

# THE PROFILE OF HUMAN BEINGS TRAFFICKER

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**Abstract:** A typology of trafficker persons can be conturated on existing cases or on ways criminals operate. Characteristics like physical profile or social aspects are mostly observed; also the age of the traffickers is important, their occupation/profession and manners of action in order to determine the person to accept their offer. Romanian legislation provides criminal hypostases as: author of the infraction, but doctrine and judiciary practice distinguish between autorate, coauthrate, accomplish, instigator; public officer can be found also in cases of human trafficking.

**Keywords:** profile, trafficker/recruiter, author, coauthor, instigator, public officer

## Introduction

According to the general theory of penal law, crime's active subject, including that of human trafficking "[...] can be only the 14<sup>th</sup> years old person who has committed or attended with guilt to an act provided by penal law" (Basarab, 1997, p. 409). In criminal human trafficking, including with minors, attempt is punished too (art. 15 par. 1 of Law 678/2001 about preventing and combating trafficking in persons, with subsequent amendments). Any person who commits "an action (inaction) provided by criminal law, either the rezult is consumption or not (when the attempt is punished) and no matter like what contributes (author, co-author, instigator, accomplice) is perpetrator, but the criminal liability intervenes only when the action or inaction was committed with guilt. In this last case there is infraction, and the perpetrator becomes criminal" (Basarab, 1997, p. 409).

We specify these issues as I studied 8 cases of people executing prison sentences with solid indication of guilt because the guilt of committing human being infractions and numerous bills of indictment was drafted by specialized prosecutors.

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## **Theoretical framework.**

### ***Author/authorship of the infraction of trafficking in persons.***

Active subjects' infraction of trafficking in persons – the traffickers – both women and men, as minors can run their own illegal activities together or with others; social relationships between them can be very different: family, friendship, conventional; there are also situations when traffickers don't know each other, but they are collaborating in view of criminal resolution; reporting to Law 678/2001 about preventing and combating trafficking in persons, with subsequent amendments the literature conturated by real cases the profile of human trafficker.

### **Methodological section**

The research type is a descriptive – exploratory one. The research investigates the features of persons who committed human trafficking crimes. The analyzed posture is, according to Romanian special legislation, that on author with its variations: coauthor, accomplish, instigator public officer on cases occurred in reality but also presented in mass media.

### ***Typology of human traffickers***

A typology of human traffickers is difficult to determine because it can be found in different modalities of committing human trafficking offenses and in connection with these there are many. For all that, some specific features have been outlined in specialty literature.

Active subjects of human trafficking offences are recruiters or attracting persons whereof literature mentions that they “are young people, well dressed and make a good impression using the outward signs of their wealth: clothing, car, mobile etc. and by success stories about their own or others' achievement who have gone to work abroad and they are more convincing as they present very attractive working conditions: well payed jobs in west European countries that require no special qualification” (Ștefăroi, 2005, p. 28). They can be both men and women.

There are cases when active subjects are women – “the first link in the chain of trafficking and is captng girls' confidence and interest very easily, advantage of the lack of life experience or education, their poor condition and their naivety by presenting the same persons' cases of people who have gone to work abroad and returned after a short time with large amount of money”(Ștefăroi, 2005, p. 28).

Recruiter/recruiters profile has been contoured in specialized literature, presenting the following characteristics:

- men aged between 20 and 30 years, even older represent 70% of recruiters;
- women aged between 18 and 35 years or more;
- family.

Physical layout is such aestheticized that it inspires confidence, material situation of recruiters is known as good, “even isn't ostensibly presented [traffickers are

known] for connections with underworld” (M.E.C.T.) and their frequent occupations are the most various, like bartender, taxi driver, seller and usually involve contact with people or they can be “employees of a phantom company”(Romanian Patriarchate, I.O.M., 2003, p. 23).

Recruiters can operate independently organizing all stages of trafficking, from recruitment to profit or can be affiliates on traffic human beings networks.

Also, among recruiters women can be encountered who once were themselves recruited for traffick, were victims of trafficking and knowing “[...] very well trafficking mechanism, became very experienced in attracting victims and their placement for exploitation” (Ștefăroi, 2005, p. 28).

Some of these deal on their own with human trafficking, the temptation represents large amounts of money, easily obtained, and others to the pressure of pimps. Effective recruitment for exploitation requires ability to attract the victim and make her enter the game.

