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# IMPREUNA ÎMPOTRIVA TRAFICULUI DE PERSOANE

Traficul de persoane în Europa și provocările fenomenului pentru România

ONLINE

10 DECEMBRIE

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# **The Parliament of Romania**

## **Parliamentary Committee of Inquiry into the situation of missing children**

### **REPORT**

#### **of the Parliamentary Committee of Inquiry**



Parliamentary Committee of Inquiry into the situation of missing children

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### **LEGAL BASIS:**

- The Romanian Constitution;
- The Rules of Procedure of the Chamber of Deputies;
- The Decision of the Chamber of Deputies no. 6 of 10 March 2020, published in the Official Gazette no. 194 of 10 March 2020, Part I, as supplemented by Decision no. 17 of 19 August 2020, published in the Official Gazette no. 760 of 20 August 2020;
- The Rules on the organization and functioning of the Parliamentary Committee of Inquiry.

Given the complexity of the Committee's work, the large number of institutions and persons heard, the verification of documents to be analysed by Committee members and the preparation of the final report, as well as the extension of the Committee's objective to analysing the phenomenon of trafficking in human beings, the deadline for the submission of the report was extended by 60 days by the Romanian Parliament Decision no. 17 as adopted by the Chamber of Deputies at its meeting of 19 August 2020 on supplementing Decision no. 6/2020 for the establishment of a Parliamentary Committee of Inquiry on the situation of missing children, as published in the Official Gazette of Romania, Part I, no. 760 of 20 August 2020.



Parliamentary Committee of Inquiry into the situation of missing children

## CHAPTER II

### NOMINAL COMPOSITION OF THE PARLIAMENTARY COMMITTEE OF INQUIRY

According to Article 3 of the Decision of the Chamber of Deputies no. 6 of 10 March 2020, published in the Official Gazette no. 194 of 10 March 2020, Part I, as supplemented by Decision no. 17 of 19 August 2020, published in the Official Gazette no. 760 of 20 August 2020, the Committee of Inquiry consists of 15 members and its office is composed of: a chairman, a vice-chairman and a secretary.

#### Members:

- Mihălcescu Carmen-Ileana - PSD
- Săftoiu Ana Adriana - PNL
- Manole Petre-Florin - PSD
- Boboc Tudorița-Rodica - PSD
- Calista Mara-Daniela - PNL
- Dobrică Ionela Viorela - PSD
- Iurișniți Cristina-Ionela - USR
- Mircea Florin - PSD
- Oteșanu Daniela - PSD
- Pașcan Emil-Marius - PMP
- Podașcă Gabriela-Maria - PRO România
- Popescu Nicolae-Daniel - USR
- Raețchi Ovidiu Alexandru - PNL
- Socotar Gheorghe-Dinu - PSD
- Vass Levente – UDMR

#### Committee Office:

- MP Carmen-Ileana Mihălcescu, Chairperson
- MP Ana Adriana Săftoiu, Vice Chairperson
- MP Petre-Florin Manole, Secretary



Parliamentary Committee of Inquiry into the situation of missing children

### **CHAPTER III**

#### **OBJECTIVES OF THE COMMITTEE**

- a) The analysis of the causes leading to the disappearance of children
- b) The analysis of the phenomenon of child trafficking
- c) Ways to prevent such phenomena
- d) The analysis of the work of competent institutions at central and local level in charge with solving cases of missing children in a timely manner
- e) State of play of all mechanisms established in order to tackle this phenomenon
- f) Measures required by national law to tackle and reduce such cases, as well as other issues which will certainly arise during the operation of this Committee of Inquiry



Parliamentary Committee of Inquiry into the situation of missing children

## CHAPTER IV

### THE PROCEEDINGS

The work of the Parliamentary Committee of Inquiry was carried out according to the following schedule:

The first meeting of the Committee took place on 13 June 2020, at 1 p.m. The meeting aimed at establishing the details of future activities and actions, the arrangements for the hearings, the future work schedule as well as the identification of the main competent institutions dealing with the phenomenon of missing children and human trafficking. On 29 June 2020, the Permanent Bureau of the Chamber of Deputies approved, with Note no. 493 / 29.06.2020, the request made by the Committee of Inquiry to carry out their work online, during the parliamentary vacation.

The timetable for the hearings of the Committee of Inquiry was as follows:

<b>Date of hearing</b>	<b>Institutions / Persons heard</b>
2 July 2020	<b>MAI - Eduard Miritescu</b> , Quaestor, Deputy Representative of the General Inspector of the Romanian Police
8 July 2020	<b>ANDPDCA - Maria Mădălina Turza</b> , President
15 July 2020	<b>Reaching Out Romania Foundation - Iana Matei</b> , President <b>Open Door Foundation - Monica Boseff</b> , President
22 July 2020	<b>Mia's Children Association - Mia Scarlat</b> , socio-psychologist, President and Founder <b>Mirela Zivari</b> , psychotherapist
29 July 2020	<b>DGASPC Călărași - Drăgănică Gheorghe</b> , Executive Director <b>DGASPC Constanța - Petre Dinică</b> , Director-General, Ristea Mihaela, Nechita Bogdan <b>DGASPC Galați - Carmen Mironov</b> , Deputy Director-General



Parliamentary Committee of Inquiry into the situation of missing children

	<p><b>DGASPC Teleorman - Marius Mugurel Putineanu</b>, Director-General</p> <p><b>DGASPC Braşov - Julieta Gîrbacea</b>, acting Director-General and Mihai Septimiu Priboi, Deputy Director-General</p> <p><b>DGASPC Brăila - Simona Daniela Cimpoe</b>, Director-General (online hearing)</p> <p><b>DGASPC Dolj - Florin Stancu</b>, Director-General (online hearing)</p>
19 August 2020	<p><b>DIICOT - Elena Georgiana Hosu</b>, Chief Prosecutor</p> <p><b>ANITP - Maximilian-Axel Nicolae</b>, Director</p>
26 August 2020	<p><b>Public Prosecution Service - Gabriela Scutea</b>, General Prosecutor</p> <p><b>Ombudsman - Renate Weber</b>, Ombudsperson</p> <p><b>Marius Schiau</b>, Children’s Advocate Counsellor</p>
2 September 2020	<p><b>MAI - Bogdan Despescu</b>, State Secretary</p> <p><b>Ministry of Labour - Violeta Alexandru</b>, Minister; <b>Madalina Turza</b>, President of ANDPDCA</p>
9 September 2020	<p><b>Larisa Butnariu</b> - victim of trafficking</p>
16 September 2020	<p><b>EUROPOL - Cosmin Andreica</b>, President</p> <p><b>IPJ Iaşi - Costel Gîţlan</b>, Chief Inspector</p>
1 October 2020	<ol style="list-style-type: none"> <li>1. <b>Vlăsceanu Georgeta</b>, mother of Mădălina Vlăsceanu (disappeared when aged 3, in 1986, from Balaciu commune)</li> <li>2. <b>Cati Cosma</b>, mother of Ovidiu-Călin Cosma (disappeared when aged 17, in 1996, from Arad County)</li> <li>3. <b>Nelu Geneş</b>, father of Geanina Geneş, disappeared when aged 18, in July 1999, from Caracal)</li> <li>4. <b>Mrs. Motaş</b>, mother of Adina Motaş (disappeared when aged 16, in March 2013, from Bârlad).</li> </ol>
15 October 2020	<ol style="list-style-type: none"> <li>5. <b>Ministry of Justice - Cătălin Predoiu</b>, Minister of Justice</li> </ol> <p><b>Public Prosecution Service - Gabriela Scutea</b>, General Prosecutor</p> <p><b>MAI - Eduard Miritescu</b>, IGPR Quaestor</p>



Parliamentary Committee of Inquiry into the situation of missing children

## **CHAPTER V**

### **IRREGULARITIES AND DEFICIENCIES IN THE NATIONAL CHILD PROTECTION SYSTEM**

Regarding the General Directorates for Social Assistance and Child Protection (DGASPCs), the need to hear representatives of management positions arose as a result of the alarming figures presented by the General Inspectorate of the Romanian Police (IGPR) during the hearing of this institution on 2 July 2020, and as a follow-up to the documents submitted to the Committee later, on 3 July 2020, as attached in physical format to this Report.

According to Ms. Mădălina Turza, President of the National Authority for the Rights of Persons with Disabilities, Children and Adoptions (ANDPDCA), at the end of 2019 there were 1097 public and 304 private residential services (of accredited bodies). Of this total, 292 residential services are for children with disabilities.

Thus, during the first hearing of the Committee that took place on 2 July 2020, Quaestor Eduard Miritescu, Deputy Representative of the Inspector General of the Romanian Police, stated that, based on the statistics produced by this institution, 40% of cases of missing minors come from protection shelter homes (day centres, residential and / or emergency institutional care homes, centres for children with disabilities, as well as for children in foster professional care or in family/relative care), all of which are subordinated to the General Directorates for Social Assistance and Child Protection (DGASPCs).



Parliamentary Committee of Inquiry into the situation of missing children

At the same time, the situation is also confirmed by statements received from non-governmental organizations (NGOs) heard on 15 July 2020 (Reaching Out Romania Foundation and Open Door Foundation), when irregularities were reported to the Committee regarding situations that have happened over time in some social assistance centres in Romania, and such situations that are still found today, as well as the connections that people in DGASPCs' management structures would have with human trafficking networks for the recruitment of minors for sexual and begging purposes. During the Committee's hearings that took place on 15.07.2020, two representatives of NGOs working against the phenomenon of child trafficking were invited, namely Iana Matei - president of the Reaching Out Romania Foundation and Monica Boseff, president of the Open-Door Foundation. They claimed that minor girls "leave the country with false documents or based on statements made before a paid notary". The young girls are "given go-out permission" by representatives of the DGASPC management and "put into production by the traffickers". Regarding the reasons behind such abominable events, the two representatives mentioned "the lack of cooperation by the representatives of the DGASPCs, as well as their conduct of encouraging girls in the centre to go out and make money."

Irregularities were also reported regarding the management bodies within the General Directorates for Social Assistance and Child Protection, also known as "trafficking basins", meaning that there are links between them and members of human trafficking networks, the two representatives from NGOs naming some examples of "red flag" counties as follows: Dolj, Braşov, Teleorman, Călăraşi, Galaţi, Brăila and Constanţa. Moreover, they claim that there are missing children cases "that have been left untouched by prosecutors for more than 4 years". Iana Matei pointed out a tendency of the DGASPCs to move a child from one centre to another (i.e., to take them out of the foundation centre to the public social assistance centre). As a consequence, there were cases of traumatized children who committed suicide due to these repeated moves. Traumatized children need emotional stability, which cannot be achieved if the child is moved. Iana Matei asked that



## Parliamentary Committee of Inquiry into the situation of missing children

DGASPCs which announced their intention to set up assistance centres for victims of human trafficking be required to acquire legal personality, so that they might be held accountable in court. However, the DGASPCs opposed.

As a follow-up to the abovementioned facts, on 29 July 2020, the Parliamentary Committee of Inquiry met at the Palace of Parliament in session, to hear certain county General Directorates for Social Assistance and Child Protection in the country, namely Calarasi, Constanta, Galati, Teleorman, Braşov, Brăila and Dolj Directorates.

