



AGREE PROJECT

Phase One: Desk Research

Romania



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RESEARCH METHODOLOGY

The research objectives were to describe and define the phenomenon of labour exploitation in the agricultural sector both in Romania, and the cases affecting Romanians working abroad.

Research topics

1. *The analysis of the agricultural sector and of the working conditions, amid the background of social, economic and organisational changes in Romania in the rural area. The phenomenon of exploitation of agricultural labour in Romania and exploitation of Romanian workers in agriculture abroad.*

2. *The analysis of the relevant national employment laws concerning the labour exploitation. The manner of transposing and integrating the European Directive 52.*

3. *The analysis of the policies and practices for fighting labour exploitation (both in Romania, and abroad)*

4. *The analysis of the role played in this respect by the trade unions and other civil society organisations (labour disputes, public awareness campaigns, strategic interventions etc.)*

The desk-research consisted in documentation and analysis of different sources: studies and reports, official statistics, legislative acts, data held by public institutions and non-governmental organisations relevant for labour, human trafficking for labour exploitation, organised crime, migration etc.

The information was gathered by the research and analysis of statistics, research, reports, printed documents available on the internet, press articles and official requests for specific information were sent to relevant public institutions in relation to the research topic.

Requests for information were sent to the following institutions and organisations:

- The National Agency against Human Trafficking (ANITP)
- The Directorate for Investigating Organised Crime and Terrorism (DIICOT)
- The General Inspectorate of Romanian Police (IGPR)
- The General Inspectorate for Immigration (IGI)
- The Ministry of Labour, Family, Social Protection and Elderly
- Labour Inspection

The following information was requested from the public institutions, depending on their specific field of activity in relation to human trafficking, in particular labour exploitation, for the period of reference 2012-2014:

- the number of identified and solved cases of persons exploited in agriculture, both in Romania (some Romanian citizens or migrants), and on the territory of other states (some Romanian citizens), being specified the countries and counties where those exploitation cases occurred, as well as the number of persons exploited in each of them;
- the counties of origin of the Romanian victims of labour exploitation at national and international level and the number of persons exploited/ county of origin;
- if the victims of exploitation in agricultural sector at national level, in 2012 and 2013 are only Romanian citizens and migrants/ citizens of other states; the countries of origin in the case of migrants and the number of persons exploited in agriculture per country;
- description of the labour exploitation cases (methods of recruitment, methods and conditions of exploitation, characteristics of exploitation etc.)

- number of employees (Romanians and foreigners, by sex) having temporary employment contracts in agriculture and the counties where they are/ were employed
- notices related to the regular or due payment of salaries in the agricultural sector
- fines applied for inappropriate working conditions, illegal forms of labour, exploitation of agricultural labour
- case studies on labour exploitation/ exploitation of agricultural labour in Romania.

The websites of public institutions and public and non-governmental organisations active in the area of human trafficking and migration were studied, the following organisations were contacted for information - ADPARE, Caritas Bucharest, AidRom, Arca – the Romanian Forum for Refugees and Migrants, the Soros Foundation.

Constraints and limitations on the research

The constraints relate to the difficulty to find data on the trafficking in persons for labour exploitation, in particular as concerns the exploitation of agricultural labour (compared, for example, to the trafficking for sexual exploitation, in relation to which the information is more accessible).

Therefore, the research conducted firstly revealed some problematical issues concerning the topic of human trafficking for labour exploitation and, in particular, exploitation of agricultural labour.

- The data on labour exploitation in general and on exploitation of agricultural labour in particular are only a few, especially as the trafficking at national level is concerned.
- Most studies concern human trafficking for sexual exploitation and the research focused on the general problem of migration does not deal with this phenomenon either.
- Some public institutions have partial data on labour exploitation in general (depending on the specific field of activity), but cannot offer any information relevant for the exploitation of agricultural labour or details of the conditions in which such exploitation cases occurred.
- The only institution that centralises the data on labour exploitation is the National Agency against Human Trafficking that, further to the request for public information submitted within the research, provided general data, statistics on the phenomenon of labour exploitation, however without providing details on the actual cases of exploitation, as well as other information requested, such as the countries and counties of origin of those victims of labour exploitation, arguing that it has not such information.

CHAPTER 1. CHARACTERISTICS OF EMPLOYMENT IN THE AGRICULTURAL SECTOR

The social-economic analyses of Romania's rural development¹ indicate that the rural areas cover 87.1% of the country's territory, and from a demographic perspective 44.9% of the population, namely 9.63 million live in these areas, according to the data existing in 2010.

Romania's agricultural area covers 13.3 million ha (55.8 % of Romania's territory) of which²:

- 8.3 million ha arable land (6.,4%);
- 4.5 million ha pastures and meadows (33.8%);
- 0.3 million ha permanent cultures (2.3%);
- 0.2 million ha of smallholdings (1.5%) (*data taken over from the INS*)

The agricultural land used (13.3 million ha) places Romania on one of the top positions in the European Union as to the agricultural land per capita (0.41 ha), double compared to the EU-27 average. The cereals and oil crops occupy the most significant areas (namely 60%, and 17% respectively) of the 8.3 million ha arable land of the country.

As concerns the development of agriculture, fishing and forestry regionally, according to the statistics of 2009³, the South-East region (11.76%), and North-East (11.13%) are best represented, and the Bucharest-Ilfov region has the lowest percentage (0.29%).

The relevant statistical data and analyses⁴ indicate that the agricultural labour force is highly over-sized compared to other European Union states. By reference to the total population employed in various sectors of the national economy, the percentage of the Romanian population employed in agriculture, forestry and fishing remains high. According to the 2012 data provided by the National Institute of Statistics in relation to the population employed by national economic activity 29.0% of the total persons employed were active in agriculture, 28.6% in industry and construction, and 42.4% in services⁵. The same source reveals that compared to 2011, the number of persons active in agriculture, forestry and fishing significantly increased (+70 thousand persons).

Agriculture still remains the most important activity in the rural area, bringing important contribution to the economy and being an essential source of income for households.

Nevertheless, agriculture confronts with serious structural problems, blending social-demographic and economic issues related to the labour force, technical endowment, general infrastructure (roads, irrigation, storage capacity) etc., as follows:

- The agricultural labour force is highly vulnerable from a social-economic perspective: the participation rate is higher for older persons (2.7 million farmers aged over 65, in 2010⁶), the level of education is low, even in the case of young labour force (below 35 years), the income is low and it confronts with poverty, sometimes, extreme; other problems are the fluctuation caused by the activity seasonality and the limited capacity to attract investments.

Some 2010 data⁷ indicate that more than half of the young population employed in the rural area carry out activities requiring a low level of skills (unskilled workers and farmers).

¹The social-economic analysis of rural development in Romania in 2012

http://www.fonduri-structurale.ro/Document_Files/JS2014-2020/00011282/ovnoj_Analiza-socio-economica-dezvoltare-rurala%20-%20draft%201.pdf

²Ibidem 1

³Ibidem 1

⁴The results of the documentary analysis agricultural and rural development sector, 2013

⁵http://www.insse.ro/cms/files/statistici/comunicate/com_anuale/ocup-somaj/somaj_2012r.pdf

⁶General Agricultural Census 2010, INS, 2011

⁷ An inclusive labour market in the rural area. National study 2011-2012, the Ministry of Labour, Family and Social Protection, 2012 http://eu-rural.ro/uploads/page_attachment/file/27/Raport_RO_241012.pdf

Also, the number of male employees in the rural area is higher than the number of female employees (over 62%), which increases the female vulnerability on the labour force market.

In 2011 29.4% of the population was exposed to the poverty or social exclusion risk in Romania, compared to the EU average of 8.8% in 2011, (*Eurostat source*). Also in 2011, over 71% of the poor population in Romania lived in rural settlements⁸.