### ***Changes in traffickers' profile***

The features of trafficker recruiter have been observed until 2005; after that, some common features were also outlined and identified (L.A.D.O. Satu Mare, 2008, pp. 21-22):

- Traffickers' age range was increased, as between 20 and 45 years old, although there are exceptions, and about social determinism into this activity it was considered that “availability of sociocultural values determined orientation to illicit nature activities as a result of the lack of alternative models and support required for a good development of personal identity”;
- Careful physical layout is constantly present and promises success;
- The average level of education (it can be deduced from observations until 2005, traffickers' occupations being bartenders, taxi drivers, sellers) but it is considered that “person recruitment and trafficker suppose communication and persuasion skills acquired in a formal education. Most of the recruiters/traffickers are high school or professional school graduates although this criterion is not a generally valid; in many cases life experience and thus organized crime networks had substantially helped «to educate» the necessary abilities skills;
- The new and unique subliminal manner of action for categories of traffickers is to provide potential victims “[...] the ability of a person to relate with others for needs to overcome, thus ensuring the ultimate: the recruitment”;
- Recruiter affiliates to a trafficking network for facilitate covering transport steps are accomodation, proper exploitation and possible sale or shift or the victim;
- Trafficker may manifest a violent behavior, especially using verbal or physical aggression to control victim reactions, but also a means of

- correction – real or anticipatory – following the submission or submissive behavior, eg accepting all clients on prostitution cases;
- Trafficker is very well organized, although initially they let potential victims to oscillate between giving up or accepting the offer, but in reality, he is meticulous, following a predetermined plan, even unexpected events are in fact, surmountable using manipulation techniques as certain pressure on the victim who would delay conditioning: *now or never*;
  - A new approached technique also mentioned in specialized literature (M.I.R.A., A.N.I.T.P., 2007, p. 30) is assimilating *lover boy* role, a way to impress by offering gifts, money, trips etc., potential victims finally become the real victims.

We appreciate that *lover boy* can be considered a separated category of recruiters that involves spending some money, objective that the trafficker didn't propose; *the lover* (courtesan) wants to make sure of the future gain, wishing to be 100% sure about the deal; there is the possibility that the victim became susceptible and conviction is difficult.

### ***The public officer/servant as recruiter***

A special category of recruiter /active subject of crime is under Art. 12 par. 2 c of the Law no. 678/2001 about preventing and combating trafficking in persons, with subsequent amendments as the public officer that in exercising their duty commits the crime of trafficking in person; offence committed by person who owns it is punished more severely than the offense being aggravated form compounded legislature providing for a limited form of punishment between 5 and 15 years and the prohibition of certain rights, compared with imprisonment from 3 to 12 years and interdiction of certain rights (for the simple offence).

Amendment of the law has occurred on the one hand because “[...] in many cases criminal activities of traffickers were facilitated by representatives of public authority and on the other hand, by introducing the aggravating circumstances, in addition to those already in use by Law 678/2001 which is found between the listed in Article 24 of the Council of Europe Convention on Action against Trafficking in Human Beings, concluded in Warsaw on 16 May 2005 and signed by Romania on the same date –provides a harmonization of national rules with EU existing law to trafficking in human beings” (Ștefăroi, 2005, p. 28).

In this context, special quality held by a public official who commits acts of human trafficking, I'm exposing an event notified in written media:

*“Investigations about the prosecutor accused of trafficking prostitutes will continue in Capital. Magistrates designated by Procuratorate of the Supreme Court to investigate the prosecutor I.B. from Procuratorate Marghita left yesterday Oradea. The preliminary investigations shows that B. former IRS officer was involved in a broad international network of traffickers in human beings. Police and Procuratore sources claim that the prosecutor was parried authorities even the girls went out of their country. B's prostitutes were caught prostitutes themselves in several countries in Europe. They have been brought to Romania under the readmission agreement in European countries. The were brought into the country by Curtici Custom, where, in fact, it has also been*

*heard about prosecutor involvement in the network of traffickers of prostitutes. Regard to a magistrate, the case was taken by General Prosecution. It was found that the magistrate B. exits the country by Border Crossing Point Control Valea lui Mihai where he had great influence among border guards. Last days, more than 15 border guards were heard as witnesses for prosecutors B. They say that the prosecutor's passport is full of stamps. He often left the country with his personal car, accompanied by 2 or 3 girls?" (Gavrilă, 2003).*

Previous media article is relevant to the case of trafficker public officer. According to art. 147 Penal Code "public officer is any person exercising permanently or temporarily, with any title whatever was invested, a task of any nature, remunerated or not at the service unit of the referred art. 145" and according to art. 45 Penal Code (2012) the term «public» includes "all the public authorities, public institutions or other legal entities of public interest, administration, use or exploitation of public properties, services of public interest as well as goods of public interest law."