### **SHORT OVERVIEW OF THE SITUATIONS IN THE COUNTY DIRECTORATES HEARD**

**DGASPC Călăraşi:** There are 7 institutional care homes in the county, with approximately 240 children, 846 employees (including foster carers as well). There are about 300 employees in the children's homes (in each care home there is 1 psychologist position in the organizational chart). Between January and June 2020, there were 25 children and 28 events (13 children repeated the leaving-the-centre event) that exceeded the allowed go-out time or did not return to the centre, and the police were notified. The children were found and returned to the centre shortly after. At the time of the hearing, there were no missing children in DGASPC Călăraşi. At county level, between January and June 2020, 82 disappearances were reported by parents (from the statements of the Călăraşi police, this includes walkouts/disappearances from care homes). In 2019, there were 42 children who exceeded the allowed go-out time. At county level, mostly boys run away from the centres, given that there are more boys than girls in the care system.

**DGASPC Constanţa:** There are 1700 employees in total, of which about 600 employees work in the centres. In each centre there is at least 1 psychologist, and there are at least 2 psychologists for every 50 children. Between January and June 2020, there were 28



Parliamentary Committee of Inquiry into the situation of missing children

children who left the centres. According to IGPR data, 148 children disappeared in Constanta county (January-June 2020). Of these children, 28 children disappeared from the DGASPC centres. At the time of the hearing, there were 6 children missing from the centres who have not returned at the county level.

**DGASPC Galati:** There are in total 9 apartments, 3 family homes, 2 centres for children with special educational needs, 1 centre for children with disabilities, 1 centre for children without disabilities, 1 emergency reception centre and 1 maternal centre; there are 222 children, of which 30 children in authorized private bodies; 488 employees in children's centres, of which 25 psychologists; all these centres have at least 1 psychologist. Between January and June 2020: only 1 missing child and several children who frequently left the centres (reoffending minors). At the time of the hearing, there was a case of a missing child, a 15-year-old migrant girl from Iraq who entered a centre in Galați in 2018, who later wanted to join other relatives in Germany, and is now missing. DGASPC is keeping contact with the police and trying to find out the relatives, in order to identify the minor. Immediately after his disappearance, the centre followed the procedure and notified the police, and makes permanent updates. The latest disappearance situation in Galati county is as follows: 15 children (half girls, half boys) over the age of 15 either left the centres voluntarily, had permission slips on them, or never returned. However, these children make calls to the centres, but they are not at their parents' homes (which have already been checked by the police). DGASPC suspects that these children are staying with other relatives or friends, and do not want to reveal this. In one of these 15 cases, the reintegration of the minor into the family was admitted.

**DGASPC Teleorman:** There are 218 children in the centres, with a changing number of children in the emergency centres (these figures also include adult children who, according to the law, benefit from the centre's services, including protection measures). There are a total of 192 employees for 218 children; at county level, there are 6 large centres,



Parliamentary Committee of Inquiry into the situation of missing children

of which 2 complexes (with subunits). There were 3 cases of children who left voluntarily and have not yet been found, and are being reported to the police. There is 1 psychologist / centre and 4 psychologists every centre for disabled children (113 children with disabilities). There is a permanent connection with psychologists and with all subordinate centres. After each meeting with a minor, a psychological counselling report is prepared, which is subsequently approved. There are permanent discussions between children and psychologists.

**DGASPC Braşov:** In the protection system in Brasov county there are 1022 children, 22 care homes with social services in a residential system in which there are 347 children and 700 employees, in the entire system of standardized positions, but not all occupied (approx. 30 psychologists; each social service has 1 psychologist, the services operate according to standards, with final or provisional licenses for certain social services); only 643 positions are occupied. Between January and July 2020: there were 13 runaway children in January, 13 in February, 14 in March, 16 in April, 12 in May, 14 in June and 6 in July. All the children returned (either alone or brought by the police). Usually, it is the same children who run away from the centres.

**DGASPC Brăila:** There is currently only one emergency care home and family-type apartments and cottages, where there are 192, of whom 48 disabled children. There are 189 employees in the child protection residential system. These are specialists and include: nurses, education instructors, occupational therapy instructors, social workers, 5 psychologists. Each residential service has 1 psychologist, as follows: 1 psychologist for 70 children, 1 psychologist for 74 children, 1 psychologist for children in the emergency care home. Between January and June 2020, there were 9 cases of children leaving the protection system. Of these, 3 have left since last year.

**DGASPC Dolj:** Throughout Dolj county, 1268 children are currently in taken into the protection system, of which: 228 in the residential system (in apartments, houses, care



Parliamentary Committee of Inquiry into the situation of missing children

homes), 450 children in institutional care of professional foster carers, and the rest of the children are in institutional family/relative care. There are only 2 institutional care homes in Dolj County that will close by the end of 2020 (30 children with disabilities in one home, and 16 children with disabilities in the other). At county care homes level there are a total of 38 psychologists. From January 2020 to July 2020, there are 9 reports made to the police about the disappearance of some children / young people from the centres, all solved. These reports were made in cases where the children had been absent from the residential facility for more than 24 hours. In previous years, there were about 10-15 cases/year, where children went missing for more than 24 hours. Since 2006 to date, all children have returned, without exception. There aren't any cases of missing children that have not been found. All situations were reported to the police, were solved, and the children brought back into the system.

With regard to the hearing of the governing bodies of the above-mentioned counties, the Committee was informed as follows:

- There were cases of human trafficking (DGASPC Constanța), and the internal investigation provided the necessary documentation to notify the criminal investigation bodies. In Călărași, Brăila and Teleorman counties, such cases are not known to representatives of the governing bodies;
- All DGASPCs representatives interviewed presented the same method of intervention when becoming aware of the disappearance of a child: the staff is looking for the missing child (in places within and without the home which they frequently visit). The head of the care home, as well as the police, are subsequently notified. If and after the child is identified, they are brought back to the care home, and the causes, solutions and arrangements for intervention are established. The multidisciplinary intervention team consists in the case manager, educators, social workers, nurses and psychologists). The child is counselled by the psychologist and



Parliamentary Committee of Inquiry into the situation of missing children

- the social worker / educator;
- With regard to the causes of mental, physical and / or sexual violence inflicted by DGASPC staff against children in the care facilities, all homes have experienced such cases. According to the law, an internal investigation is opened in such cases. To the extent that facts are confirmed, the findings of the internal investigation are sent to Public Prosecutor's Offices, and the staff is removed from working close to children and distributed to another post until courts decide. In case of DGASPC Dolj, in the last 10-15 years there have been about 10 cases of termination of the individual employment contract due to physical abuse by staff against children. Unfortunately, we found that these people were either reinstated as a result of the res judicata of the court decision, or their sanction of termination of the employment contract was replaced with a lighter sanction;
  - Regarding the existence of the phenomenon of human trafficking in relation to the DGASPCs mentioned above, as well as of some human trafficking networks set up in those 4 counties, the representatives of DGASPCs Brăila, Teleorman and Călărași mention that they are "not aware of such cases". Regarding DGASPC Constanța, "there was only one case, a few years ago (about a young woman aged 15-16) in a care home. The case was monitored and all those involved were arrested";
  - The preparation and training of DGASPC Galați staff takes place quarterly, and are carried out by the heads of care homes, with the participation of psychologists and social workers, and occasionally the county police. Of course, this so-called "training" has more of a formal character given that it is always carried out by the same people. The employees of the institution cannot benefit from real upskilling as long as their only source of information is the head of the institutional care home;
  - DGASPC Brașov has adopted a procedure whereby criminal investigation bodies are notified in each case of sexual intercourse involving a minor (either among minors, or with a minor), regardless of whether it is a confirmed case or a suspicion. Also,



Parliamentary Committee of Inquiry into the situation of missing children

young mothers are transferred to "Mother-and-Child"-type facilities where they are offered services until the age of 18;

- After leaving the protection system at the age of 18, children, who have become adults, can still benefit from a monitoring system for a further period of two years, which is provided by DGASPC Braşov; after this period, they may still benefit from help in terms of obtaining social housing or socio-professional reintegration;
- Within DGASPC Brăila, work is done as to the monitoring of children who become adults and who leave the protection system, as follows: the young people who leave the protection system are monitored both by social workers who have dealt with the case and who keep in touch with them, and through a collaboration with the territorial administrative units in case their reintegration took place in the family. The monitoring is carried out for a period of 6 to 12 months and the DGASPC keeps the database at the level of the Directorate. Each young person contacts the social worker whenever they need to. Some young people gain independence faster, others need support for a longer period of time, but the vast majority of young people, when leaving the special protection system, undergo a transition period within the Mina Foundation with which DGASPC Brăila collaborates and which provides them with accommodation, and later on helps them find a job;
- Within DGASPC Galaţi, after the protection measure ceases, the care centres no longer have information on the child's life (once they reach the age of 18), whether they were involved in trafficking cases or in other crimes. There is no mechanism for tracking the children's educational and professional routes, once they leave the system;
- Within DGASPC Dolj, care homes ensure that young people leaving the protection system have a place to live and some professional occupation. There is no post-exit monitoring, but the Directorate usually keeps in touch with those children leaving the system;



Parliamentary Committee of Inquiry into the situation of missing children

- DGASPC Galați claims that it has a good collaboration with the National Agency against Human Trafficking (ANITP) regarding both children and staff. Regarding the collaboration with NGOs, these are few in Galati County. DGASPC Galați has a good collaboration with the "Ajungem Mari" (Growing Great) NGO - an emergency reception centre providing apartments, which organizes activities with children (trips, leisure time). DGASPC Galați also collaborates with "Inima de copil" (Child's Heart) Foundation, a long-standing NGO in Galați. There are beneficiaries such as students and future graduates of higher education, young job-seekers. However, not all young people follow the path as we would wish, once they leave the social assistance system;
- in DGASPC Brașov there are daily and weekly counselling or information activities with children, where appropriate, and from a certain age, contraceptives/condoms are distributed, along with monitoring school activity and following their circles of friends. At the same time, DGASPC Brașov carried out activities to prevent and fight against the phenomenon of begging and trafficking in collaboration with the Local Police and IPJ Brașov, through weekly meetings to identify potential cases and distinguish between various types of trafficking that may occur. Within the care homes in the county, the most recent staff briefing session took place in February 2020 with ANITP and BCCO (Brigade against Organized Crime). Collaborative actions have already been initiated with one of the Universities in Brașov for training programmes with university teachers, which successfully provided the necessary credits for the specialists within the Directorate, with sessions taking place mostly online. There were also online trainings for beneficiaries (children in the system);
- In all the DGASPCs mentioned above, there are collaboration protocols with the National Agency against Human Trafficking, where prevention activities against this phenomenon are discussed.



Parliamentary Committee of Inquiry into the situation of missing children

## **SITUATIONS REGARDING HUMAN TRAFFICKING IN COUNTIES HEARD, BUT NOT CONFIRMED BY DGASPCs GOVERNING BODIES**

During the hearing, DGASPCs representatives were informed about cases of disappearance of minors and/or trafficking covered by the media and/or confirmed, including in the discussions with specialized NGOs representatives.

Thus, regarding the report published by Save the Children Organization, according to which Brăila County is a place of action for the network of traffickers of children for prostitution and labour exploitation, the director stated that she had no information on that report. Moreover, based on the statements made by Iana Matei, president of the Reaching Out Romania Foundation, in case of DGASPC Brăila, "a trafficked minor girl wanted to give a statement on this to the police, but the police refused to take her statement." The Foundation submitted to the Committee the suspicion of complicity, in this case between the municipal police and Brăila Bar Association, with the trafficking network.