Given the poverty, the Roma population is the most exposed to the social exclusion risk, it is affected by a low participation on the labour market, scarce income, discrimination and unfair access to education, to the labour market, to decent living conditions, to social and health services. The data provided by one research dealing with these topics⁹ reveal that the total income available in Roma households is three times lower than for the general population, 60% of the Roma households (formed of minimum 5 persons) living on a monthly income lower than the minimum salary.

- The agriculture productivity is low (2008 data indicate that it is 4 times lower than the EU average), the phenomenon of subsistence and semi-subsistence agriculture being still prevailing¹⁰. The farms in Romania are small, insufficiently equipped (the gap between Romania and other EU member states being quite significant in this respect), small land plots being cultivated for own consumption (not open for the market), and moreover these farms are not eligible for finance from agricultural funds.¹¹

In 2010, from the approximately 12 million farms existing in the European Union, more than 3.85 million (32%) are in Romania. Also, the average size of a farm in the EU27 is 14.3 ha, and in Romania is 3.45 ha (more than 4 times smaller)¹².

Other data in the 2010 General Agricultural Census indicate that from the total number of 3,859,000 farms registered in Romania, 3,828,000 farms (99.2%) are farms with no legal personality (individual farms, self-employed, individual/ family businesses) and 31.000 (0,8%) are farms with a legal personality.

In Romania there are also large, competitive farms but the small ones prevail in number, which adversely affects the use of the available resources, the farmers' income and rural economy as a whole.

- Another significant problem is illegal work, a phenomenon that is difficult to quantify. Working "under the table", under no employment contract, and with no payment of social contributions is a phenomenon still present in the rural area to a concerning extent, many young workers being in such a case, most frequently in construction (42%), but also in agriculture and forestry (18,5 %)¹³.

Other research¹⁴ indicates that most of agricultural workers are rather daily workers, most of them having no record of employment and getting no salary.

- Other problems affecting the rural area and agriculture are the external migration, especially the young (most from the rural area¹⁵), the failure to adapt the educational system to the rural environment specific requirements, the lack of investments, the much lower accessibility for farmers and the SMEs in the rural area to loans given by the bank system compared to the other economic sectors¹⁶.

⁸The social-economic analysis from the perspective of rural development 2014-2020

<http://www.madr.ro/docs/dezvoltare-rurala/programare-2014-2020/analiza-dezvoltarii-rurale-agricultura-iulie-2013.pdf>

⁹The impact of the international economic crisis in Romania 2009-2010, UNICEF 2011

¹⁰ The subsistence and semi-subsistence agriculture are defined as activities for the use of a small land plot by the householder using basic means most of the times, for the consumption of his/ her own household.

¹¹ An inclusive labour market in the rural area. National study 2011-2012, the Ministry of Labour, Family and Social Protection, 2012 http://eu-rural.ro/uploads/page_attachment/file/27/Raport_RO_241012.pdf

¹² Ibidem 4

¹³ An inclusive labour market in the rural area. National study 2011-2012, the Ministry of Labour, Family and Social Protection, 2012 http://eu-rural.ro/uploads/page_attachment/file/27/Raport_RO_241012.pdf

¹⁴ Rural development and the reform in the Romanian agriculture – Centrul Român pentru Politici Economice, 2004

¹⁵ Ibidem 11

¹⁶ The social-economic analysis from the perspective of rural development 2014-2020

<http://www.madr.ro/docs/dezvoltare-rurala/programare-2014-2020/analiza-dezvoltarii-rurale-agricultura-iulie-2013.pdf>

We provide below some data from 2012 concerning the population employed in agriculture taken over from the National Institute of Statistics¹⁷:

Table 1. Employment rate of population aged 20-64

Males	71.4%
Females	56.3%
Total	63.8%
Urban	62.5%
Rural	65.7%

Table 2. Population employed by professional status

PROFESSIONAL STATUS	TOTAL POPULATION EMPLOYED	TOTAL POPULATION EMPLOYED IN AGRICULTURE, FORESTRY AND FISHING
Total	9,262,808	2,682,341
Employee	6,229,375 – 67.25%	192,913 – 7.19%
Employer	111,723 – 1.2%	-
Self-employed worker	1,754,507 – 18.94%	1,337,878 – 49.88%
Unpaid family worker	1,167,202 – 12.6 %	1,147,064 – 42.76%

Professional status	Total male population	Male population employed in agriculture, forestry and fishing	Total female population	Female population employed in agriculture, forestry and fishing
Total	5,126,183	1,438,838	4,136,625	1,243,503
Employee	3,441,594	160,710 – 11.17%	2,787,781	32,203 – 2.58%
Employer	80,343	-	31,380	-
Self-employed worker	1,244,845	923,638 – 64.19%	509,662	414,239 – 33.31%
Unpaid family worker	359,400	350,987 – 24.4%	807,802	796,077 – 64.02%

Table 3. Population employed by age groups

AGE GROUP	TOTAL POPULATION employed in agriculture, forestry and fishing
15-64 years	2,317,322
15-24 years	262,607 – 11.33%
25-34 years	484,880 – 20.92%
35-44 years	622,303 – 26.85%
45-54 years	435,609 – 18.8%
55-64 years	511,923 – 22.09%

AGE GROUP	Male population employed in agriculture, forestry and fishing	Female population employed in agriculture, forestry and fishing
15-64 years	1,272,083	1,045,239
15-24 years	154,750 – 12.16%	107,857 – 10.31%
25-34 years	277,400 – 21.8%	207,479 – 19.85%
35-44 years	350,418 – 27.54%	271,886 – 26.01%
45-54 years	240,944 – 18.94%	194,665 – 18.62%
55-64 years	248,571- 19.54%	263,352 – 25.19%

¹⁷Labour force in Romania: Employment and unemployment – year 2012 (INS, AMIGO 2012)
http://media.botnews.ro/media_server1/document-2013-10-15-15807123-0-fizamanuncan-2012-2013.pdf

Total population employed in agriculture, forestry and fishing = 2.682.341 persons

Table 4. Active population by the form of property of the working place

	Form of public property	Form of private property
Total active population	1,579,362	7,931,857
Total population in agriculture, forestry and fishing:	35,388	2,698,762

Total active population	9.964.017
Total population in agriculture, forestry and fishing	2,737,265
out of which:	male: 1,477,996 and female: 1,259,269

Table 5. Skilled and unskilled workers

<u>Skilled</u> workers in agriculture, forestry and fishing	<u>Unskilled</u> workers in agriculture, forestry and fishing
Male: 1.112.145 Female: 1.046.907	Male: 259.615 Female: 197.399

Table 6. Employment contracts: types of employment contracts for the persons employed in agriculture, forestry and fishing

Total employees in agriculture, forestry and fishing: 192913 persons	Total male employees: 160710	Total female employees: 32203
Under employment contract = 179661	Under employment contract = 149232	Under employment contract = 30429
of which: - on a permanent basis= 165313 - on a temporary basis = 14348	of which: - on permanent basis = 139909 - on a temporary basis = 9323	of which: - on permanent basis = 25404 - on a temporary basis = <i>*unreliable data due to the low number of cases</i>

Total employees having other types of employment agreements = 13253 (of which males: 11478 persons) of which on a temporary basis = 8764 (of which males: 7343 persons)

Table 7. Working time: population employed in agriculture, forestry, fishing and the employees by the working time

	Population employed			of which employees		
	Total	Full-time	Part-time	Total	Full-time	Part-time
	2682341	1878898	803442	192913	187089	-
Male	1438838	1055204	383634	160710	155414	-
Female	1243503	823695	419808	32203	31675	-

Table 8. Population employed in agriculture, forestry and fishing by regions of development

North-East Region = 508.4 thousand persons

South-Muntenia Region= 442.8 thousand persons

North-West Region= 377.3 thousand persons

South-West Oltenia Region = 341.5 thousand persons

South -East Region = 430.9 thousand persons

Centre Region = 251.5 thousand persons

West Region = 209, 6 thousand persons

Bucharest-Ilfov Region = 38 thousand persons

The region with the highest rate of population employed in agriculture is the North-East region, followed by the South-Muntenia region.

