

# INDEPENDENT REPORT

## MONITORING

### THE GOVERNMENT'S ANTI-TRAFFICKING MEASURES

ROMANIA, NOVEMBER 2019-2020

WHAT WAS REQUESTED	WHAT WAS DONE
<p>On November 19, 2019, a group of 63 NGOs in the field of justice and human rights <a href="#">called on the new NLP Government for a series of urgent anti-trafficking measures</a>.</p> <p>None of the requested measures have been implemented!</p> <p>The 63 NGOs requested:</p>	
<p><b>To the Prime Minister of Romania, Mr. Ludovic Orban</b>, to take responsibility for effective policies and reforms in the fight of trafficking in human beings, which is both a matter of national security and a European problem that severely affects Romania's external image.</p>	<ol style="list-style-type: none"><li>1. The Government blocked the initiative of the Romanian Senate to amend the criminal legislation on human trafficking and to streamline the activity of DIICOT. According to the law, the Government was supposed to send a point of view to the Senate by October 16, 2020, but it was not sent until the date of this Monitoring Report, thus blocking the legislative process of the bill initiated by Senator Vlad Alexandrescu.</li><li>2. We do not know of any coherent measure implemented by the Government in the fight against human trafficking during the monitoring period, although, surprisingly, the US Ambassador offered an <a href="#">honorary plaque</a> acknowledging the efforts of former Prime Minister, Ludovic Orban, to promote democracy, the rule of law and <b>combating trafficking in human beings</b>".</li></ol>
<p><b>To the Minister of Internal Affairs, Mr. Marcel Ion Vela</b>, to immediately implement the measures related to DIICOT's reform in accordance with the provisions of GEO 6/78/2016, to examine the reasons for which, for almost 10 years, <a href="#">ANITP reports fake data</a> on the number of trafficked Romanian citizens, as</p>	<ol style="list-style-type: none"><li>1. The Government refused to implement the 2 GEOs adopted in 2016 (<a href="#">GEO 6</a> and <a href="#">GEO 78</a>) to streamline the activity of DIICOT with its own judicial police, economic and financial investigators and IT experts.</li></ol>

well as to ensure sanctioning procedures for the police officers involved in human trafficking networks, especially in [the case of the Bacau secret club](#)..., given that several police officers were customers of the club and one of the 3 investigated officer is part of the police structure responsible for special victims' rescue operations.

In addition, during 2020, the implementation of the National Strategy against Trafficking in Human Beings and the adoption of the law on the search for missing persons were requested.

2. ANITP tried to adopt an Order of the Minister of Interior through which it could [control the activity of NGOs](#). The latter managed to block the entry into force of the respective draft law, requesting a public debate in which the NGOs showed the illegality and unconstitutionality of the Order in question.

3. The data on victims of trafficking in human beings, reported by ANITP, remain irrelevant and undersized, being [50% lower than the data reported by the EU](#), even if in the Accession Treaty, in 2005, Romania undertook the collection and reporting of real data on human trafficking.

4. The link between human trafficking networks and authorities, especially the police officers, was [publicly mentioned by the actual Minister of Justice](#). No concrete measures have been taken to effectively prevent and sanction these practices. We are not aware if any measures were taken in accordance with the NGOs' requests regarding the involvement of police officers in the [child trafficking network in Bacău](#).

5. Two years after the adoption of the National Strategy against Trafficking in Persons (2018-2022) and at the end of the first Action Plan (2018-2020), no resources were allocated for their implementation, thus being some written documents, without any practical effects. The group of experts who were to carry out the monitoring visits according to the Strategy has not been appointed until now, 2 years after the moment when the monitoring was to start.

6. The law on the search for missing persons is still blocked at the Ministry of Interior, almost 1 year and a half after the Caracal case, given that in 2019, more than 4,000 missing children were registered, of which about [10% were not still identified](#), there is a close link between their disappearance and child trafficking. [The EU Report](#) published in October 2020 mentions that the number of Romanian children exploited in the EU has **increased 10 times in the last 2 years**.

