similar measures to other countries affected by the COVID-19 pandemic. These measures included closing borders, educational institutions, non-essential businesses and shops (excluding groceries and pharmacies), as well as restrictions being placed on other constitutional rights, such as freedom of movement.<sup>200</sup>

According to the University of Oxford's Government Stringency Index –a composite measure of the strictness of policy responses,<sup>201</sup> Romania reached a score of 87.04 out of 100 during a short period of time (April-May). This score dropped in June and remained constant (42 points of average) until 21 October 2020, when more strict measures were re-adopted.<sup>202</sup> Alleviating measures in different areas have been adopted to mitigate the effects of the COVID-19 pandemic, including economic stimulus, employment-related and tax-related measures.<sup>203</sup> Further, Romania has benefited from the European Commission State aid Temporary Framework, which set up a fund with a target size of up to €3.3 billion that will invest in medium-sized and large enterprises active in Romania affected by the coronavirus outbreak.<sup>204</sup>

### 7.2. The impact of COVID-19 on workers and modern slavery victims

According to an assessment carried out by UNICEF, the COVID-19 pandemic in Romania 'affects mostly children from families living in poverty, followed by Roma children, children left behind by migrant workers and children with disabilities'.<sup>205</sup> Romania's strict lockdown measures also exacerbated long-standing internal tensions, particularly with regard to the large and marginalised Roma community. The existing prejudices against Roma have worsened during the COVID-19 pandemic, and the lack of adherence to lockdown restrictions resulted in additional restrictions beyond those experienced by other ethnic groups in Romania. Within this context, Roma appear to have been disproportionately fined and harassed by police.<sup>206</sup>

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<sup>200</sup> Stefan Dascalu, 'The Successes and Failures of the Initial COVID-19 Pandemic Response in Romania' *Front. Public Health* (10 July 2020), available [here](#). The government launched a website providing official data on the geographical, gender and age distribution of the pandemic in the country, available in Romanian [here](#).

<sup>201</sup> See in depth [here](#).

<sup>202</sup> Our World in data (2020), available [here](#).

<sup>203</sup> For a description, see Deloitte, 'COVID European measures' (27 May 2020) 65, available [here](#); International Monetary Fund, 'Policy Responses to COVID-19' (October 2020), available [here](#).

<sup>204</sup> Commission (EU), 'State aid: Commission approves €3.3 billion Romanian scheme to support SMEs in coronavirus outbreak' (Press Release, 11 April 2020), available [here](#); and Commission (EU), 'Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak' (Communication) (2020) 1863 final, available [here](#).

<sup>205</sup> UNICEF, 'Rapid assessment of the situation of children and their families with a focus on the vulnerable ones in the context of the COVID-19 outbreak in Romania – round 1' (April 2020) 18, available [here](#).

<sup>206</sup> Remus Cretan and Duncan Light, 'COVID-19 in Romania: transnational labour, geopolitics, and the Roma "outsiders"' (2020) *Eurasian Geography and Economics* 1.