As social effect it has been observed (Ștefăroi, 2005, p. 28) an increase in the number of women recruiter; women who once had contact with the human trafficking and have a delinquent subculture will be inclined to practice this occupation.

### ***Coauthored***

Another way in which traffickers involved in the act is coauthored. "The coauthors are people who occasionally cooperated based on subjectiv connection with another implementing acts (directly) the joint commission of the same crime" (Basarab, 1997, p. 409).

Romanian Penal Code does not define the coauthored because the situation applicable for the author applies for coauthor, for the purposes of multiple authors (perpetrators).

In view of complex nature of human trafficking offences provided by Law 678/2001, the coauthors may be those that contribute to crime, through various acts of participation as required legal content of the crime; they may contribute for recruitment, transportation, transfer, accomodation or receipt of persons (potential victim of trafficking).

Coauthors' role is essential because human trafficking is a crime which requires some organization and execution of specific activities carried out in different locations, located at some distance, in one or different states, requiring various interventions, such as transfer, accomodation etc.: "[...] criminal activity can be finalized or may continue in other states, resuming transport acts, transfer, receipt or housing. In these circumstances, the traffic becomes transnational and borders in the pursuit of which involved more people with precisely defined roles and simultaneous and successive actions are working directly to commit the act" (Ștefăroi, 2005, p. 29).

Specialists who studied the organization of criminal network, especially Italian ones, including human trafficking said that “criminal organizations that manage human trafficking are well structured and branched. Each has a well established part: one deceives the victim, other transport controls, other made accommodation, other takes control labor and others share the profits or make money laundering derived” (Ștefăroi, 2005, p. 130).

In practice various ways of organizing human trafficking activity can be found, which can be specialized in different phases or stages: recruitment, accommodation, transfer.

It has also been claimed that in 2004 pressure on human trafficking is exercised from Eastern Europe from which cheap labour is recruited, through collaboration between the Italian criminal organizations and the respective countries. Mafia organizations operate by “[...] implantation of human trafficking and circuits with persons, on migrations flows spontaneously developed over time that were taken by criminal organizations for conducting illicit activities” (Ștefăroi, 2005, p. 130).

About routes that traffickers used to operate, especially until January 1 2007 when Romania became UE member it can be said that these were predetermined and don't present obstacles for border crossing because contact offenders were intermediaries and often they used guidance for unconventional ways to bypass the authorities. With the quality of EU member Romania, guidances role diminished and the prospect of acquiring Romania the quality fledged Schengen state the guidance role will hopefully disappear.

Persons guidance is “[...] one of the main forms of illegal industry and intentionally illegally migration is organized for people in the 3<sup>rd</sup> world. Most migrants are young people, able to work, with lower preparatory level, who don't speak foreign languages and have no family ties, totally helpless. Migrants become border criminals who are supported by different companies and organizations (their members are generally third country nationals) by an execution staff (hosts, transporters and guides), who usually are residents of border areas. Frequent success of border break is due to the continuous improvement of illegal methods of cross border, using modern transmission technology, equipment with rapid means of transport or attempts at corruption or intimidation of border guards” (Neagu & Aelenei, 2002, p. 34).

Indicating the *routes* used by guides (Romanian Patriarchate, I.O.M., 2003, p. 24) International Organization for Migration exemplified, based on the testimony of victims:

- a possible route for traffic originally from Moldavia, can be transported to the West – by Romania, through Bulgaria, Turkey reaching Western Europe or stopped in Greece or Cyprus for trafficking;
- another possible route for traffic, if the victim left Moldavia or Romania (origin or transit countries) through Bulgaria, where it was possible to be trafficked or continue on to Macedonia where again there is the possibility

for trafficking or just a transit country) finally reaching in Albania; so Bulgaria, F.R.I. of Macedonia and Albania were/are possible countries of transit or destination for victims;

- considering another route formed of countries like Moldavia and Romania, as origin or/transit it's possible that victims can transit or reach the destination in Serbia and Montenegro, Bosnia and Herzegovina and then Italy or Spain; although, following the same trail, starting from Moldavia or Romania, as origin or transit countries, potential victims can pass through Serbia and Montenegro (existing the risk on trafficking) and *via* Bosnia and Herzegovina (again, with the risk on traffic) they were taken to Albania or Italy;
- another route is leaving Moldavia or Romania, as origin or transit countries, with transit or destination possibility for trafficking for Hungary, Austria and finally, West Europe;
- another route followed by victims was that from Moldavia or Romania, as origin or transit countries, directly to Japan or Cambodia.