As concerns the counties with the highest rate of population employed in agriculture, the top position is held by Dolj county (with 112.3 thousand persons), followed by Suceava (110.1 thousand persons), Iași (96 thousand persons), Bihor (88.7 thousand persons), Teleorman (88.5 thousand persons), Neamț (85 thousand persons)

Summarising the statistical data above, we may note some characteristics of the employment in agriculture:

The sector of agriculture, forestry and fishing is the main form of male and female employment in Romania, as it has the highest rate of employed population from all national economic activities.

The rate of employment in agriculture is higher for males than for females.

As the professional status is concerned, the self-employed workers, followed by unpaid family workers are the largest categories in the sector of agriculture, forestry and fishing, by reference to the total population employed in agriculture.

Compared to females, males prevail in number in all categories of professional status, the largest category being that of self-employed workers.

The number of employees is very low (both males and females) and no employers are registered in this sector.

Also, in the case of males the number of self-employed workers is much higher than that of unpaid family workers, but in the case of females, in all occupational categories the number of unpaid family workers prevails, being considerably higher than in the case of males (796077 females compared to 350987 males).

Self-employed worker – *is the person who operates in his/ her own unit or individual business, without any employee, helped or not by unpaid family members. This category includes independent entrepreneurs (hawkers, private teachers, nannies, carriers, private taxi drivers etc.), freelancers (street performers, artists, lawyers), casual daily workers, the holders of management or concession agreements who do not use employees, individual farmers or who work in agricultural associations.*

Unpaid family worker – *is the person who carries out activity in a family economic unit managed by a family member or a relative, in exchange of which he/she does not receive any pay as salary or any payment in kind. The rural (agricultural) household is considered such a unit. If more persons in a household work in their own agricultural household, one of them – generally the head of household – is deemed self-employed worker, and the other members are unpaid family workers.*

(Source: the National Institute of Statistics)

It must be noted that these two occupational categories include the poorest population in the rural area – the persons employed in the subsistence agriculture¹⁸. Also, according to the data of an analysis of employment in the rural area, the regions where unpaid family workers in agriculture prevail are North-East, South-West Oltenia and South -Muntenia, poorer regions and with a high rate of rural population.¹⁹ The age group 35-44 years, followed by the age group 55-64 years prevail as to the rate of the population employed in agriculture, forestry and fishing.

Most men and women are included in the group age 35-44 years, and as women are concerned the age group 55-64 years is the next age group in terms of number.

The form of private property is the one where most of the population employed in agriculture work.

Skilled workers in agriculture, forestry and fishing (both females, and males) are more than those unskilled, the males being in a higher number than the females in both categories.

As concerns the types of employment contracts of agricultural employees, most employment contracts are on a permanent basis, and a low number of men have temporary contracts, no reliable data on women being available.

¹⁸*Diagnosis of female professional employment in the rural area, Federația Agrostar 2010*

¹⁹*Ibidem 18*

The working time of the population employed in agriculture is mostly full-time, to a higher extent in the case of males than in the case of females. More women than men work part-time, by reference to the total population employed in agriculture.

As the Romanian regions of development are concerned, the region with the highest rate of population employed in agriculture is the North-East region, followed by the South-Muntenia region, and at the county level, Dolj and Suceava are the counties with the highest number of persons employed in agriculture.

1.1 Fixed-term employment contracts in agriculture. Data from the Labour Inspection.

The Labour Inspection is the public institution having the power to inspect all categories of employers, as concerns the granting of rights and performance of obligations to the employees carrying out activity under an individual employment contract.

Among others, the inspection aims at identifying and fighting illegal work, complying with the legal provisions when employing foreigners.

The inspection also concerns labour force employment agents mediating the employment of Romanian citizens abroad as to:

- fulfilment of the agent's incorporation and operation requirements;
- existence and content of the contracts containing firm offers for jobs, concluded with the foreign employers, as well as the broker agreements with the persons looking for a job, as well as temporary work agents in relation to providing users with labour force for fixed terms.

The labour inspectors may apply contravention sanctions as warning and fine.

The Labour Inspection does not investigate the cases of labour exploitation but only illegal work.

The data provided by the Labour Inspection in relation to the number of Romanian and foreign employees in agriculture, indicate the situation of the employees registered with the Territorial Labour Inspectorates in 2013 and 2014.

Thus, the number of fixed-term employment contracts in agriculture in 2012 was 15026, and in 2013 15464, employees Romanian citizens, the number of males being significantly higher than that of females. Also, the number of employees non-Romanian citizens is very low, 6 persons in 2012 and 16 persons in 2013.

It is also noted that from the total fixed-term contracts in agriculture, the full-time contracts are significantly more than the part-time ones, both for females and males, for both years of reference. By reference to the total number of females having fixed-term contracts, females seem to have more part-time contracts than males.

The employees, non-Romanian citizens having fixed-term employment contracts are fewer, but it may be noted an increase in their number in 2013 compared to the previous year.

The county where most fixed-term employment contracts in agriculture were registered is Constanța, both for females and males, in both years of reference (2012 and 2013). Constanța is followed by the counties Brăila, Bucharest, Iași, Călărași, Ialomița, for both years of reference, but especially for male employees.

After Constanța, the counties with the highest number of female employees with a fixed-term employment contract are Ifov (where the number of contracts of females is higher than that of males), followed by Alba county.

Most of the employees, non-Romanian citizens are in Bucharest.

The counties with the highest number of fixed-term full-time employment contracts of males are Constanța (with the highest number of persons), Brăila (with a slight increase in 2013 compared to 2012), Iași, Călărași, Ialomița, Vrancea. The number increased in 2013 compared to 2012 in Vaslui county and Bucharest.

As females are concerned, most contracts are registered in Constanța, Ilfov (with a higher number than that male employment contracts), Alba, Dâmbovița.

The employees, non-Romanian citizens are mostly registered in Bucharest.

As for the part-time contracts, the male employees (Romanian citizens) are more than female employees, in both years of reference, the number of part-time contracts for 2013 slightly increasing compared to the previous year, both for females, and for males. The counties with most such contracts are for males in 2012 – Alba, Braşov, Constanţa, Călăraşi, Iaşi, and for females, in the same year - Teleorman, Iaşi, Mureş.

In 2013, the counties with most part-time contracts of males are Bucharest (81 persons, a big increase compared to the number in 2012), followed by Cluj, Iaşi, Călăraşi. As females are concerned, the highest number of contracts is in Cluj (68 persons, the number being higher than that of males for the same year), followed by Olt (72 persons, a county with a low number of registered employment contracts for females and males in 2012 and for males in 2013).

Other data requested and received from the Labour Inspection refer to the number of notices submitted to the territorial labour inspectorates in relation to the seasonal agricultural activity. Thus, in 2012-30.04.2014, 315 complaints were submitted by persons carrying out or having carried out seasonal agricultural activity. These complaints referred to the non-payment of salary on time or incomplete payment of the salary, the non-payment of the annual leave allowance, the non-payment of benefits for additional work or work during the weekly rest days. Further to these complaints the labour inspectors within the territorial labour inspectorates conducted inspections and applied various measures for compliance with the legal provisions, including contravention sanctions.

As concerns the type of sanctions applied by the territorial labour inspectorates, in the period of reference, they were:

- 418 sanctions for the breach by the employers of the legal provisions concerning the agricultural working conditions – seasonal activity, of which the fines represented 23%, their value being lei 420,500 (EUR 96,000)
- 584 sanctions for the breach by the employers of the legal provisions concerning the agricultural working conditions – seasonal activity, of which the fines represented 52%, their value being lei 3,464,500 (EUR 788,00). Also 59% (180 fines) of the total fines represented the fines that sanctioned the employers having accepted to work up to 5 persons without concluding any employment contract, the value of the fines being lei 2,228,000 (EUR 506,000). The provisions of the Labour Code on contravention liability were applied in the case of 15 employers who accepted more than 5 persons to work, without concluding employment contracts.