Regarding DGASPC Teleorman, the situation is extremely similar. When asked about 2 cases covered in the media and confirmed by the competent authorities regarding human trafficking, the general director of DGASPC Teleorman stated that "he has no information" about the first case, and regarding the second one he stated that "there was a case in Roșiorii de Vede a few years ago years, but I did not thoroughly investigate the case". The two cases brought to the attention of DGASPC Teleorman management were:

- the first case: the information received within the Committee from Iana Matei, president of the Reaching Out Romania Foundation, according to which "2 girls (15 and 17 years old) had forged documents prepared for leaving the country. The girls had a history of trafficking known to DGASPCs, including DGASPC Roșiorii";
- the second case: the information received within the Committee from Iana Matei, president of Reaching Out Romania Foundation, according to which there is a criminal case "according to which the president of Teleorman County Council, who



Parliamentary Committee of Inquiry into the situation of missing children

was also a social worker and coordinator the trafficking network, had been making all arrangements for the girls in Rosiori to be trafficked".

Furthermore, in Teleorman County there were cases of violence and sexual abuse by DGASPC employees, as confirmed by the institution's management itself: "There have been cases of physical and verbal violence, as is certainly the case now, but they are not reported at the management level," said the director general of the institution.

Within DGASPC Braşov, the case of a boy from Braşov recruited with the help of a DGASPC Braşov employee and sold to a network of procurers was brought to the attention of the management (a case previously presented to the Committee, i.e. the 14-15 year old boy turned to an NGO from Braşov asking for help, claiming that he had been trafficked from the age of 11-12. The boy came to this NGO because he did not have the confidence to tell what was happening to him to the staff of the social assistance centre to which he belonged). Regarding this case, the director general of DGASPC Braşov stated that he found out about this case from the media, but claimed that she was not aware of the case in all her experience in the system. She also asked older colleagues about this, but they could not identify the case either. Furthermore, regarding the situation of pregnant minors enrolled in DGASPC protection programme, Ms. Gîrbacea mentioned that there were two cases at that moment and that criminal investigation bodies have been notified.

During the hearing of DGASPC Galati representatives, the statement of former Minister of Labour Dragoş Pîslaru was mentioned, stating that at the level of Galati County there are suspicions of human trafficking in which employees of DGASPC Galati also took part. The deputy director stated that discussions took place within the County Council, and following these discussions, these rumours were refuted. However, in the absence of an investigation initiated by the competent bodies, the conclusions drawn at the level of the County Council remain meaningless. Regarding the cases of abuse by DGASPC Galati employees, the management informed the Committee that there are no such cases, as there



## Parliamentary Committee of Inquiry into the situation of missing children

are also no cases of trafficking in minors. At the same time, the mass-media revealed last year the case of the 14-year-old girl from a care home in Galați County who had been a victim of a rape. It is not thanks to the involvement of DGASPC Galați that the case reached the public, but rather due to a video recording of that girl posted on a social network. It should be noted that at that time, the deputy director of the institution had stated that it was a consensual sexual act, while the director of Galati County Ambulance said that "I can confirm that the victim told the ambulance crew that she was raped".<sup>1</sup>

At the level of DGASPC Dolj, regarding sexual abuse, the management stated at the time of the hearing that there were three cases for which criminal proceedings have been initiated against two foster parents and one police officer. The Director General stated that there were also suspicions of the existence of a network of child trafficking, and each time the Police and DIICOT were notified. Upon the presentation of the case of a minor with a fake passport, who had been found by the police in the Red-Light District in Amsterdam, the Netherlands, in 2014 (this is how the human trafficking network in Craiova where DGASPC Dolj was also involved came to light), when the then Director of DGASPC "asked that the girl be allowed to go back to the Netherlands"), the current director of the institution, Mr. Florin Stancu, replied that he was not aware of this case.

### **PROBLEMS IDENTIFIED BY THE GOVERNING BODIES OF THE DGASPCs**

In cases of mental, physical and/or sexual violence by DGASPC employees against children, DGASPC representatives identified a flaw in the legislative framework, as they cannot terminate the employment contracts of employees who have committed acts of violence against minor children in the absence of a final and irrevocable settlement by the competent court in this regard.

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<sup>1</sup> [A demisionat adjunctul DGASPC Galați, după cazul minorei pline de sânge pe stradă \(digi24.ro\)](http://digi24.ro)



Parliamentary Committee of Inquiry into the situation of missing children

Another problem identified is the scarcity of psychologists for therapy with children from the DGASPC centres or even their poor training, especially in the management of cases of missing children. Moreover, there was a lack of personnel for the night supervision of children in the centres (DGASPC Călărași could not find specialized staff especially in rural centres, and DGASPC Dolj complains about the lack of a Faculty of Psychology in the county and thus the impossibility of identifying and recruiting staff for such positions).

At the same time, from the discussions with the two psychologists on 22.07.2020, it was reported that "there is a large number of employees in the system who do not have specialized studies, and are not in a position to analyse and properly intervene in children's therapy. Moreover, there is a lack of skills development courses for psychological counselling within the DGASPCs".



Parliamentary Committee of Inquiry into the situation of missing children

## **CHAPTER VI**

### **IRREGULARITIES AND DEFICIENCIES AT THE LEVEL OF INSTITUTIONS RESPONSIBLE WITH THE PREVENTION AND FIGHT AGAINST HUMAN TRAFFICKING AND MISSING CHILDREN**

#### **LEGISLATIVE IRREGULARITIES AND DEFICIENCIES**

- The lack of approach to the phenomena of missing children and human trafficking in the Country Defence Strategy - in this document, the subject of human trafficking is only mentioned when talking about Romania and the security at the Euro-Atlantic level. As for the internal perspective, human trafficking is not among the security objectives (only arms and drug trafficking). According to Cătălin Predoiu, Minister of Justice at the time of the hearing, the strategy covers elements of defence against external factors;
- Within administrative proceedings, the specific research methodologies in the Code of Criminal Procedure are not applicable. They have limited applicability as they depend on the severity of the crime, therefore there are several procedures in which the legislator made some exceptions;
- The distinction between human trafficking and procuring - there are certain caselaw landmarks established by the High Court of Cassation and Justice (HCCJ) in 2007, but sometimes there are difficulties in proving in practice the element that distinguishes between exploitation and the annihilation of the will of the victim. There are some areas which can be better clarified, but elements so far from the DIICOT practice, as confirmed by court decisions, have not shown insurmountable difficulties that might cause problems for the Public Ministry to function well in the short term. Some very important unsettled issues to achieve the competence of DIICOT were not received



Parliamentary Committee of Inquiry into the situation of missing children

- until the moment of the hearing by the Public Ministry;
- The need for legislative intervention in Law 272/2004 on the protection and promotion of children's rights, where there is an incomplete norm, namely Article 23(4) stating that the parents/legal guardians have the obligation to notify the law enforcement bodies within 24 hours from the disappearance of the child. It is a rule that includes no remedies. The predictability of the legal norm, unlike police procedures, is desirable;
  - Article 220 of the Criminal Code, which is considered the "lover boy" article as it talks about sexual intercourse with a minor up to 15 years of age, with certain criminals or defendants escaping under this article: the Minister of Justice said he was open to discuss changes to this article, but on a systemic basis. A reform on the whole Code is hardly likely. "Indeed, it is a legislative indulgence. And the legislation must be more sophisticated "said Cătălin Predoiu, Minister of Justice;
  - Before the introduction of the new Codes in 2014, the definition of the forms of exploitation were covered by Law 678/2001. Subsequently, in the new Criminal Code, regarding the crime of human trafficking and trafficking in minors, Article 182 of the Criminal Code defines the exploitation of human beings by omitting petty crimes (this form of exploitation by a trafficker involved petty crimes, such as petty theft, etc. is not taken over from the old law);
  - Paragraph 2 of Article 213 on procuring must be deleted. A minor must be defended until they reach the age of 18 and treated as such without a valid consent; therefore, a clear distinction needs to be made between child trafficking and procuring;
  - In the absence of clear regulations, police officers responsible for situations not covered by the law are also affected. They suffer as a result of the legislation in this field, its application and the way of interpretation by actors that have a direct impact on the trafficking in minors and in case of disappearances. Europol also reported this vulnerability or gap to the Committee of Inquiry i.e., the way how police officers may



## Parliamentary Committee of Inquiry into the situation of missing children

act must be regulated by the law. Europol had to adapt because when a disappearance was reported, its syndicate forced things so as to prove a situation wherefrom human trafficking could result, so that it could register such an act in rem and have access to the tools provided by the Code of Criminal Procedure for the interception and localization of the minor. Europol still makes use of this contrivance, but the issue of vulnerability of the police officer who influences the situation in order to have access to the necessary means to investigate these disappearances has also been raised;

- Relevant non-governmental organizations have the legal possibility to represent victims of human trafficking, but they are not covered by the law (Quality standards for social services providing accommodation, organized as residential centres for child victims of human trafficking were under discussion within the Guardianship Authority (Autoritatea Tutelară) at the time of the hearing);
- The status of the law on missing children and the subsequent intentions of the Ministry of Internal Affairs- MAI (the law had been put forward onto public debate until the end of 2019, then withdrawn from the MAI website): it was a project submitted for public debate in December 2019, but had no finality, hence on 1 September 2020 the draft Government Emergency Ordinance on the search for missing persons was published. The MAI stated their intent to come up with this emergency normative act for the establishment of this working tool, because it is an urgent issue.

### **IRREGULARITIES AND DEFICIENCIES IN TERMS OF HUMAN RESOURCES**

- The biggest problem reported to the Committee is the lack of staff within the institutions of the Romanian Police and Prosecutor's Offices, which are experiencing a personnel crisis. Existing police officers who should work on the ground carry out



Parliamentary Committee of Inquiry into the situation of missing children

secretarial activities for a hierarchical superior. In order to exploit this case politically and electorally, the School Safety Police was set up, however only on paper. This new structure was created in an office of 3-4 non-specialized people, the project was not put in decision-making transparency, no specialists were consulted and now the heads of the inspectorates "woke up" to realize they have to set up this new structure of 270 people, according to Europol complaints;

- The number of police officers within DCCO (Combating Organized Crime Directorate): the organizational chart of DCCO includes a little over 1000 positions, which are insufficient for the current workload, according to Secretary of State Bogdan Despescu. There are police officers in DCCO working on over 1000 files at a moment. It is a unique fact in Europe for a police officer to investigate 1000 cases (e.g., Police Section no. 7 in Bucharest). A police officer doesn't even have the physical time to get his hands on the covers of a file. The MAI did not want to establish the elements that would make it necessary to occupy the structures with the real number of staff, as it emerged from the statements of the President of Europol, Cosmin Andreica. Within the Superior Council of Magistracy (CSM) and prosecutor's offices there are standards in place regarding staff and workload. However, the MAI has stated, according to Europol, that their structures are sufficiently sized.