**To the Minister of Labour, Mrs. Violeta Alexandru**, to expedite the development of accreditation standards for minor victims' shelters, to create the legal framework for

1. They were adopted standards for the accreditation of shelters for minor victims under public pressure of the NGO ReachingOut. Consequently, an institutional harassment began

cooperation with specialized NGOs and for the funding of victims' protection and assistance services, as well as to prevent trafficking in human beings through the coherent and responsible regulation of recruitment/mediation/employment agencies in Romania and abroad, as required by the International Labour Organization [Convention No. 181/1997](#)


against this NGO (the only shelter for minor victims in Romania), through the [unexpected and personal visit of the Minister of Labor](#), with the awkward interview of minor victims in the shelter, with the subsequent takeover of children from the center without following the legal procedures, suspending in an abusive way of the shelter's operating license, with requests (under pressure of the representatives of state institutions) of former beneficiaries of this shelter to file criminal complaints against the president of ReachingOut etc.

2. No measures have been taken regarding the coherent and responsible regulation of recruitment/mediation/employment agencies in Romania and abroad in order to prevent human trafficking. In addition, the appointment of [Cecilia Manolescu](#) - former director general of DGASPC, vice-president of the County Council, head of ITM in a county like Buzău, where human trafficking is at very high levels, should be considered controversial.

3. ANDPDCA has adopted, without public debate, an [Action Plan for the prevention of child trafficking in the protection system](#), which is completely illegal and lacking in transparency, with objectives already achieved or in progress at the time of its launch, Plan in which only one NGO is directly nominated as representing the civil society and which has attributions for the implementation of the objectives of this Plan. However, given that the Report of the [Parliamentary Committee of Inquiry into the Situation of Missing Children](#) states that **40% of trafficked children come from the protection system**.

**To the Minister of Justice, [Mr. Marian Cătălin Predoiu](#)**, to ensure coherent legislation on anti-organised crime and the proper training of the magistrates; correct transposition of the EU Directive on the protection of victims, amending of art.182 of the New Criminal Code according to the provisions of art.2 of the Anti-trafficking Directive, in particular regarding the inclusion of the "exploitation of criminal activities" provision which, for unknown reasons, has not been transposed into Romania's criminal law.

1. No legal changes have been done during the monitoring period to improve the fight against trafficking. Instead, the Ministry [blocked the bill](#) that correctly transposes the EU Anti-Trafficking Directive in order to criminalize the exploitation of persons who are exploited to commit crimes (stealing, selling drugs, victims forced to recruit other victims of trafficking etc.) and which partially solves the overlap between the offenses of trafficking in human beings/minors and pimping (aggravating circumstances). Personally, representatives of the above-mentioned NGOs and the Senator Vlad Alexandrescu, as the initiator of the bill,

	<p>asked the Ministry of Justice, without success, to unblock this procedure.</p> <p>2. The Ministry of Justice <a href="#">has made all human trafficking files secret</a>, claiming that this protects the victims' personal data. In reality, this measure is to the advantage of human trafficking networks because NGOs and the media can no longer bring to the attention of the general public major errors in law enforcement/application, as happened in the <a href="#">case of Țăndărei</a> and in many other <a href="#">cases related in the mass media</a>.</p> <p>3. The civil society requested <a href="#">the resignation or dismissal of the prosecutor who investigated Țăndărei's file</a> and the performance of a control regarding all her files as a result of the deficient investigation of at least 2 sound cases of child trafficking in which there was a lot of evidence against organized criminal groups, which the prosecutor did not use. The same prosecutor also closed <a href="#">the Shanghai case</a> in which minors were sexually exploited in inhumane conditions by a network coordinated by a Chinese spy. In both cases (<a href="#">Shanghai</a> and <a href="#">Țăndărei</a>) no member of the group was convicted. Further, the members of the Țăndărei network requested <a href="#">moral damages</a> for illegal arrest and harassment (550,000 Euro/person).</p> <p>The Minister of Justice <a href="#">publicly promised to carry out the control</a> requested by the civil society, which actually never took place. It should be noted that the DIICOT prosecutor requested the acquittal of Țăndărei's group in the first instance, and the Târgul Mureș Court of Appeal mentioned in its judgment that DIICOT refused to motivate the appeal and to cooperate with the court to change the legal classification of the nominated minors, from witnesses to injured parties. In August 2020, the prosecutor who poorly investigated the above-mentioned 2 cases of child trafficking retired from a leading position in DIICOT headquarter.</p> <p>4. The special anti-trafficking section of DIICOT, although it should have been operational for a long time, has not yet been approved by the Minister of Justice.</p>
<p><b>To the headquarter of DIICOT and to the Superior Council of Magistracy-Prosecutors Section</b>, to ensure that the trafficking offences</p>	<p>1. We are not aware of any concrete measures taken by the 2 authorities indicated in our petition.</p>