The Labour Inspection also provides a few examples of use of illegal work in agriculture and the use of minors in seasonal agricultural activities, in relation to which criminal files were opened, but none of them was considered/ registered as labour exploitation.

Consistent data provided by the two institutions, the Labour Inspection and the National Institute of Statistics refer to the prevailing number of full-time employment contracts in agriculture, the higher number of males working in agriculture, compared to females, as well as to the higher number of part-time contracts of females.

No.	Indicator	Year								
		2012			2013			2014 (the first quarter)		
		Employees Romanian citizens		Employees non-Romanian citizens	Employees Romanian citizens		Employees non-Romanian citizens	Employees Romanian citizens		Employees non-Romanian citizens
		Males	Females		Males	Females		Males	Females	
1	Number of fixed-term contracts, ongoing during the year, registered by employers who declared the main activity in agriculture	11,085	3,941	6	11,361	4,103	16	1,698	641	6
	of which:									
1.1	No. of full-time contracts (1)	10,389	3,598	4	10,595	3,630	14	1,486	513	5
1.2	No. of part-time contracts (1)	696	343	2	766	473	2	212	128	1
2	Number of employees corresponding to the contracts mentioned under (1), distributed by citizenship and sex for the Romanian employees	10,360	3,761	5	10,676	3,862	14	1,649	618	6
3	Number of temporary employment contracts, ongoing during the year, registered with agricultural jobs	2,419	1,251	0	1,825	2,476	0	681	358	0
4	Number of employees corresponding to the contracts mentioned under (3), by citizenship and sex for the Romanian employees	1,617	988	0	1,514	2,229	0	668	353	0

CHAPTER 2. AREAS AT RISK - DATA CONCERNING LABOUR EXPLOITATION IN ROMANIA (NATIONAL AND INTERNATIONAL TRAFFICKING)

The National Agency against Human Trafficking (ANITP) is the public institution having the power to coordinate, assess and monitor nationwide the implementation of the policies for anti-trafficking, prevention, protection and assistance to the victims of human trafficking. Also, ANITP collects, stores, processes and analyses the human trafficking data, cooperating and exchanging information with relevant public and private, national and international organisations

A material prepared by ANITP and posted on its website provides a series of data on trafficking for labour exploitation, for the period 2007-2009, such as the number of persons subject to labour exploitation, in the total trafficked persons, the fields of activity in which they were exploited, the trafficking methods, the main countries of destination

Given in percentages, the figures concerning the victims of labour exploitation are the following:

- year 2007: 49% of total victims identified, namely 877 cases
- year 2008: 58% of total victims identified, namely 716 cases
- year 2009: 40% of total victims identified, namely 314 cases

Also, the ANITP document presents the fields of activity in which labour exploitation occurred and the number of cases for each of them. The analysis of the data indicates that labour exploitation in the agricultural sector obviously prevails over other areas of activity. Thus:

- for the year 2008: 81% of the total victims exploited by forced labour = exploited in the agricultural sector
15% = exploited in the construction sector
4% = exploited by forced labour in hotel services
- for the year 2009: 68% of the total victims exploited by forced labour = exploited in the agricultural sector
25% = exploited in the construction sector
6% = exploited by forced labour in hotel services

Cases of minors trafficked and subject to forced labour in agricultural sector (20 minors in 2008 and 11 minors in 2009).

The trafficking for sexual exploitation remains the most widespread form of trafficking. The analysis of the data on human trafficking in the last years indicates a decrease in the phenomenon, but at the same time an increase in the labour exploitation by reference to the total number of trafficking cases. Besides, the statistical data cannot cover the whole phenomenon, actually reflecting the number of victims formally identified by the Romanian criminal investigation bodies, not including as well the victims who remain in the countries of destination following a social integration programme. Other reasons supporting a much higher figure of the persons trafficked including for labour are: problems in the capacity to identify victims, simplification of the victims' conditions of stay in the European countries of destination, the fact that the victims do not speak the language of the country of destination and cannot communicate, are sequestered or held under strict observation and cannot contact the authorities, the incapacity of perceiving their condition of victim.

As concerns the causality of the trafficking phenomenon for labour exploitation purposes, a relevant analysis²⁰ considers the financial crisis in the last years as one of the inducing factors for the increase in the number of victims trafficked for labour exploitation, the loss of jobs and decrease in the quality of life determining many persons to undertake higher risks as to the search or taking of a job.

²⁰Transnational study on the characteristics of policies in human trafficking for labour exploitation (2009 – 2011), R. Ungureanu, B.Tuncay, Paola Borghi, Viktoria Sebhelyi, Sanija Burageva, și colab., Bucharest, 2013.

As recruitment methods, the above-mentioned ANITP document reviews the following:

- direct recruitment by recruiter/ trafficker (in the case of most victims) – it makes a false offer, but promises a very high salary, good working conditions, health insurance, sometimes even accommodation
- recruitment by labour force recruitment agencies or by job advertisements in written press.

Also as concerns the international trafficking, the main countries of destination for labour exploitation in 2008 and 2009 are presented. The countries where the most victims were subject to labour exploitation in the agricultural sector are Spain and Greece for the year 2008 and Spain and Italy for the year 2009:

2008:

- Spain = 263 victims exploited in the agricultural sector and 15 in the construction sector
- Greece = 130 victims exploited in the agricultural sector and 2 in the construction sector
- Italy = 65 victims exploited in the agricultural sector, 12 in hotel services and 8 in the construction sector
- The Czech Republic = 63 victims exploited in the agricultural sector and 30 in the construction sector

2009:

- Spain = 91 victims exploited especially in the agricultural sector
- Italy = 65 victims exploited especially in the agricultural sector, 3 victims exploited in the construction sector
- The Czech Republic = 28 victims exploited in the construction sector and 24 in the agricultural sector
- Greece = 23 victims exploited in the agricultural sector

In 2008 most victims of trafficking are from the counties Teleorman (91 victims), Ialomița (53 victims), Olt (49), Dolj (48), Iași (47), Mureș (43) etc., and in 2009, the top counties are Botoșani (34 victims), Maramureș (33 victims), Teleorman (26 victims), Bacău and Mureș (24), Prahova (21), Iași (20) etc.

For the same period 2008 and 2009, the ANITP data provide the number of victims subject to labour exploitation in Romania, the national trafficking being a phenomenon much more reduced in size if we consider comparatively the figures in the national and international trafficking, for both years of reference, and the number of victims subject to labour exploitation is extremely low. Thus, in 2008, the data indicate that 24 victims were exploited in the construction sector, 2 in the agricultural sector and 2 in hotel services, and in 2009, 10 victims subject to labour exploitation in agricultural and construction sector were identified.

The material prepared by ANITP also contains a profile of the victims of trafficking for labour exploitation for the year 2009 that reveals that they are mostly male (82%) adults (98%), from the rural area (62%), aged between 26 and 40 years, their level of education being secondary school.

Methods of victims control and abuse used by traffickers:²¹

- restrictions on the freedom of circulation, confiscation of the identity documents, threats by violence or denouncement of the person to the immigration authorities in the case of immigrants complaining about the living standards and working conditions
- application of the “debt slavery” system – exploiters keep the victims as slaves in exchange for the debt, asking the latter to pay extremely high amounts for the transportation to the place of destination and for food, accommodation, clothing

²¹*Transnational study on the characteristics of policies in human trafficking for labour exploitation (2009 – 2011)*, R. Ungureanu, B. Tuncay, Paola Borghi, Viktoria Sebhelyi, Sanija Burageva, și colab., Bucharest, 2013.

- recruitment for labour exploitation is officious, many times it does not involve a form of direct or coercive intervention of the perpetrator but it self-propagates virally, in network, affecting extensive vulnerable groups

More recent data (for the years 2012 and 2013) are provided also by the National Agency against Human Trafficking (ANITP).