According to Annual Report of U.S. State Department about human trafficking, from 2006, the destination countries for most of the victims from Romania were Albania, Belgium, Bosnia and Herzegovina, Germany, Greece, Italy, Netherlands, Turkey, U.K., Austria, Bulgaria, Cyprus, France, Hungary, Israel, Poland, Slovenia, Spain, Macedonia. According to I.G.P.R., most of the identified victims in 2006 were trafficked in Spain, Italy, Germany, France, Greece, Austria, Portugal and Turkey (L.A.D.O. Satu Mare, C.R.P.P. Satu Mare, 2008, p. 31).

According to United Nations Office on Drugs and Crime (L.A.D.O. Satu Mare, C.R.P.P. Satu Mare, 2008) for the year 2006, Romania is a transit and destination country for victims from Ukraine and Moldavia; our country is reported as a transit and destination country for victims trafficked from Moldavia, Russian Federation and Ukraine toward West Europe and toward Albania, Bosnia and Herzegovina, Macedonia and Turkey.

Specify that origin countries are those countries named *of origin* of the trafficked victims, where they are recruited; the transit countries are those states where the victims are transported, from origin countries to the destination ones.

The routes were practiced for overcross border through destination countries, “mostly other than the victim promised” (L.A.D.O. Satu Mare, C.R.P.P. Satu Mare, 2008, p. 25), with recruiters or guides, either legal or illegal, under the pretext of trips for individuals for persons who kept the necessary acts for border and illegal for the minors without passport, in which case guides promised “crossing safely the board, in return for payment or free of charge, waiting the right time for leaving the country or group establishment” (L.A.D.O. Satu Mare, C.R.P.P. Satu Mare, 2008, p. 25).

For transport, accomodation or transfer activities participants trafficking offenses are considered *coauthors*, but contributing directly, they will be penally liable “for the

offense of aggravated trafficking, provided by art. 12 par. 2 let. 2 from Law 678/2001” (Ștefăroi, 2005, p. 29) respectively in case of association to commit offenses, belonging to an organized criminal group.

**Accomplice** is another form of participation to commit the offence of trafficking in persons. “The accomplice is the person who, with intention, facilitates or helps in any way to committing the offence under the criminal law, and one that promises before or during is that he will conceal the proceeds of this or that will favour the perpetrator, even after the crime, the promise is not fulfilled” (Art. 26 Penal Code).

Distinction of the coauthorat, the act of complicity “aren’t part of the legal crime content, but in the concrete one. As such, the offense isn’t itself a danger, an infractional nature, but is «borrowing» from the action (nonaction) of the author” (Basarab, 1997, pp. 427-428). Accomplices have the role to facilitate or help the execution crime, but the accomplice has to fulfill the quality, must act all the time with intention (Ștefăroi, 2005, p. 29).

Accomplices acts can be “[...] the obtaining information about potential victims and their supply to traffickers, attracting the victim, procurement of necessary documents for their transport in destination countries, victim’s obstruction for moving according to their will when they want, providing cars or places to the traffickers for hosting the victims” (Ștefăroi, 2005, pp. 29-30).

A coauthorate form, committed by a subject with special quality, public officer, for example war is reminded in specialty literature (Ștefăroi, 2005, p. 30) for failure control of the passports at cross border, the omission in fact constituting an aid to trafficking action.

**Instigator** is another participation way to commit the crime of human traffick and “[...] is possible and consists in the activity of a person to determine with intention another person to perform one or more actions among specific actions in human beings traffick, respectively recruitment, transportation, transfer, housing or receipt of a person, minor or adult, for her exploitation” (Ștefăroi, 2005, p. 29).

The instigator can be considered, himself, the first personage who wants to commit the infraction, but he “transferred this criminal resolution to another person who will take and proceed to its implementation as author, instigator or accomplice” (Ștefăroi, 2005, p. 29).

## Conclusion

Human beings trafficker’s profile is very well conturated, based on real cases; it supposes wellfare people, men or women, young or mature, who acts in many ways, psychologically and materially in order to promise a new and better life for victims; the profile is estetized often and the men use the play role *lover boy*. Although, the action forms are various, a trafficker could be an author or coauthor committing the crime; even the public officer is found in many cases of human trafficking, but often it is difficult to detect it; in the same time, although the



profile is conturated, the infractors (racolators, transportators, the hosts or the exploiters) are changing the action ways for crime.

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