*\* There are 2 specialized structures within the MAI: General Directorate for Intelligence and Internal Protection and the General Anticorruption Directorate, two structures that carry out the whole range of activities related to staff integrity. In 2020, these structures identified cases of deviation from the norms and the concerned police officers were referred to the legal structures (Prosecutor's Office), and the MAI claims it has zero tolerance towards any deviation and violation of the norms. The principle from which the institution starts is that the integrity of staff ensures authority, respect and efficiency in its activities.*



Parliamentary Committee of Inquiry into the situation of missing children

- Across IPJs also, there is an acute shortage of staff - there are untrained police officers who are not capable to identify situations of minors or adults who are exploited through labour and trafficked. In poor areas, if there were teams of 10-20 police officers patrolling in these areas, there would be an explosion of cases of labour exploitation;
- Another problem is the specialization at the level of the police and the prosecutor's offices. There is a need for over-specialization at DCCO and DIICOT. Europol has colleagues who pass by cases of human trafficking, of minors, who do not even realize they are victims of abuse, which shows serious deficiencies in fighting against human trafficking. The Caracal case demonstrated the utter failure of the current system;
- The lack of specialization of police officers dealing with preventing and combating the phenomena of child disappearance and human trafficking, a problem identified by most of the institutions heard: MAI, IGPR, MJ, Europol, DIICOT, Public Ministry, NGOs. The real cause that requires a need for specialization is the fact that criminals also have specialized. Now, Romanian criminals are systematically connected with criminals from other countries. There are organized crime groups that are testing and making contacts with groups outside Europe. Organized groups have come to protect themselves and have a proactive attitude of self-protection (not only a defensive one): with drones, jamming equipment and other sophisticated forms of protection of criminal acts. It is a phenomenon that is getting structured, organized, funded and connected. Such a phenomenon can only be effectively dealt with through over-specializing the law enforcement institutions;
- The problem of delayed and/or superficial reaction of the frontline police officer (namely the rural, local and community police officer) in cases of suspected disappearance or human trafficking: at the IGPR and MAI level, certain practices have been reported and notified which deviate from the work procedures regulating the activity and which have consequently been subject to checks and measures,



Parliamentary Committee of Inquiry into the situation of missing children

according to the statements of the Secretary of State within the Ministry of Internal Affairs, Bogdan Despescu;

*\* For the training of these police officers, in addition to the basic activity, the MAI has established a continuous training at territorial level with those who are specialized, so that working meetings, debates, training sessions are regularly organized in order to establish, based on the specifics of the area and of the cases, how to work on a case-by-case basis, the proper reaction of the officer firstly notified, and the measures they must apply as the first body notified and seek the support of the specialized structures, in order to cooperatively deal with each case bearing a particular importance.*

- At the level of the Romanian Police there are differentiations between police officers, based on objective criteria. The role of the judiciary bodies refers primarily to the public service for the citizen and its effective delivery. With regard to the Rural Police, attention must be drawn to circumstances in which a minor legally leaves the country and then the adult returns without that minor (for example, France has long been dealing with the problem of unaccompanied minors exposed to trafficking);
- The problem of early retirement of specialist police officers, leading to a very small number of investigated cases: there was a component in a larger structure within the DCCO that operated at territorial level with a small number of police officers specialized in disappearances (not those temporarily involved in seeking activities). Some of them had extensive experience, yet decided to terminate their employment contracts with the IGPR. It has been a generational changeover that is still underway, with massive employment both from external areas and from the educational structures of the MAI. MAI has had a large number of staff employed in the last 5 years, with police officers dealing with, and taking over on the go, the activities of the



Parliamentary Committee of Inquiry into the situation of missing children

whole range of competences of the Police, not only in the field of child disappearance;

- The constant refusal by the Ministry of Internal Affairs regarding the procedures and the legal framework, as signalled by Europol, which offered, drawing on the example of other EU bodies, to ensure and take over a part of the curriculum for the professional training of police officers, in order to have the capacity to organize such specialization courses. The intention of the MAI in the last 10 years has been to have police officers who could be transferred to any position, therefore specialization was avoided, because the MAI could no longer have the necessary human resources. Today, police officers are moved from one department to another.

*\* Europol has taken countless approaches towards the MAI, starting with requests made 3 years ago to have a staffing standard on the sizing of structures.*

## **IRREGULARITIES AND DEFICIENCIES IN THE CRIMINAL INVESTIGATION PROCEDURE**

- The way in which institutions responsible for the prevention and protection of victims exercise their powers, cooperate and harmonize their efforts so as to restrict the victim recruitment base (and when the crime occurs and is sanctioned, to protect victims in order to prevent re-victimization);
- The lack of an overview of the phenomenon of human trafficking. When a trafficking situation is found, the institutions take measures individually and independently. Things should be seen as a whole and there should be a mutual aid and interconnected and unitary strategic development. There is no high-level decision-making policy. As long as each prosecutor's office only cares for its own interests and sets up its own means of combating crimes, Romania cannot have a unitary strategic development and will not be able to fight this phenomenon as desired;



Parliamentary Committee of Inquiry into the situation of missing children

- There are situations where the DIICOT has the necessary human or material resources, while the DCCO within the IGPR does not;
- The lack of ownership and accountability - is, according to Europol, an obvious problem of all authorities revolving around this issue;
- Regardless of the intervention of law enforcement institutions, sometimes these victims have no chance to escape organized crime or individual offenders in the community;
- Another major problem pointed out by the Minister of Justice is the lack of harmonization with the community police and in the preparation of the evidence-based investigation file. A chief prosecutor complained they no longer received the same amount of information from the police. Prosecutors do no field work and need field information from the police in order to begin the investigation;
- Since 2007 there has been an attempt to regulate the investigation procedure into the legal provisions, which in Europol's view, does not meet the legal requirements (a Handbook of best practice on how the police should act in case of missing children, as approved by the IGPR provision no. 44/2007). This textbook is a bit outdated in terms of legal basis and includes a cumbersome and bureaucratic procedure that loses sight of the very first hours after the disappearance of a minor;
- The police operational capabilities of the intervention in these cases (Europol stated that there are approx. 4-5 people in each county dealing with the disappearance of minors, wanted persons, corpses with unknown identity, and 1 single police officer dealing with human trafficking per county); in terms of prevention activities, some counties have 15 police officers assigned to prevention, in other counties there are only one or two. At the same time, Europol signalled a lack of interest on the part of police chiefs in identifying potential victims of trafficking;
- The Local Police often do not take into account the disappearance complaints, because they consider such disappearances as voluntary walkouts of minors with



Parliamentary Committee of Inquiry into the situation of missing children

men, in exchange for material benefits, with minors returning later to the social assistance centre; there are cases of prosecutors, police officers, politicians who have opposed legislative changes/improvements that could make more sense, as it was to their advantage to leave the victims on the street, so that nobody find out what they have been involved in. Certain authorities consider that a missing child aged 14 is no longer considered a child, since they already have discernment - which is a completely wrong reasoning in the opinion of specialists, who consider that a person is a child until the age of 18;

- DIICOT has, in an internal analysis, pointed out a difference in the demonstration of evidence (in some rural communities there is such reluctance in people, which translates into less collaboration with criminal investigation bodies). If relevant data cannot be obtained, it is not possible to advance with the investigation and find out the truth. Nowadays, people are moving easily and there are these typologies of people who are sponsored by the exploiters, so that the destination country reimburses the expenses;
- Out-of-date data at the level of the Romanian Police regarding the situation of missing children (most of the children on the Romanian Police website were minors, about whose situation details were only known to the DGASPC in question, i.e., they had been seen in the community, e.g., with friends, but refused to return to the care centre. Other children identified in the streets as unaccompanied or running away from their homes are taken by the police back to the emergency reception centres of the DGASPCs - in these cases, leaving from the centre is "a repeated act" and their recovery takes longer);
- Until 2008-2009, DIICOT has been actively involved in hearings regarding human trafficking cases. Now, the status of this crime has changed, in that it is no longer a stand-alone one, but was introduced, through legislative changes, into the category of organized crime. According to NGOs, there are no cases of human trafficking, but



## Parliamentary Committee of Inquiry into the situation of missing children

only cases of procuring (where penalties are lower and the network does not necessarily have to be demonstrated). The central DIICOT, according to Iana Matei, is a de-structured unit. If a file arrives in a city unit, then DIICOT can no longer know exactly who handles the file, whether it is correctly dealt with (there are cases that have been staying untouched in the drawers of prosecutors for more than 4 years, according to the statements of the audited persons). DGASPCs cannot be held accountable either, because they are public institutions.

### **IRREGULARITIES AND DEFICIENCIES AT ANITP LEVEL**

- According to the NGOs heard, the role of the National Agency against Human Trafficking is to "protect large fish from murky waters". Although their role is to publish reports, statistics and carry out prevention campaigns, in reality they repatriate all victims regardless of the country of destination and without any assistance (a victim is only allowed to be repatriated via ANITP); they are introduced in the ANITP database, which is presented to the public in the form of statistics on "prostitutes" in Romania (many of these victims ended up being re-trafficked). ANITP refuses to provide feedback on the assistance provided to these repatriated victims to the relevant non-profit bodies, at their request, stating the victim's right to privacy or claiming that the victims refused assistance. The current ANITP standards are not for the benefit of victims, and the agency's interest is to keep them in the streets. Since 2007, ANITP has constantly amended the legislation, assigning itself ever more responsibilities and increasingly excluding external assistance;
- The inconsistency in data and statistics regarding the number of victims presented by ANITP to the public opinion: according to the ANITP management, there is no single, unitary system in Europe for identifying and quantifying victims. Each country uses its own system (and classifies victims as *potential*, *identified*, *presumed* and *detected*). The way information is transmitted also differs, in that not all the data from one



## Parliamentary Committee of Inquiry into the situation of missing children

country about a victim reach Romania). ANITP requested the other international rapporteurs all the data about a victim, so that ANITP could intervene. There are differences also in that there are victims who are sexually exploited and persons who voluntarily engage in prostitution. The data are complex at EU level and no uniform methodology has been established yet, as not all information about a victim is circulated between Member States.

- The statistics on the number of victims at ANITP level differ from the DIICOT statistics: the inconsistency in data is, according to ANITP's explanation, justified by the perspective from which a victim of trafficking is identified. If there are indications of a person who could be a victim of human trafficking, the location where he/she was found, his/her age, sex, etc., then he/she is considered a victim of trafficking and quantified. However, not all victims of trafficking reach DIICOT as an injured party in a case (hence the difference in statistical data).

### **IRREGULARITIES AND DEFICIENCIES AT DGASPCs LEVEL**

- The lack of collaboration between relevant NGOs and DGASPCs, which do not provide feedback on the cases of missing/runaway girls, but which is more, some DGASPC senior staff encourage girls in their centres to go out to "make money";
- The social workers fail to carry out the necessary activities to help the child, to offer them healthy alternatives for life; the lack of civic education; the lack of understanding the problem at the level of educational institutions attended by victims (who are critically judged by their own teachers);
- The insufficient staff numbers, poor professional training of social workers, low number of psychologists in DGASPCs;
- According to Iana Matei, president of Reaching Out Romania Foundation, the most problematic DGASPCs (also called "trafficking basins") are the counties of Dolj,



Parliamentary Committee of Inquiry into the situation of missing children

Braşov, Teleorman, Călăraşi, Galaţi, Brăila and Constanţa. Human trafficking networks are politically and legally connected to these centres, which protect traffickers. Iana Matei highlighted a tendency of DGASPCs to move a child from a centre to another (i.e., to take them out of the centre of the foundation to the public social assistance centre). Thus, there have been cases of traumatized children who have committed suicide due to these repeated transfers. Traumatized children need emotional stability, which cannot be achieved if the child is moved;

- DGASPCs do not have legal personality, so they cannot be held liable in court if necessary (especially in the context in which some directorates have announced their intent to set up assistance centres for victims of human trafficking);
- In most cases, DGASPC staff do not inform the police properly, within a few hours, as they should. The information is usually provided to the police the next day, and the justifications given by the directors of the DGASPCs are based on the previous behaviour of these minors who have repeatedly left the centres: it is a voluntary walkout and most of the time the children return on their own;
- Within DGASPCs there is a huge conflict of interest, i.e., when a protection measure is established by the courts under Law 272 or when the parent can no longer exercise their right over a minor, this right belongs to the head of the centre or the director of DGASPC. Such people are both service providers and legal representatives of those children. The legal representative should be a person outside the protection system. It has quite often happened that representatives of the Ombudsman wish to talk to a minor, and the director of the institutional care centre refuses, because there is no legal guardian's approval. There is a need to create an institution that legally represents the minor, other than the service provider. A director of DGASPC is, on paper, the representative of all. It is impossible for a single person to follow each case;
- The Ombudsman noticed that on the Romanian territory, there is no possibility for



Parliamentary Committee of Inquiry into the situation of missing children

the authorities to monitor the service providers for children of other nationalities.