Thus, according to the data offered by ANITP, in the year 2012 the number of victims identified as being subject to labour exploitation was 410. 108 of these victims are females and 302 are males.

From the 410 victims subject to labour exploitation, 294 were identified as subject to labour exploitation in the agricultural sector. From the point of view of the exploitation purpose, from the 294 victims exploited in the agricultural sector, 135 were exploited in Romania.

The most victims were registered in the agricultural and animal husbandry sector. Other areas in which cases of labour exploitation occurred are the construction, newspapers sales, cleaning services.

According to the data held by ANITP, in the year 2012, most of the victims subject to labour exploitation (generally, not only in the agricultural sector) are males. Most of the victims come from the rural area (72% of victims), the main counties of origin are Bacău and Mureş.

As a method of victim recruitment it is noted the direct approach by the recruiter, the person not being known by the victims before (in case of 68% of the victims), and most victims were manipulated and deceived being promised jobs in Romania or abroad.

Germany (85 victims) and Italy (67 victims) are the main countries where cases of labour exploitation occurred in the case of international trafficking.

In the domestic trafficking 147 victims were registered.

In the year 2013, there were identified 375 victims of human trafficking subject to labour exploitation. From these, 295 were males, and 80 were females. From the total 375 victims identified in 2013 by sector of work, 269 were exploited in agriculture. There were registered 83 cases of national trafficking (in Romania).

2.1 Foreign citizens, victims of human trafficking in Romania

As concerns the foreign citizens trafficked in Romania, ANITP provides data for 2011, year when six foreign citizens were identified as victims of sexual exploitation and labour exploitation in the agricultural sector, in the first half of the year²².

In February 2011, the declarations of the Directorate for Investigating Organised Crime and Terrorism (DIICOT) showed that there were case files in progress concerning South-American, Pakistani, Indian citizens subject to labour exploitation in our country²³.

Some of the cases investigated by DIICOT in the first part of the year 2011 involved South-American, Pakistani and Indian citizens exploited by work in our country²⁴. Cases of foreign citizens trafficked in Romania, especially for labour exploitation had been reported in the previous years as well. Thus, we may remind the two cases in the year 2009: the 12 citizens from Honduras who came to work in the hotel industry in Romania and had to work as loaders-unloaders of newspapers at various kiosks in Bucharest and the 34 Congolese drivers brought and exploited by a taxi company also in Bucharest.

"We lived ten persons in a studio apartment, we slept in beds one over another. We did not have any hot water in the bathroom. There was a small kitchen but we had nothing to eat as we had no money. They distributed all 12 of us to the Rodipet kiosks. They told us that they would ensure us the transport from the apartment to the kiosk. But the next day they took us by bus in order to know how to come to work on our own. On the third day all of us got lost in Bucharest, because we did not know where or when to change the buses and trams". At the end of the first month of selling newspapers, the Honduran received lei 475 instead of dollars 300, as Hassan Awdi had promised him. He did not have any employment

²²The Report of the National Agency against Human Trafficking. Analysis of the situation of the victims identified in the first semester of 2011 <http://anitp.mai.gov.ro/ro/docs/studii/Evaluarea%20semestriala%202011.pdf>

²³Report 2007-2013, European Return Fund and Information from the annual activity reports of the Border Police, 2006-2010

²⁴Ibidem 23

contract concluded. When he asked about the rest of the money, he was threatened to be thrown out in the street. (the statement of a Honduran citizen, the article Workers from Honduras, slaves at Rodîpet, Adevărul, 7 October 2009)²⁵

Data on the situation of human trafficking in Romania are also provided by the latest US Trafficking in Persons Report,²⁶ which shows that Romania is a country of origin, transit and destination for males, females and children trafficked for forced labour, as well as for females and children trafficked for sexual exploitation.

The report mentions 1,041 victims of trafficking in persons identified in 2012, of which 526 persons, approximately half of the total number of victims were trafficked for sexual exploitation, meanwhile 410 were trafficked for forced labour.

The report also mentions the countries where victims coming from Romania (males, females and children) are highly trafficked: Austria, Azerbaijan, Cyprus, the Czech Republic, Denmark, Switzerland, France, Germany, Greece, Italy, Lithuania, Netherlands, Great Britain, Norway, Poland, Slovakia, Slovenia, Spain and Sweden, for forced labour in agriculture, households, hotels and industry, as well as for forced begging and theft.

Most of the traffickers recruiting and exploiting Romanian citizens are of Romanian origin. Generally, they choose their victims from the same ethnic group or from among their own relatives. It is also noted that frequently the traffickers exploit their victims in Romania before taking them abroad for prostitution or forced labour. Lately, another characteristic of the Romanian crime groups is to take the victims to various countries in Europe to test the weaknesses of the law enforcement system in each country.

In 2013, two thirds of the victims coming from Romania were recruited by acquaintances, a fact which reveals a decreasing trend of the victims recruited by recruitment agencies and job advertisements, the report mentions. Another piece of information contained in the report indicates that, although a provision of the Criminal Code prohibits the recruitment companies registered in Romania to facilitate exploitation of citizens abroad, however the authorities did not punish so far any company for activities related to trafficking in persons.

The document also mentions that Romania is a country of destination for a low number foreign victims of trafficking in persons, including for victims trafficked for sexual exploitation from Moldova and Poland and for victims trafficked for forced labour from Bangladesh and Serbia.

According to the report, the Romanian Government does not fully comply with the minimum standards for counteracting the trafficking in persons but it makes significant efforts to this purpose. The authorities continued to identify a large number of victims but only part of them received assistance. Also, although there were a lot of actions in court and convictions for trafficking in persons, a low number of persons found guilty received prison sentences.

As concerns criminal investigation, in the year 2013:

- 714 cases of trafficking in persons investigated (decreasing number compared to 867 cases in 2012)
- 552 persons prosecuted (compared to 667 in 2012 and 480 in 2011)
- 252 traffickers were convicted by courts (compared to 427 in 2012 and 276 in 2011)

The report also contains a series of recommendations for Romania, of which we mention:

- improvement of the efforts to gather information on the crimes of trafficking in persons punished by Law no. 678/2001 and other relevant laws, by drafting different statistics for trafficking in persons for sexual exploitation and for trafficking in persons for forced labour;
- improvement of the efforts to identify the potential victims in the vulnerable categories of the population, such as the immigrants with no identity documents, foreign workers, the Roma population and children who beg or prostitute;
- analysis of the possibility to grant work right to the foreigners who were victims of the trafficking in persons while holding the temporary stay permits;

²⁵http://adevarul.ro/news/eveniment/muncitori-honduras-sclavi-rodipet-1_50ad31697c42d5a663907a3a/index.html

²⁶The US Trafficking in Persons Report 2014 http://romania.usembassy.gov/2013_tip_ro.html

- creation of the position of national rapporteur providing regular independent evaluation of the national policies for anti-trafficking;
- enhancement of the quality of assistance and advisory services provided to the victims.

CHAPTER 3. THE PARA-SLAVE PHENOMENON: CASES OF LABOUR EXPLOITATION IN THE AGRICULTURAL SECTOR

3.1 Exploitation situations covered by the media

Case 1: International traffic, SPAIN 2011

72 persons exploited by agriculture labour, in Spain. They were held against their will, forced to work and live in poor conditions. The criminal network (made up of 14 Romanian citizens) recruited their victims in Romania, by means of media advertisements or publicity, promising a well-paid job in Spain.

The Spanish Civil Guard, together with the Romanian Police, organized the Romanian citizens releasing operation in Albacete province. Investigations started back in August 2011, after a complaint made by the relative of one victim.

In Romania, the Spanish agents, supported by a special international commission and also by DIICOT, organized actions in Bucharest, Brasov, Craiova and Ploiesti, where a part of the network members were identified and arrested.