are not classified as pimping or other sexual offences, to examine the lack of intervention for a very long period of time, although the club was well known in Bacau, as well as the possible gross negligence and/or bad faith of the case prosecutor, who, although had sufficient evidences to prosecute the case as trafficking in minors, he did not do it, thus putting the victims at risk and protecting the victims' clients (public figures) from the criminal investigations.

As all the files on human trafficking has been made secret, we are not able to monitor the case of secret club in Bacau where many minor girls have been over-drugged, tortured, raped, and forced into prostitution. The clients were public persons, politicians, businessmen, police officers, public servants etc. If the case is investigated as trafficking in minores, the clients should be sanctioned for using services of an exploited person.

108 NGOs asked the President of Romania not to enact a law more favorable to child traffickers and perpetrators of child pornography, in violation of 2 EU directives adopted in 2011 ([93 - combating child sexual abuse, sexual exploitation of children and child pornography](#), [36 - preventing and combating trafficking in human beings and protecting its victims](#))

1. On October 4, the initiator of a law more favorable to child traffickers and perpetrators of child pornography was asked to make the necessary changes because the amendments concerning child trafficking and child pornography were not mentioned in the explanatory memorandum of the law or argued in subsequent debates of the bill. After the total refusal of the initiator of the bill, Oana Bîzgan, to modify this "mistake", we addressed the Presidency.

2. On October 13, [108 NGOs sent a letter](#) to the President requesting the return of the draft law to the Parliament in accordance with art.77 (2) of the Romanian Constitution, showing that the respective amendments affects the transposition of 2 EU Directives and at the same time represents a more favorable law in relation to the offenses of child trafficking and child pornography.

3. On October 29, the law was enacted by the President of Romania, and on October 30, the [NGOs were informed](#) that the law had already been promulgated, without explaining why this decision was taken.

[EUROPOL's joint action](#) (388 arrests) took place on 4 November, and [DIICOT's joint action](#) (386 searches) in the fight against organized crime, including trafficking in minors and child pornography, took place on 11 November. On the 30<sup>th</sup> of September were published info about [INTERPOLs joint action day](#) (166 arrests) in Europe and [INTERPOLs joint action](#) (more than 200 arrests) published on the 11<sup>th</sup> of December. The law promulgated by the President is **a more favorable law for persons arrested in the above-mentioned joined actions if they are tried in Romania and they committed**

**trafficking in minors or child pornography acts.**

4. On November 26, 2020, the President promulgated an amending law that returns to the initial form of the provisions of the Romanian Criminal Code.

However, the new text of the law enacted by the President on 26 November is only applicable to cases in which the acts were committed after its entry into force - only to acts committed after 26 November 2020.

It should be noted that the text of the law promulgated on October 29 has produced its legal effects **for all cases under trial, under investigation** or in the situation where persons convicted of child trafficking or child pornography did not **completed the sentence**.

**Therefore, persons who committed acts of child trafficking or child pornography before 26 November 2020 benefit from the more favorable law enacted by the President on 29 October, including those arrested in the two EUROPOL actions (4 November), and DIICOT (November 11).**