The Romanian authorities are limited to intervening in emergency situations.

*\* The institution addressed a proposal for a legislative completion to the Ministry of Labour (October 2019).*

#### **SITUATIONS OF IMPROPER CONDUCT BY THE RESPONSIBLE BODIES REGARDING THE DISAPPEARANCE OF CHILDREN AND HUMAN TRAFFICKING BROUGHT TO THE ATTENTION OF THE COMMITTEE BUT NOT CONFIRMED BY GOVERNING BODIES**

- Monica Boseff presented details from the controversial case of film director Mihnea Columbeanu (2014), a man who recruited the children he was trafficking from DGASPCs and from subway stations (7, 9, 11-year-olds sent by their families to beg) - and pointed out the cruelty of the Local Police at that time. Mrs. Boseff's Open Door Foundation took over the case and obtained Columbeanu's conviction (he received a 26-year sentence);
- A case presented by Iana Matei in 2017, when a parent went to the police (Transylvania area) to complain that his daughter had gone to Austria, on suspicion of human trafficking. The police did not register his case, because the girl was of adult age;
- The Caracal case - the parents reported the girl's disappearance, and the police replied: "Go home and wait for her to come back", according to Mrs. Matei;
- A non-governmental organization from Italy managed to identify the time and the flight with which 2 girls from Romania were to leave, together with their traffickers established in England (based on information that the police did not have, and which were forwarded to the Organized Crime Directorate by Mrs. Iana Matei);
- Another case was presented by Iana Matei, where a trafficked adult girl wanted to give a statement and Brăila Police refused to take her statement. Iana Matei's Foundation has fought many times in court with the institutions which were in fact responsible with



Parliamentary Committee of Inquiry into the situation of missing children

protecting victims of human trafficking.



Parliamentary Committee of Inquiry into the situation of missing children

## CHAPTER VII

### NON-GOVERNMENTAL SYSTEM OF CHILD PROTECTION AND SOCIAL ASSISTANCE

On 15 July 2020, the Committee of Inquiry heard representatives of civil society engaged in the fight against human trafficking, namely:

- 1 Iana Matei, President of the Reaching Out Romania Foundation, which has been working since 1999 with victims of human trafficking and sexual exploitation;
- 2 Monica Boseff, President of the Open-Door Foundation, which provides comprehensive assistance and protected emergency shelter to victims of human trafficking who had been exploited sexually, through labour work, for begging and for committing crimes.

According to the vast experience in the field of the two persons heard, they presented to the Committee of Inquiry the following conclusions regarding the challenging situation of human trafficking and disappearance of children in Romania (*Romania remains the main source country for human trafficking, where out of 100,000 victims of human trafficking in the UK alone, most are from Romania, according to the report Justice & Care - It still happens here: fighting UK slavery in the 2020s, which is available online at <https://www.justiceandcare.org/it-still-happens-here/>*):

- The most common causes for which children become victims of human trafficking are: poverty, lack of education, broken families (according to Iana Matei, traffickers



Parliamentary Committee of Inquiry into the situation of missing children

recruit children from marginalized areas, from families with problems, such as alcohol consumption, domestic violence, etc.);

- DGASPCs are a main source of "recruitment" for traffickers (young women are "given go-out permission" by the management of DGASPCs and put into production by the traffickers, then found by police and brought back to DGASPC, according to Iana Matei);
- The insufficient staff numbers, poor professional training of social workers, the low number of psychologists in DGASPCs are, from the NGOs perspective, a major vulnerability;
- Trafficked adults have a history of trafficking and exploitation since childhood (from 2007 onwards, the number of minors exploited in the streets has started to surge, hence numerous girls have increased the number of prostitutes in western countries; girls who voluntarily engage in prostitution chose this path on the background of repeated childhood traumas that reduce life expectancy by 20 years and increase the risk of certain diseases; from the experience of Ms. Matei and Ms. Boseff, no girl who is now of adult age has stated that she wanted to become a prostitute. But girls admit that prostitution is all they know and do, since childhood);
- The "loverboy" method is the most used technique of approach, solicitation and recruitment (trafficked children have a violent environment behind them, and are easy to recruit through this method of emotional attachment, which they lack in the environments where they live, by those abusing the victim's vulnerability; minor girls leave the country with false documents or based on statements made before a paid notary".

## CHAPTER VIII



Parliamentary Committee of Inquiry into the situation of missing children

## **THE PERSPECTIVE OF VICTIMS AND FAMILIES OF VICTIMS OF HUMAN TRAFFICKING AND MISSING CHILDREN**

On 9 September 2020, the Committee of Inquiry heard Larisa Butnariu, 24, a victim of human trafficking. She did not request that her identity be protected and was willing to present details of her trafficking in front of the Committee. The victim comes from the social care system; at the age of three she was adopted by a family from Iași. Larisa Butnaru stated that she was sexually abused and, later on, trafficked at the age of 15. Details of her story can be found in the Minutes of 9 September 2020, in the Annex of the present report.

Here are the victim's suggestions to improve the combat against human trafficking:

- setting up a hotline for the victims of human trafficking (the number shall be short and easy to memorize – as opposed to the current long number 0800 800 678, which is only available from 9-17, Monday to Friday);
- more efforts should be made to protect the victims throughout the investigation and during the trial, considering that a human trafficking network could include up to 200 members;
- preventing the law enforcement officer in charge of a human trafficking case from leaking information about the victims and their official statements during the investigation.

On 1 October 2020, the Committee of Inquiry heard the families of four missing children, whose cases have remained unsolved so far. Details regarding the cases are attached to the Minutes of October 1, in the Annexes. The Committee heard the following people.

1. Vlăsceanu Georgeta, mother of Mădălina Vlăsceanu (disappeared at the age of 3, in 1986, from Balaciu commune)



Parliamentary Committee of Inquiry into the situation of missing children

2. Cati Cosma, mother of Ovidiu-Călin Cosma (disappeared at the age of 17, in 1996, from Arad county)
3. Nelu Geneș, father of Geanina Geneș (aged 18, disappeared in July 1999 from Caracal)
4. Ms. Motaș, mother of Adina Motaș (aged 16, disappeared in March 2013 from Bârlad)

Following discussions with the four families, the Committee of Inquiry reached the following conclusions:

- all the members of the victims' families were skeptical with regard to the state institutions' willingness to solve the cases hereby presented;
- police representatives did not take seriously the parents when they reported their children missing;
- the families continued the investigations on their own when they realized the institutions in charge had abandoned the search for various reasons;
- the families complained that the courts failed to clarify with all due speed the role certain people played in the minors' disappearance;
- there is no constant communication between families and the institutions in charge with regard to the endeavour to solve the missing person cases;
- for all of them the deepest grief is the fact they do not know if the children are still alive, whether they have been killed and/or trafficked. However, all families continue their effort to urge institutions to find their children.



Parliamentary Committee of Inquiry into the situation of missing children

## **CHAPTER IX**

### **MISSING CHILDREN SEARCH AND REFERRAL PROTOCOLS OF THE COMPETENT INSTITUTIONS**

#### **General Inspectorate of the Romanian Police (IGPR)**

In case of missing children there is a procedural framework that each person involved in their search should follow. If a missing person is in another country, law enforcement institutions cooperate. The police cooperate with their counterparts in the respective country to collect information about the location of the missing person as well as to see if he or she is victim of a crime. Currently there is a procedural framework of action for various situations; considering prior events, the Romanian Police have initiated a law regulating the search of missing persons. The approach is meant to create an administrative mechanism that shall secure a better coordination of the public institutions involved in searching missing people. Such a mechanism shall be applied irrespective of the Criminal Code procedures in cases which do not fall under the Criminal Code. Hence, the Criminal Code Procedures do not apply in cases of missing people that are not victims of abuse or other crimes.

The cases of undocumented children – that is children without a birth certificate – are more complicated; yet the activities follow the same procedures. Obviously, the investigation is more difficult. However, only few such cases have been recorded, according to the statement of Eduard Mirițescu, general inspector in the IGPR. In case of people that went missing a long time ago and whose features have changed, experts create a composite sketch that depicts the respective person at a certain age.

#### **National Authority for the Protection of the Rights of the Child and Adoption (ANDPDCA).**

Children are reported missing as soon as their disappearance is noted. In case of children in social care, social assistants follow internal procedures that do not imply the police with the aim to bring the minor back to the foster home (e.g.: the child is with their relatives, the child received permission to attend an event and for various reasons failed to return as scheduled, etc.) Children are allowed to leave the centres based on a written note that includes



## Parliamentary Committee of Inquiry into the situation of missing children

the purpose and duration of their leave, so that they can be identified and retrieved should their absence exceed the duration agreed upon.

### **Directorate for Investigating Organized Crime and Terrorism (DIICOT)**

A missing child case is referred to DIICOT, if previously reported to other police bodies than Combating Organized Crime Directorate (DCCO) or if the prosecutor's office rules that the disappearance may be connected to human trafficking. IGP can also refer the cases to DIICOT or to DCCO. NGOs can also refer the cases to DIICOT or DCCO. Only third parties can refer a victim's case to DIICOT. DIICOT has probation standards in working with victims: representatives of the National Agency against Human Trafficking (ANITP) and DGASPC, a psychologist and a legal councillor attend all meetings with a minor. Victims are placed in a regional ANITP or a DGASPC centre or in an NGO facility. Victims can also return to their families. There are cases when minors refuse to go to a centre, which requires a lot of effort on behalf of the psychologist to persuade the victims.

**Mechanisms of cooperation and working protocols between DIICOT and the European Union and USA (FBI):** all mechanisms and investigation methods provided by Romanian legislation are employed in the EU. DIICOT cooperation with EU-member states is based on the European Investigation Order – the main tool to obtain evidence from partner states. The setup of a Joint Investigation Team with one or more EU-member states is the next step. Non-EU states can also participate. DIICOT can request evidence from other countries (USA included) based on the Romanian Legal Assistance Law. Thus, Romania can receive the requested information and the procedural documents issued in the respective countries.

Cooperation with FBI - IT cooperation with all similar agencies is based on the exchange of information. It is up to a US decision-making body to approve the participation of DIICOT in the creation of a procedural act of FBI officers.

Cooperation with EuroJust – in cases of minors trafficking in several EU states, DIICOT participates in coordination meetings organized by EuroJust. In 2019, Romania was the second



## Parliamentary Committee of Inquiry into the situation of missing children

country to initiate coordination meeting related to human trafficking.