The network recruited their victims and offered them a contract signed before a lawyer, promising accommodation, food, transportation and the contract in Spain. Once in Spain, the Romanians were forced to work without payment, in the account of the debt accrued, and pay 600 euro/person in order to obtain the community citizen certificate (recording in the EU citizens register).

Victims were forced to live in insalubrious conditions, 30 persons in one house. In one of the houses, even the bathtub was used as a bed. People were forced to work in agriculture, abused and threatened by the network members, who were permanently monitoring them.

Source: http://www.romania-actualitati.ro/romani_tratati_ca_sclavi_in_spania-48487

3.2 Exploitation situation from the ANITP records - Iasi Regional Centre

Case 2: National traffic, COVASNA 2012

In 2012, **three men from Bacau county used labour exploitation**, during the period August – September 2014, against **141 persons** from more counties of the country, most of them from villages in Vaslui and Bacau, out of which 17 children, some even 12 years old.

The three men, aged between 34 and 54 years old, were remanded in custody at the end of 2012 and were sent to trial by DIICOT (The Directorate for Investigating Organized Crime and Terrorism) in February 2013 for constituting an organized criminal group, specialized in trafficking in human beings and trafficking in minors. Exploiters were irrevocably convicted by Iasi Court of Appeal for 5, respectively 4 years in jail, for minors and human beings trafficking.

Victims were forced to work in inhuman conditions even 17 hours a day for harvesting potatoes, without being paid and were repeatedly abused by physical and psychical violence, accommodated in inappropriate conditions, without being provided the appropriate food or hygiene.

Investigations in this case were initiated in October 2012, after the complaints made by 25 persons from Slobozia, in Vaslui county, who complained to the Police they were exploited in labour and humiliated by the owner of a farm in Covasna County.

According to the complaint made to the Police, the 25 citizens of Vaslui County were treated as slaves and forced to work, being threatened to be beaten, on a field from Zabala locality in Covasna County, for harvesting potatoes. Within the same complaint, the people declared that, for 17 days, they had been held by force at the aforementioned agricultural farm, were left to starve and worked from dusk till dawn, in the burning sun, without rest.

Furthermore, the complaint shows that the 25 citizens of Vaslui were forced to work only on their knees and bear-handed, while at night they were taken to sleep in the basement of a stable, on bags filled with straws. After more than two weeks of being treated this way, they were taken by a potato-transport car to Onesti railway station and then abandoned, without any of them receiving the money initially promised for the work provided.

3.3. Labour exploitation situations from the records of a non-governmental organization in Romania that acts in the field of preventing human beings trafficking

Case 3: International traffic, GREECE

In 2007, **eight Romanians, 3 women and 5 men**, aged between 22 and 36 years old, from rural areas, experienced in agriculture works, were recruited by a man in Romania who promised them jobs in Greece, for strawberries harvesting. The labour conditions promised were: free accommodation and food, labour agreement for 5 days per week, salary of 22 euro for 7-hour work a day and the overtime paid with 3 euro per hour. Out of the 22 euro, 2 euro were supposed to be the recruiter's commission and the victims had to pay an amount of money in advance.

Victims were transported in private cars, in two stages, during the months of January and February 2007, on the route Craiova (Romania) – Ancona (Italy) and to Patras (Greece) by ship. In Patras victims were received by the recruiter's wife, who took them to the field where they were going to work, somewhere at the periphery of Lapa town. Victims were informed that the transport was going to cost each of them 550 euro. Some of the victims paid for their transportation; the ones who did not have money were going to pay after starting to work.

Once they started working, the identity documents and the phones of the victims were confiscated, they were accommodated in tents made of plastic and metal and they had to eat food remains from garbage containers. They were forced to work 7 days of 7, approximately 12 hours a day and they received no money for their work. When they requested for their rightful payment and documents, they were physically and verbally abused, threatened to be killed by Albanians.

The victims managed to get away from exploitation, they left the place by a train from which they were taken off because they had no tickets, then by a bus; they got off in a locality where they informed the police, which refused to help; they were helped by two civilian police officers who took the victims to the police station and asked them to sign declarations; they remained there for 48 hours and then were taken to a local NGO (Red Cross), where they received shelter and food for 3 weeks.

The victims were returned to the country by OIM and assisted for their return by OIM and ANTP. In the country, 3 of the victims were referred to ADPARE non-governmental organization to receive specialized assistance, while the other 5 were referred to the social services.

From the legal point of view, in this case, in Romania DIICOT decided not to send the exploiters to court due to the fact that recruitment was not performed by threatening, force or other forms of coercion and that exploitation cannot be verified.

Case 4: National traffic, GREECE

In 2012, 41 persons, including one minor, were trafficked in Greece for labour exploitation, in agriculture, for oranges harvesting.

Traffickers took advantage of the victims' vulnerability and poor economic situation, promising them legal jobs in Greece, paid with 25 euro per day and free accommodation.

Using a bus of a Greek company that belonged to the traffickers, the 41 persons were transported from different villages in Romania to Amygdalitsa, Nafplio municipality – Argolida. Victims were left without their travelling documents and were taken to an abandoned barn, in inhuman conditions and without any facilities related to hygiene and health, without being allowed to leave the barn and forced to pay, each of them, 50 euro monthly for rent.

Victims started working the second day after their arrival, from 7 a.m. to 7 p.m., for oranges harvesting. Traffickers transported the victims to the field and then received the money from the lands owners. One of the traffickers used to buy food for the victims, making them pay double for it and thus greatly indebting the victims.

Greek police from the Organized Crime and Trafficking in Human Beings Department and the local police arrested the traffickers and moved the victims to Athens, where they were assisted and protected and further returned to the country.

Case 5: International traffic, CYPRUS

During 2005-2010, about 200 Romanians were recruited by persons who promised legal jobs in Italy and Cyprus. Upon their arrival in Cyprus, the Cypriot trafficker asked for an 800 euro commission to help them find a job, found them only occasional jobs and collected himself the money the Romanians should have received. They could not pay the commission, which was impossible to pay under these circumstances, and neither could they return to the country for they did not have their documents.

Cypriot authorities labelled this case as “modern slavery”, for Romanian citizens were sequestered in organized camps by the trafficker, Cypriot citizen; in camps they were held in miserable conditions, they had no shower or hot water and only received 20 euro a week, money that were hardly enough for food. According to the Cypriot authorities, *these people lived in containers, each with 5 rooms in which 50 people were living. They had no hot water, they only had two toilets and only one laundry machine. They could not take any shower and they had no food. If they asked for bed sheets or beds, they were asked for 25, 30 or even 50 euro.*

Members of the group (both in Romania, and in Cyprus) trafficked almost 200 persons, aged between 20 and 45 years old, for the purpose of labour exploitation in Cyprus and Italy and for sexual exploitation in Cyprus. They used, in the criminal activity, 14 companies in Bucharest, Constanta and Bacau, to which they were associated, administrators and representatives. They used to conclude false labour agreements with the victims, for which they were asking for different fees and commissions. Jobs promised were in different areas, from constructions to medicine, including agriculture.

Due to labour exploitation, one of the victims suffered a labour accident and lost two fingers from one hand; another victim, recruited in Romania, was forced to become a prostitute in a club in Nicosia, although the labour agreement concluded in the country for Cyprus provided that she was going to work as a cook.

3.4. Exploitation case taken from the courts of law portal / High Court of Justice

Case 6: International traffic, ITALY

During the period 2003 – 2004, two defendants, husband and wife, have recruited, transported, illegally and deceitfully hosted 14 plaintiffs to whom they promised to find illegal jobs in Italy, thus obtaining material benefits of about 10,000 euro, case that had all necessary elements to be classified as trafficking in human beings. With regard to the crimes for which they were investigated and found guilty, the defendants were convicted.

The defendants’ actions were not either accidental, or isolated; they organized a genuine labour force transport and placement network in Italy, obtaining regular illegal income from this activity.