### **Public Ministry**

There is a different approach with regard to kidnapped and missing children (the Public Ministry does not have any competence in case of missing people if there is no suspicion of crime). The Ministry of Interior carries out police activities. The Public Ministry does not rule if the alerts regarding missing people are managed correctly. The Law no. 141/2010 on setting up, organizing and functioning of National Information System for Alerts and participation of Romania in the Schengen Information System specifies the institutions that can introduce alerts regarding a missing person. Under the law, upon leaving Romania, a minor shall provide an ID and be accompanied by an adult. In case of illegal border-crossing, an alert is of no use for the Public Ministry. A fake ID does not offer any information about a missing minor. In case of a criminal investigation concerning a missing person, the Public Ministry introduces an alert in the Schengen Information System.

To locate the person sought to be arrested the prosecution procedures can include interception or other technical means. Such special procedures should be considered to identify missing minors (especially when the child's superior interest prevails over the protection of privacy). In the Convention of the Human Rights, the paragraphs that back up the reason include – among other things – the protection of other people's rights and freedoms. Minors are vulnerable persons; they are even more vulnerable without any parental surveillance.

### **National Agency Against Human Trafficking (ANITP)**

A national identification and aid mechanism is in place for victims of human trafficking, which provides a general framework and responsibilities for a lot of institutions. Before a victim can be repatriated, their details need to be submitted to ANITP (by the diplomatic mission from the country where the victim is being repatriated from, by the NGO that is handling the



## Parliamentary Committee of Inquiry into the situation of missing children

repatriation, or by another law enforcement institution involved), such as: age, trafficking history, health problems, other risks, etc. Based on this preliminary data, ANITP informs other agents involved in the repatriation and assistance process (police, constabulary, border guards, NGOs, DGASPCs). Once the victim arrives at the airport in Romania, they are welcomed by an ANITP representative, a representative of the service provider and, depending on the information obtained, by the police or constabulary. A preliminary analysis of the victim's situation is performed and a proposal regarding existing options is put forth: placement in a centre, medical assistance, legal counselling, etc. The victim decides what happens next. Most often, the victim refuses assistance and requests only to be sent home. However, they are offered some assistance at a local ANITP level. Very few victims need immediate housing or request help. Some need one night of housing before going home the following day. Always with the victim's consent, they get offered housing services, legal advice, psychological advice and social assistance. In the case of minors, DGASPC will always coordinate the case and decide for the victim. On initial assessment of the child victim, all risks of re-trafficking are taken into consideration. In 2019, 8 victims were given shelter, according to ANITP data.

When it comes to a potential victim of trafficking where intervention of law enforcement is necessary, ANITP will transfer the case to DCCO – which in turn transfers it to DIICOT by following specific procedures. Complaints are usually received through Tolverde – out of a high number of calls (2500 – 3000/year) only approximately 8-10/year are possible trafficking cases. These cases are forwarded to qualified bodies. Each time a possible case comes up (in Romania or abroad), ANITP will redirect it, through the use of the referral and complaint mechanism, to the entities most capable of helping save the victim. Then comes a trial that can last a varied amount of time, depending on the victim's wishes and the evidence that needs to be gathered. ANITP is not part of the legal proceedings and does not follow the process at every step.



## Parliamentary Committee of Inquiry into the situation of missing children

The Ombudsman's office gets involved each time a missing child is reported and initiates their own investigations. Based on the findings, they then send recommendations to the DGASPC or Children's home involved. Most often the results have been positive and people have interacted in a positive manner with the Office of the Ombudsman, according to Renate Weber. The institution sets things in motion automatically and sends a team of at least 2 people to the minor's location, they have conversations with the victim, with the personnel and management of the institution where the victim is and request additional data and documents regarding the victim's history and case from other institutions. After this initiative is taken, a report is filed and a proposal with general recommendations is sent to the entity or private organization that is handling the case. If criminal activities are detected and no investigation has been launched, then law enforcement agencies are notified.

The procedure to follow in a case, once the recommendations are made: the institution or entity that has received the recommendations from the Ombudsman needs to account for the implementation of the aforementioned recommendation in a maximum of 30 days. In the case of criminal prosecution, the Ombudsman will request information on the developments in the case from the agency in charge, and will usually receive an answer. The Ombudsman's office is a mediation institution that cannot issue sanctions. Meanwhile, the Children's advocate (for children's rights) provides the possibility of representation for the child. The institution has been operating for 1-2 years, and so far has never gone to court to represent a child. However, there have been some cases where it has sent requests to the prosecutor's office in order to protect the interests of children, which means it needs to be kept informed on developments in the case. The Ombudsman's office monitors cases, within certain limits.



Parliamentary Committee of Inquiry into the situation of missing children

## **CHAPTER X**

### **NEEDS AND SOLUTIONS PROPOSED TO THE COMMITTEE OF INQUIRY TO IMPROVE THE ACTIVITY FOR PREVENTING AND COMBATING HUMAN TRAFFICKING AND DISAPPEARANCE OF CHILDREN IN ROMANIA**

#### **NEEDS AND SOLUTIONS**

- Boost of the prosecution system and cooperation of institutions in charge;
- Regulation of the broader concept of missing minors as legislation; it should not remain in the area of institutionalized procedures within the Ministry of Internal Affairs. Even if it implies administrative work, in the opinion of the Attorney General, the development of the society by all means of technology, may not be restricted when it comes to guarantee children's rights and their best interest.
- Increasing the minimum sentence (the great public debate and other working groups where the Ministry of Justice operates: whether or not there is cause to increase the penalties. MJ is open to any legislative amendment that would eliminate from the picture the clemency of the law. One should consider that simply increasing the maximum penalty would not automatically result in discouraging or combating the problem, on the contrary. If the maximum penalty is excessive, it was found that the judges are turning to the minimum penalty);
- For the last 15 years the Ministry of Justice has been in charge of the modernization of the legislative framework in order to facilitate the international cooperation, but now it must take care of human resources and logistics (in some cases, the criminals' technical equipment rivals and overcomes the prosecutors');
- Implementing the recommendations of the international reports regarding Romania, for the judicial authorities' increase specialization, reducing the duration of the trial, avoiding the re-victimization (for minors and adults).



Parliamentary Committee of Inquiry into the situation of missing children

- The Ministry of Justice requested the prosecutor's offices to move on to another type of mentality and approach which should exclude routine. A customized approach of this phenomenon is needed. We need professional specialization and super specialization and harmonization between the prosecutor's offices and the police. If one did not solve the prevention of the phenomenon and the recruitment (the 2 edges of the phenomenon), 'we only maintain the trafficking' said the Minister of Justice. Professional specialization should not be just on paper. It is important to train and keep these specialists;
- The prosecutors' and policemen's permanent specialization (of which DIICOT has benefited - with the help of the Embassies of the US, France and Great Britain, since 2004). The policeman (border guard, criminal investigation policemen, the Rurales) - who is the first one who comes in contact with a victim needs to have essential information which would allow him to identify a potential victim of human trafficking. The victim does not always contact a specialized policeman. Usually, people go to the rural police to file a report about a possible trafficking situation. It sometimes happens that these cases are not recorded or that the problem is not taken seriously. There is a weakness in the legislation that allows aggravated procuring to be mistaken with human and minors trafficking. Lack of training on a wide scale of the first line policemen (not the ones from DCCO which are very few and do not make the first identification of the victims) leads to such situations;
- The specialization of the judge – it is important for the judge to have the same data about the phenomenon as the prosecutor and the policeman, in order to understand the phenomenon and the crime, how the trafficker thinks and operates and to understand the victim; in 8 years or less the crime could be prescribed. In court, it is possible for the defence team to silence the victim or to generate fears (no matter how serious ANITIP's or DIICOT's efforts for protection are);
- Creating of a clearer and stricter methodology by the Ministry for Labour and Social Protection regarding the modalities by which passes are granted for minors residing in



Parliamentary Committee of Inquiry into the situation of missing children

DGASPC facilities. Thus, it is also necessary to establish responsibilities for employees regarding security, surveillance and communication with the police;

- Creating an “SMS alert” system on the model of ISU, to inform the people in the area about the description of the missing person;
- The need for a coherent legal framework of collaboration and cooperation between all the research and investigation institutions and the social care and child protection institutions. MAI declares its full availability and support to identify an instrument that should provide a better activity in this field. Bogdan Despescu, MAI Secretary of State, said that at the beginning of 2019, after discussions with representatives of the prosecutors and with leaders of the institutions activating in this field, MAI initiated a strategy for a better cooperation with the NGO’s and other partners that can help in the endeavour to prevent and fight human trafficking. There is a committee within MAI which has a secretariat provided by ANITP. Many activities were developed along with NGO’s, the US Embassy, where the report regarding Romania was discussed. An action plan was made, and MAI declared they had made headway regarding some endeavours in this field of activity. A meeting of this Committee was scheduled at the end of September 2020 in order to assess the progress in this field of activity;
- Within DCCO, there is another specialized entity that, along with DIICOT, develops activities in order to dismantle the human trafficking gangs. In 2020, the actions in this field had very good results, said Secretary of State Despescu; they provided weekly briefings about the files and the investigated cases, some of them with an arraignment. MAI said it has to make a common front with all the authorized institutions regarding the victim (especially with the National Authority for the Rights of Persons with Disabilities, Children and Adoption) so that the victim should come first, should form the basis of the activity and should be properly treated;
- Regulating the aspects regarding the relationship with DGASPC units, so that stricter regime for passes for minors should be created; the employees in charge should obtain a notice from the police following verifications regarding their conduct in society;



Parliamentary Committee of Inquiry into the situation of missing children

adopting working methodologies regarding signals about voluntary departures from the centres in order to clearly establish responsibilities for employees pertains to security, surveillance and communication with the police;

- The need to improve the legislation regarding human trafficking: according to MAI, the High's Court ruling from 2007, regulated the difference between human trafficking and procuring. From the point of view of MAI, other additions to the normative acts and to the laws in force may be considered so that the activities should be more efficient, respectively to create certain instruments to facilitate real application of what means money recovery, forfeiture illegally obtained from human trafficking. The Romanian Police started a legislative initiative in order to have a law regarding missing persons. Formation of an administrative mechanism is intended in order to ensure a better coordination of the public institutions in the field of searching for missing persons, that should apply separately from the regulations of the Code of Criminal Procedure, because there are cases that do not fall into the criminal offence category, so that one cannot use instruments provided by CPP in a procedure of searching for a missing person, in cases in which there is no evidence that the person was abused or impaired in any other way;
- MAI has initiated a project in order to raise efficiency in the institution with a few components. One of them refers to the strengthening of the structures fighting the organized crime, besides other structures such as the community police, the police for crime research and prevention, special ops, special investigations, etc. One of the components approached by MAI is a much wider support for the combat of organized crime.

To render the new structure dedicated to missing children within IGPR at the rural level, given that DIICOT and the Attorney General underlined that the rural police is inefficient (the countryside being the main source of solicitation for the trafficking networks) and needs improving its activity. The community police should notice if and when a child has disappeared from the family: according to MAI, starting with 2016,



Parliamentary Committee of Inquiry into the situation of missing children

the rural police has been facing a personnel shortage and the same rapid dynamic. The number of policemen in some communities is insufficient, that is why MAI considers it necessary to create this structure. From the point of view of professional training, the tool MAI proposes is to permanently provide communication by an electronic system, so that all the information should be sent to that specialized structure, which should further analyse the cases based on the data provided by the workers in the territory. Because of the personnel shortage and insufficient training of the policemen, the phenomenon could not be addressed in an integrated approach;

- An early detection of the circumstances that led for a person to get into such a vulnerable state and to put themselves into such situations that allow recruitment and obedience toward certain activities, respectively databases that should help to identify the potential victims of human trafficking; this would support Europol and the Romanian Police (including a database with the poor areas where most of the victims come from, which should be at the disposal of the police; if a young person abandoned school, he must somehow earn a living and is exposed to the risk of being exploited);
- To assess the reason the child has left and review the individualized protection plan in order to satisfy his needs and to support his reintegration in the centre or in another facility within the child protection system;
- Joint actions to prevent departures from the centres, in the sense that if these children would have nowhere to go, would have no other options, they would no longer leave.
- Prevention within the Roma communities, where families impose that girls over 16 years old should be independent.
- A Guide taught and used for police training, especially in the rural areas. Without this information, it is difficult to identify such potential victims.
- Europol recommends the merge of the 2 structures within MAI: the structure for crime prevention and combat and the community policing, which should be in the middle of the community.



Parliamentary Committee of Inquiry into the situation of missing children

- In order to meet the needs and the operational cases, two very important standards are needed: a personnel standard and a workload standard; without the 2 standards, the real needs of this phenomenon will never be covered.
- The area of financial investigation associated with human trafficking should be developed;
- The need to create children's courts. There are complex cases especially when children are involved. There is only one court for minors in Brasov. The problem is not just about the specialization of the court but also of the prosecutors investigating the children and amendments to the legislation. The Ombudsman's Office has a lot of investigations with children that have committed offenses that are not included in the CPP. These children keep on repeating these little offenses until they become adults and their crimes become offences included in the CPP. Thus, society urges the child to commit crimes, from the point of view of the Ombudsman;
- Developing centres to provide services for the victims of child trafficking – they cannot be mixed with adult victims. There should be specialized centres at the county level (the psychopathology of the child is different from that of an adult);
- Compliance with the mandatory requirement to notify the police about the fact that the child has not returned to the centre;
- Informing the authorized institutions about all the special incidents that occur in the centres and applying all the aspects of intervention regulated by the Minimum Quality Standards and approved by Minister's Order, based on which the institutional care homes operate;
- Establishing clear rules and procedures of intervention between the General Inspectorate of Romanian Police and the General Directorates for Social Assistance and Child Protection when cases of missing children are involved;



Parliamentary Committee of Inquiry into the situation of missing children

- More legal regulations should exist to support the municipalities to develop day care centres and other social services as close as possible to the residence of the beneficiary, of the children;
- The need for standards and methodologies coming from the central authorities regarding human trafficking (not only prostitution but also begging), intended for the victims and the need for specific services intended for the victims. Without these, DGASPC can offer only advisory services along with the other competent institutions, which is certainly not enough;
- Regulating a cooperation protocol for cases of human trafficking, by forming a team composed of specialized psychologists, nurses, social workers (charities) and a case manager from DGASPC, a team which will solve the missing/trafficking case;
- The specialized non-governmental organizations should have a position regulated by law regarding solving these cases, for support and psychological assistance (intervention is required especially for small children and teenagers, in order to avoid that, after 3-4 years, they should leave Romania for prostitution on a voluntary basis);
- Improving quality standards for social services with accommodation, organized as residential centres for the child who is a victim of human trafficking, within the Ministry of Labour.
- Police structures should organize prevention activities in the residential social services, which can ensure an increase of the level of information and awareness among the children and the young protected by residential services, regarding the dangers and consequences of leaving without permission from the centres;
- Ensuring and monitoring the application of measures to prevent and combat alcohol and drug consumption, to prevent and combat domestic violence and delinquent behaviour;
- Periodic house calls to families and children that receive social protection and assistance services, as well as to families which take care of children whose parents have



Parliamentary Committee of Inquiry into the situation of missing children

gone to work abroad, by public bodies for social assistance in villages, towns and cities;  
strengthening the cooperation between social services, police units and schools;

- Elimination of the legal regulation by which the legal representation of a minor can be given to an employee of DGASPC;
- Addition of psychologists in DGASPC centres, including, if necessary, modifying the org charts in this respect;
- Permanent training and professionalization of the psychologists already working within DGASPC centres;
- Hiring, in this centres, qualified personnel, experienced in managing behavioural or personality disorders found among children;
- Psychological counselling and continuous help and assistance programs for children in social care and protection centres;
- Psychological counselling programs for prosecutors who investigate for a period of 1-2 years difficult cases of human trafficking and child pornography;
- Much wider institutional cooperation between the General Directorates for Social Assistance and Child Protection and the Ministry of Labour and Social Protection through the National Authority for the Rights of Persons with Disabilities, Children and Adoption;
- A structured framework to monitor the children after they leave the social protection system and a database with all these children;
- Security and protection offered to the victims (given that, if they testify in court, they become targets for the traffickers);
- Developing a protection system for infants – there are cases of child pornography generated by the parents;
- Victims of human trafficking should be able to testify in court;
- Training the judges in the matter of psychological understanding of the victim;



Parliamentary Committee of Inquiry into the situation of missing children

- A total ban on the administration of psychotropic medication to the minor, when needed, and removing the nurses' freedom to administrate, if necessary, these substances, especially because these persons don't have the proper training;

## **CHAPTER XI**

### **FINDINGS DRAWN FOLLOWING THE FULFILMENT OF THE OBJECTIVES OF THE COMMITTEE OF INQUIRY**



Parliamentary Committee of Inquiry into the situation of missing children

Romania is on the first place in Europe regarding human trafficking, this statistic being proved by countless international reports, the last of which being the third progress report of the European Commission from October the 20<sup>th</sup>, 2020, regarding combat of human trafficking, under article 20 from Directive 2011/36/EU for prevention and combat of human trafficking and protection of the victims of this phenomenon.

Human trafficking is a special problem, given its dimensions and needs a special attention from all the entities involved. Number one is the trafficking for the purpose of sexual exploitation, in which the main targets are women and girls; next is labour exploitation in which the main targets are men and in third place is trafficking for the purpose of begging exploitation. The Public Prosecution Service admits the conclusions of the international reports regarding the fact that Romania continues to be the country of origin. These reports (the Greta Report, the US State Report and other reports at the UE level) prove that there are many facets of the trafficking: for labour, sexual exploitation, begging.

Human trafficking is more than a crime under the Criminal Code, said the Director of ANITP. It is a social phenomenon, with specific characteristics, from the causes that generated it, to the circumstances which favour the development of the phenomenon. There is still a large mass of manoeuvre for traffickers, according to statements by ANITP director.

In 2014, together with the new Codes a new, higher standard of probation has been introduced. Regardless of legislation changes, DIICOT cannot force a judge to sentence or resolve a case within a certain period of time. All CCR (Constitutional Court of Romania) decisions lead to irregularities and changes in the legal practice in Romania (a normal course of events according to the Chief Prosecutor of DIICOT). All the standards applied before 2014 have since been modified.

In regards to sexual freedom, Penal Code article 220 only bans sexual relations with a minor of 15 to 18 years of age only under certain conditions. Sexual acts with minors 15-18 years of age are not always considered a crime. It is an area that requires greater attention



## Parliamentary Committee of Inquiry into the situation of missing children

from the Public Ministry, as there can be no direct control over the example mentioned above. The presumption of innocence has to always be sought after when administering evidence. If an element of violence or force is invoked, then it also needs to be proven in a case of sex with a minor. During the investigation, special attention must be given to the age brackets and to the differentiating factors, as there are many elements that can be used to verify the legality of an action. Prosecutors are focused on clarifying all aspects of the issue while respecting both parties involved in the case.

Disappearance as a phenomenon can only be solved through the use of administrative measures, and trafficking of minors has criminal valence. Of course, even missing person cases might also involve crimes of unlawful imprisonment. Through data collected in recent years, we can see that the number of minors that were victims in closed cases has remained constant. Indeed, Order number 213/2014 by the Attorney General of the High Court of Cassation and Justice gives structure and function to the information system of the Public Ministry, which in turn controls the collection and structures of statistical forms and data. From a statistic viewpoint, the Attorney General mentioned that some of the data is meant for the understanding of criminal activity and to the possibility of adopting certain measures to verify the quality of criminal investigations. The collection of data might also be done for criminology purposes, which differs from statistical knowledge. The unfolding of the victim section includes both minor and adult victims. This structure of unfolding statistical data based on crimes committed and specific indicators has great continuity. According to the Attorney General, even though this Order is from 2014, it completes previous ones and the new facets are due to the approach to new crimes in the new Penal Code.

Regarding cooperation at an international level, when it comes to the European Union, Romania benefits from tools and cooperation methods. One of the most formal elements of this kind of cooperation is a joint investigative team established either by a foreign state or by a Romanian entity (i.e., DIICOT), as per Law 302/2004. The joint investigative teams launched by DIICOT to address human trafficking constitute the largest number of such tools employed by any member states. This cooperation works toward coordinating judicial activities on



## Parliamentary Committee of Inquiry into the situation of missing children

common actions, by participating in auditing activities abroad or using the European Order of investigation implemented by Romania ever since 2017. All tools available are rolled out by DIICOT and, according to the Attorney General, in the evaluation plan for international cooperation, Romania has positive scores. Joint investigative teams have been established with Poland, France, Great Britain and Sweden.

On a national level, the Ministry of Internal Affairs has thought up a mechanism and a specialized structure which can be actioned to clarify the issue of missing children. This structure wasn't in place during the audit, however it was meant to be rendered operational (through a Ministry order, according to Bogdan Despescu, State Secretary for the Ministry of Internal Affairs) immediately after the audit. At that time, the exact membership, hierarchy and additional MIA assignments would be announced. This structure would operate at an IGPR level, as well as at a General Directorate of Bucharest Police and County Police Inspectorate level. The membership would be established for each county, based on the volume of activity. The structure will handle the search for missing persons exclusively and will include very well-trained officers. The Ministry of Internal Affairs has also initiated talks with external partners in order to train the officers in this field. The structure will operate on a general (national and county) organizational chart. The intent is to attract specialists, either officers with specializations in different areas than the Police Academy (such as psychologists and other staff that could perform activities other than searching).

It is known internationally that human trafficking generates huge profits, at low risk of being caught for the traffickers. The networks are complex (the recruiters, transporters of victims, the hosts and especially those who benefit from services from the victims). There is a great demand for sex work and cheap unpaid labour. There can be no significant results in combating the human trafficking and missing children phenomenon in Romania if favourable economic and social conditions are not reduced (poor standards of living in rural and impoverished areas, low levels of education, abusive family life). The demand keeps human trafficking alive.

Using the services of a human trafficking victim is not a crime in many EU countries.



Parliamentary Committee of Inquiry into the situation of missing children

Even in those countries where it is considered a crime, there is no judicial practice of investigating and sentencing the recipients. All these things create an environment that allows traffickers to take advantage of the system weaknesses. Traffickers find ways of identifying system vulnerabilities in the countries of origin and destination of the victims. It is an ever-changing phenomenon.

Although data suggests that the number of human trafficking victims has risen, the number of files recorded has lowered. The number of investigations will never be lower from year to year, however there are certain trends that differ from one year to another. There is a certain typology for committing a human trafficking crime. Romania has been and continues to be the main source country for trafficking of minors. According to DIICOT, a concentrated effort also has to be made by the destination countries. As long as there is demand for sexual services and forced labour in these countries and begging is seen in a lenient light, then the influx of minors from the source country (Romania) will stay the same. The needs identified by DIICOT demand that all international cooperation tools must to be used. They also state that human trafficking is hard to prove, as this crime needs to be circumscribed under article 182 of the Penal Code (according to DIICOT's Chief Prosecutor, the rate of acquittal is 2% - one justification of this being that it is normal for a country to also have acquittals, and that the judge is entitled to consider the situation differently from the prosecutor). Corruption of minors or the solicitation of minors is not within the remit of DIICOT.