The defendants had joined back in 2002 – 2003 the network of trafficking in human beings for the purpose of labour exploitation, taking advantage of the fact that third parties have requested their support in finding jobs; the defendants took over those people, asked the for different amounts of money and placed them to other Italian employers or abandoned them on the Italian territory.

The role of the defendant BI was to set the conditions for the plaintiffs going to work, by directly promising labour to them and living conditions superior to the actual ones, to transport the plaintiffs to Italy and place the necessary labour force to Italian exploiters. The role of the BM defendant was to receive the plaintiffs, collect the agreed amounts of money and coordinate the placement activities, the BI not being present. The descriptions made by the plaintiffs of the inappropriate labour and living

conditions, the lack of financial resources, lack of payments or payments of small amounts at the end of a long and hard period of work were good enough reasons to draw the conclusion that their labour force was exploited for the defendants to obtain financial advantages.

Part of the victims were exploited in agriculture.

The victim EMA left for Italy in 2003 by means of the defendant BI, to whom s/he paid 500 euro; in exchange, s/he found her/him a job in a sheepfold. The working program was from 7 in the morning to 1 at night, the bed was in a room with no bathroom and the food was served two times a day, at 11 in the morning and at 1 in the night, while the salary was of 500 euro a month.

Victims FV and FC, father and son, left for Italy after the defendant BI had promised jobs to them. After their arrival to Italy, for several days they were not allowed to leave the house and only received macaroni to eat. Then BI sent them to work in a furniture warehouse; they worked for 4 – 5 days without being paid and BI promised them they would get paid at the end of the month. Then they were sent to work in agriculture, somewhere in the south of Italy, in hard and inappropriate conditions, being paid 5 euro per day. Also, they even worked for several days to clean a garbage chute.

Case 7: National trafficking in foreign citizens

Traffickers (OV and OM from Romania), by means of certain citizens in Bangladesh and Malaysia, recruited people from these countries, helped them enter Romania and exploited them in labour. Victims knew the traffickers in their country of origin where, by means of an accomplice who represented a labour force recruiting agency in Bangladesh, they were explained they would be helped to obtain labour permits in the EU space; all five persons paid traffickers commissions in amount of thousands of euro for intermediating the procurement of the labour visa and for transportation, money that was not paid back to the victims.

The promise was that they were going to work in a mushroom farm in Romania for a salary of 400 euro a month, the food and accommodation being provided by the company.

The 5 citizens left the Popular Republic of Bangladesh, came to Romania in 2010 under on grounds of a short residency visa for business purposes, without understanding the kind of visa they were granted. They were received by the traffickers, who confiscated their passports and took them to work in a mushroom farm belonging to the traffickers, where they worked without the legal provisions regarding labour conditions, salary payment, social insurances, health and security being complied with. After the expiration of the short residency visa for business purposes that the victims used to enter the Romanian territory, their presence in Romania became illegal, aspect the traffickers were aware of, but that was not disclosed to the victims.

Victims were exploited for about 2 months at the mushroom farm, were they worked many hours a day, sometimes even at night, 10-14 hours, including Saturdays and Sundays, they received little food during the day, while in the evening they were cooking products bought from their own money; they did not have any labour agreements and they were not paid for their work at the farm.

Victims were forced to perform difficult tasks (they were carrying bags of compost and took care of the farm cleaning), lived in inappropriate conditions – toilet in the courtyard, they could wash in a small place arranged outside, in a stable, during wintertime, and when they finished the money brought from home to buy food, they received food from some neighbours who took pity on them. Some witnesses say they noticed the five foreign citizens who seemed helpless, inappropriately dressed for the winter weather, and who used to buy cheap food in small quantities.

One of the victims, who managed to get away, declared that s/he ran out of despair, for they were treated like animals. Describing the hard working conditions and the fact that they were given little food, the victim declared: “I felt that they were giving us food not to starve to death and be able to continue working”.

In time, the victims understood they were misled, but they were afraid to talk to the traffickers about it because they were in a foreign country without any support. Victims were afraid because they were permanently threatened, being suggested that traffickers have important friends and they cannot do anything against them.

Aspects that encouraged exploitation: victims were poorly trained, being vulnerable economically and socially; they voluntarily came to Romania wishing to find jobs, but were misled by false promises to obtain labour permits; they came from an underprivileged country, with migration potential, they did not speak Romanian, their identity documents were confiscated right after reaching Romania, which didn't allow them to move.

Traffickers were sent to trial for the crime of recurrent trafficking in human beings and for other related crimes, such as supporting the illegal residence of the victims on Romanian territory, being judged for each of the crimes. The court showed that the purpose for which defendants recruited, transported and hosted the victims was to exploit them in labour; the victims were forced by the situation they were in to work in inappropriate conditions, being treated like profitable merchandise.

3.5 Remarks

General features of the labour exploitation situations presented:

Victims' profile: most of the victims come from Romania, existing, though, victims from other countries, characterized by social and economic vulnerability, poor economic situation, persons that come from the rural environment and have a low training level.

Recruitment: is made based on false promises regarding the procurement of a well-paid job and decent living conditions, accommodation and food, including the promise of free accommodation and food.

Traffickers: both in Romania and in the target countries, usually working as a team/accomplices.

Exploitation conditions:

- labour in agriculture or animal raising (sheepfold, strawberries and oranges harvesting, mushroom farm), but also in other field of activity;
- lack of or little payment for the labour performed;
- inhuman living and inhabiting conditions, lack of feeding resources / insufficient food;
- long working hours, including at night and during weekends; hard work;
- confiscation of identity documents and of mobile phones;
- physical and verbal aggressions, threats for intimidation for complaints regarding confiscation of documents, lack of payment, inappropriate living conditions;
- conclusion of false labour agreements or not concluding labour agreements;
- commissions paid in advance to the traffickers by the victims for the purpose of obtaining a job.

Destination countries for the international trafficking: Spain, Greece, Italy, Cyprus.

Country of origin of foreign citizens' victims: Bangladesh

Counties where exploitation situations occurred on Romanian territory:

Counties where the national trafficking victims come from: Vaslui, Bacau.

CHAPTER 4. TRAFFICKING AND SERIOUS EXPLOITATION IN THE LIGHT OF THE NATIONAL REGULATORY FRAMEWORK

4.1 Analysis of the labour exploitation legislation

The national legislation that includes provisions related to the trafficking in human beings area, including migration, immigration and labour exploitation trafficking:

- *Law* no. 678/2001 on preventing and fighting trafficking in human beings, as further amended and completed
- Order 335/2007 for the approval of the national Mechanism for the identification and support of the trafficking in human beings victims
- *Labour Code*
- *Criminal Code*
- Emergency Ordinance no. 194/2002 on foreigners' regime in Romania
- Emergency Ordinance no. 56/2007 on employment and foreigners' assignment on Romanian territory
- Government Decision no. 498 as of 2011 for the approval of the National Immigration Strategy for the period 2011-2014

Other related legislation of interest in the field of labour:

- *Law* no. 108/1999 on Labour Inspection set up and organization
- *Law* no. 52/2011 on exercising occasional activities by daily workers – updated
- Government Decision no. 1024/2010 on the national Strategy for the reduction of illegal labour occurrence for the period 2010-2012 and the national Plan for its enforcement.

Law no. 678/2001 on preventing and fighting trafficking in human beings, as further amended and completed

The anti-trafficking law includes measures for the prevention of the trafficking in human beings and for the protection and assistance of its victims, including the setting up of shelters for temporary hosting the victims of the trafficking in human beings.

Articles related to labour exploitation:

Art. 2. – In the content of this law, the terms and expressions below have the following meaning:

1. Trafficking in human beings means to recruit, transport, transfer, host or receive a person, under threat, violence or other means of coercion, by kidnapping, fraud or deceit, abuse of authority or by taking advantage of that person's impossibility to defend himself/herself or to express his/her will or by offering, giving, accepting or receiving money or other gains for the purpose of obtaining the consent of the person who has authority over another person, for the purpose of exploiting this person.