In this context, the Ombudsman inquires the General Prosecutor, the Superior Council of Magistracy (CSM) and the National Institute of Magistracy (INM) regarding the way crimes against children are being investigated, seeing as the court rulings are unjustifiably lenient. Thus, the Ombudsman's office has taken the initiative to confer with the judicial bodies in question: "it is a matter of instructing the judges. The way to intervene in these investigations should be part of a magistrate's training. In different kinds of abuse, but especially in sexual abuse instances, all networks that should be dismantled could be taken down, if the approach were different. The Țândărei case is revolting" declared Renate Weber, the Ombudsman. The usefulness of replicating and multiplying the Children's Court model in Brasov is being analysed



## Parliamentary Committee of Inquiry into the situation of missing children

by the General Prosecutor's Office and CSM. No other specialized courts have been established. This model has not been replicated, even though there are specialized administrative contentious and litigation courts. The Family Court in Brasov is even more specialized. There are both benefits and possible arguments against replicating such a model. Such a structure would involve creating a prosecutor's office. The matter of human and child trafficking is under DIICOT jurisdiction. Reports can come from the prosecutor's office, DIICOT or DNA. The Attorney General declared that the specialization or double specialization of each prosecutor in the normal offices is a better method than building one specialized court. The number of general competence court cases is much higher, even if we include judges' experiences. Work skills are developed and a consolidated understanding of the criminal phenomenon takes place. The Public Ministry needs more resources and the criminal trial of a minor needs to be as confidential as possible in order to avoid exposing the person and re-victimizing them. Human resources, time and materials are necessary to ensure this, and each member of the judicial process should make all cases clear on all aspects.

In regards to the non-governmental institutions involved in the prevention of human trafficking and missing children, there are too few of them at a national level and are often times not covered by legislation in order to perform their activities and provide protection services and social assistance. Nevertheless, progress has been made in Romania when it comes to the level of implication of such organizations. They have the support of state institutions such as Europol, MAI/IGPR and the Ombudsman. Unfortunately, their relationship with state institutions that offer protection and social assistance hasn't been shown in the best light to the Committee – certain complaints have been made, especially regarding the relationships with the Ministry of Labour, with NARPDCA and local GDSACP. Following the audit of the Reaching Out Romania Foundation on the 15<sup>th</sup> of July 2020 by the Committee of Inquiry, the President of the Foundation Iana Matei emphasized irregularities in the state run system of child protection. As a result, the Minister of Labour Violeta Alexandru made an unannounced visit to check the foundation headquarters in Arges County.

Following these complaints, the Committee of Inquiry invited the Ministry of Labour to



## Parliamentary Committee of Inquiry into the situation of missing children

an audit, on the 2<sup>nd</sup> of September 2020. The Minister declared that this visit was only in a monitoring capacity, seeing as the entity is one of the few dedicated to the care of victims of human trafficking. The President of the foundation later complained that there were hidden motives behind the visit and the Committee of Inquiry requested a visit report from the Minister of Labour Violeta Alexandru. She in turn refused to provide this report, stating that she is under no obligation to do so as she is not under investigation. According to Violeta Alexandru, there are institutions specialized in investigating criminal activities found in local GDSACPs, such as the Romanian Police. She also mentioned that GDSACPs are subordinate to county councils, which means that if their employees don't respect the job description requirements, then their superiors have tools to help them check. After multiple complaints from NGOs about their collaboration with the Ministry of Labour, Minister Violeta Alexandru denied the accusations, stating that it is normal for certain entities to be displeased and that she has tried to take into account all suggestions she has received.

### **CAUSES OF CHILDREN MISSING/LEAVING FROM CENTRES, INCLUDING CASES OF TRAFFICKING FOR PROSTITUTION OR BEGGING PURPOSES**

Europol has noted a doubling of the number of missing children in the last 5 years. Even though 50% of them are voluntary, a certain typology can be seen for children choosing to leave (children's homes, institutional care centres and other social housing). Despite the fact that they are treated as regular absences, on the premise that the children will return, it is important to note the time they spend away from the centres. During that time, the minors are a clear target for people who can prey on them. They can end up in an environment that can lead to future chances of trafficking (for labour exploitation, sexual exploitation, pornography, etc.)

According to DIICOT, vulnerable minors who are susceptible to being trafficked are from rural areas, from disorganized families or families that have abandoned their children to relatives and left the country. These relatives seldom support the children the same way a parent would, by offering education or philological support. The most prone areas are



## Parliamentary Committee of Inquiry into the situation of missing children

impoverished, without enough jobs and with high unemployment and school dropout rates – these factors are the ones children need to escape. Thus, the first trafficker that appears, usually a man, will convince the minors that he loves them and that he can offer them a better life. These child victims become vulnerable from the moment the generating causes first appear (lack of attention from the family, abusive or alcoholic family, poverty, etc.) and it is very easy to convince a young mind to follow a pleasant dream outside of the rough situation they are in. Very often during recent years, traffickers are very nice to the victims at first, leading up to trafficking, violence and exploitation. The children come to believe that their abuser is in fact their saviour and that they are better off than in the environment they came from (this is the case in almost 90% of such instances). Counties with high cases of repeat offenders are those with very low economic growth potential (such as Botosani, Suceava, Vaslui).

According to the Ombudsman, the causes that determine such absences depend greatly on the way the children were being treated in the centres. Most of the children come from impoverished areas and need communication. Throughout their lives they build up frustrations and can come to have a disturbing behaviour. As long as a proper solution is not found to address these vulnerabilities, the children will always be prone to “fall victim to the first song they will ever hear”, which oftentimes happens outside the centres in the protection network.

According to declarations from representatives of DGASPCs, but also from representatives of IGPR/MAI, the minors leave centres for the following reasons:

- important behavioural, emotional and educational shortcomings, the children only wish to return to their families/friends;
- more freedom to spend time with friends. There are also instances of children who leave committing crimes;
- children who create such problems and that frequently leave are from urgent care children’s homes, where one psychologist works with a maximum of 15 children (as is the case with Braila County);
- voluntary departure from home or care centres;



Parliamentary Committee of Inquiry into the situation of missing children

- unnecessary alerts, due to lack of communication between parents/guardians and children;
- accidents (drowning, traffic accidents, etc.);
- a child taking another child against his/her will;
- assault of the child (sexual assault, ordered begging, prostitution, involvement in crimes or trafficking to another country).

According to IGPR, out of the total number of cases of missing minors, about 40% are at the DGASPC level (DGASPCs are the main source of “recruitments” by traffickers, a fact which has been rebought to the attention of the Committee of Inquiry by Iana Matei, the President of the Reaching Out Romania Foundation). Most of the disappearances occur in the capital, in sectors 1 and 6 and in Constanta and Iasi Counties.

Traffickers recruit children from marginalized areas, who come from families with issues such as alcohol abuse, lack of education, broken homes or where the mothers were also victims of disappearance as children, children who come from homes with domestic abuse, school abandonment, with psychological issues or even children born at home who were not officially declared. Adults who are still being trafficked have a history of trafficking and exploitation ever since childhood (beginning with 2007, the number of minors being exploited on the streets has risen and thus, more girls have increased the number of prostitutes in Western countries).

From a psychological viewpoint, the girls who leave voluntarily to become prostitutes do so because of repeated childhood traumas, which reduce life expectancy by 20 years and can increase the risk of certain diseases. According to the NGOs audited, none of the girls who have now reached majority have declared that they wish to be prostituted. However, the girls have admitted that prostitution is the only thing they have ever known, ever since childhood.

Both Mia Scarlat, sociopsychologist and founding president of the Mia’s Children Association and Mirela Zivari, psychotherapist have been audited by thr Committee of



Parliamentary Committee of Inquiry into the situation of missing children

Inquiry on the 22<sup>nd</sup> of July 2020 and have confirmed that “people who are trafficked for the purpose of begging or sexual exploitation are recruited from DGASPCs through Facebook”.



Parliamentary Committee of Inquiry into the situation of missing children

## **CHAPTER XII**

### **DOCUMENTS RECEIVED BY THE COMMITTEE FROM INSTITUTIONS AND OTHER AUDITED ORGANISATIONS**

1. THE MINISTRY OF INTERNAL AFFAIRS – IGPR
  - Statistical summary of cases of missing minors by sex/age of the victim between 01.01 -30.06.2020
  - Statistical summary comparison with other European states.
  - Statistical summary of reasons behind the disappearance of minors
  - Procedure to follow in filing such cases
2. THE NATIONAL AUTHORITY FOR THE RIGHTS OF PERSONS WITH DISABILITIES, CHILDREN AND ADOPTION (ANDPDCA)
  - General presentation of the special protection system
  - Short presentation of residential (housing) type services
  - Statistical data
  - General aspects of improving the activities for the prevention of this phenomenon from a social services perspective
3. DIICOT
  - Solved human and minor trafficking cases
  - Solved child pornography cases
4. MINISTRY OF JUSTICE
  - Approaches and measures adopted/initiated by the Ministry of Justice regarding human trafficking and the missing children phenomenon
  - Inter-institutional cooperation methods relating to human trafficking
  - Relevant statistical data
  - Legal aspects pertaining to trafficking of minors



Parliamentary Committee of Inquiry into the situation of missing children

- Draft legislation initiated by MAI for the search of missing persons
  - Viewpoints and history of legal initiatives by the Ministry of Justice
5. REACHING OUT Romania Foundation
- Statistics on country of origin of trafficking victims forced into prostitution from 2016, 2017 and 2018
  - Approach number 1727/4.11.2014 for the director of DGASPC Dolj on behalf of the President of Reaching Out, regarding the repatriation of two minors who are victims of trafficking
  - The Foundation's proposals to establish standards against human trafficking of minors
  - Copy of criminal case number 215/63/2014 filed with the Appellate Court in Craiova, on human trafficking of minors. The injured parties in this case were two minors in the care of the Foundation at that time.
  - The financial statements of the provider of social assistance in 2018-2019
6. THE POLICE INSPECTORATE OF IASI COUNTY (IPJ Iasi)
- Prevention activities for human trafficking performed by IPJ Iasi in collaboration with other institutions
  - Copies of complaints/requests received by IPJ Iasi from Mrs. Larisa Butnariu (victim of human trafficking)
  - Copies of the replies sent to Mrs. Larisa Butnariu from IPJ Iasi



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## **REPORT OF THE PARLIAMENTARY COMMITTEE OF INQUIRY AS ADOPTED BY UNANIMOUS VOTE**

### **Members:**

- Mihălcescu Carmen-Ileana - PSD
- Săftoiu Ana Adriana - PNL
- Manole Petre-Florin - PSD
- Boboc Tudorița-Rodica - PSD
- Calista Mara-Daniela - PNL
- Dobrică Ionela Viorela - PSD
- Iurișniți Cristina-Ionela - USR
- Mircea Florin – PSD
- Oteșanu Daniela – PSD
- Pașcan Emil-Marius – PMP
- Podașcă Gabriela-Maria - PRO România
- Popescu Nicolae-Daniel - USR
- Raețchi Ovidiu Alexandru - PNL
- Socotar Gheorghe-Dinu - PSD
- Vass Levente – UDMR

**COMMITTEE CHAIRPERSON,**

**Carmen-Ileana MIHĂLCESCU**

**COMMITTEE SECRETARY,**

**Petre-Florin MANOLE**