2. Exploiting a person means:

a) execution of a labour or performance of services unwillingly or in incompliance with the legal norms regarding conditions of labour, payment, health and security.

Art. 6. - (1) The Ministry of Labour and Social Solidarity, by means of its specialized structures on a central and territorial level, elaborates and enforces special measures for the integration on the labour market of the persons with a high risk of being trafficked, especially for women from underprivileged areas and for socially isolated persons.

(2) For persons with a high risk of being trafficked, the National Agency for Employment develops information programmes related to the labour market and employees' rights, professional training programmes, as well as information programmes for companies for the purpose of employing these persons with priority.

(3) The Ministry of Labour and Social Solidarity, together with the Ministry of Public Finances are considering the opportunity to elaborate measures for stimulating companies that employ both persons with a high risk of being trafficked and traffic victims who graduated professional training courses, making proposal to this end.

The new Criminal Code (Law no. 286/2009)

CHAPTER VII Vulnerable persons trafficking and exploitation

Art. 209: Slavery

Making or retaining a person as a slave, as well as slave trafficking are punished with imprisonment from 3 to 10 years and by the interdiction to exercise certain rights.

Art. 210: Trafficking in human beings

(1) Recruitment, transportation, transfer, hosting or receiving a person for the purpose of exploiting him/her, committed:

- a) by coercion, kidnapping, misleading or abuse of authority;
- b) by taking advantage of that person's impossibility to defend himself/herself or to express his/her will or by the obvious state vulnerability of that person;
- c) by offering, giving, accepting or receiving money or other gains in exchange for the consent of the person who has authority over that person, is punished with imprisonment from 3 to 10 years and the interdiction to exercise certain rights.

(2) Trafficking in human beings committed by a public clerk while on duty is punished with imprisonment from 5 to 12 years.

(3) The consent of the person who is a victim represents no justification.

Art. 212 Constrain to forced or mandatory labour

Submitting a person, in other situations than the ones provided by law, to labour against his/her will or to mandatory labour is punished with imprisonment from one to 3 years.

Labour Code

Legislative act that regulates labour conditions, on a national level, starting from the individual labour agreement with all its components including labour health and security.

Chapter 2. Fundamental principles

Art. 3.

- (1) Labour freedom is guaranteed by the Constitution. The right to labour cannot be restricted.
- (2) Any person is free to choose the job or profession, occupation or activity that s/he is going to perform.
- (3) No one can be forced to work or not to work in a certain job or profession, whichever these might be.
- (4) Any agreement concluded without complying with the provisions of art. (1) - (3) is invalid de jure.

Art. 4.

- (1) Forced labour is forbidden.
- (2) Forced labour term represents any labour or job imposed to a person under threat or to which the person did not freely consent.

Regulation for labour without legal agreements

LABOUR CODE CHAPTER IV

Art. 260

(1) The following are contraventions and are punished as shown:

- a) in compliance with the provisions regarding the payment of the minimum gross salary at the country level, with a fine from 300 lei to 2,000 lei (70 – 450 EUR);

- e) employing up to 5 persons without concluding an individual labour agreement, according to art. 16 par. (1), with a fine from 10,000 lei to 20,000 lei (2300 – 4600 EUR) for each person identified;
- f) a person working without an individual labour agreement, with a fine from 500 lei to 1,000 lei (120 – 230 EUR);

Art. 264

(1) It represents a crime and is punished with imprisonment from 6 months to one year or with criminal fine the act of the person who, repeatedly, pays to his/her employees under the individual labour agreements salaries under the level of the minimum gross salary guaranteed at country level, as provided by law.

(3) It represents a crime and is punished with imprisonment from one to 2 years or with criminal fine to employ more than 5 persons, regardless of their citizenship, without concluding an individual labour agreement.

Art. 265

(1) Employment of minors without complying the legal provisions regarding age or using them for activities that are not complying with the legal provisions regarding minors' labour regime represents a crime and is punished with imprisonment from 1 to 3 years.

(2) With the punishment provided under art. 264, par. (3) is sanctioned employing a person that is illegally staying in Romania, knowing that s/he is a victim of human trafficking.

The expression used for labour without legal documents is “black” labour and represents a profitable activity outside the legal framework. It is not registered, fiscalized, protected, insured or socially assisted, the worker being at the discretion of the person for whom s/he works.

Labour outside the legal framework is present and can be found under several forms:

- Activity that is not regulated, completely not registered and non-fiscalized, carried out outside the provisions of the individual labour agreement or of the civil agreement, without a legally elaborated payroll and payment to the state budget obligations, without a timesheet for emphasizing the time norm, without any documents regarding the production norm and the type of work and without naming in any way whatsoever the person who performs the work;
- Labour that is partially not registered and non-fiscalized, carried out by keeping a double record and the so-called cash payment, representing a surplus to the payment recorded in documents;
- Incorrectly recording the production obtained during exhausting time norms, exceeding 8 hours, the worker being abused and at the owner's discretion;
- Labour using the 3-hour a day convention, but that is actually taking place in the interval of 8 to 12 hours a day;
- Domestic activity in people's households;
- Labour for the so-called “trial periods”, not emphasized in documents.

Economic sectors in which “black” labour situations have been identified: constructions, services providing, organized and not-organized commerce in the street, markets, fairs, but also in sectors that are difficult to access such as agriculture and forest exploitations, industrial and industrial-type activities etc.

“Black” labour is frequent in economic sectors that use cash; in this context, commercial activity, in the widest meaning of the term, is the preferred area of incidence.

(Source: Labour Inspection)

Law 52/2011 on exercising occasional activities by daily workers

Art. 1. - (1) Within the meaning of this law, the following terms are defined as follows:

- a) daily worker – natural entity, Romanian or foreign citizen, who is capable to work and performs unskilled casual activities for a beneficiary, against payment;
- b) labour beneficiary, hereinafter called beneficiary – legal entity, authorized natural entity, individual enterprise, family enterprise, for which the daily worker performs casual unskilled activities;
- c) daily workers log book – a special regime book kept by the beneficiary to record daily workers (on a daily basis);
- d) casual activities – activities that happen occasionally, irregularly or accidentally, which are not permanent;

(2) Foreign citizens or stateless persons that are domiciled or, as applicable, have their residence in Romania may carry out unskilled casual activities, under the Romanian legal provisions;

(3) Public institutions are not beneficiaries within the meaning of this law, except for the public management services directly managed by the local councils, such as: glass houses, green spaces and zoological gardens.

Art. 3. - (1) The labour relation between the daily worker and the beneficiary is established, by the parties mutual consent, without concluding, in writing, an individual labour agreement.

(2) A person may carry out activities as a daily worker only if s/he is at least 16 years old.

(3) Minors between 15 and 16 may carry out activities as daily workers only with their parents or legal representatives 'consent.

(4) Minor workers, respectively minors aged at least 15 and no more than 18 perform, as daily workers, only activities that are appropriate for their physical development and with their proven abilities, if this does not breach their right to physical, mental, spiritual, moral and social development, their right to education and does not endanger their health condition."

Art 5 Beneficiary's obligations

(2) d) to inform the daily worker with regard to the activity s/he is going to perform, as well as with regard to his/her rights and obligations;

e) to pay the daily worker the due remuneration, using any means of payment allowed by law, at the end of each day; remuneration can be paid no later than the end of the week or of the activity performance period, only with the written agreement of the daily worker and of the beneficiary; electronic payment or aspects regarding the remuneration payment are established by means of the methodological norms for the application of this law."

(3) With regard to the labour security and health, the beneficiary has the following obligations:

a) to provide labour health and security for the daily workers;

b) to instruct the daily worker, before beginning the activity and/or at the moment of changing the job, with regard to the dangers to which s/he can be exposed and to the prevention and protection measures that s/he must observe;

c) to ask the daily workers to sign statutory declarations that their health conditions allows them to perform the tasks assigned by the beneficiary;

d) to provide daily workers with appropriate labour equipment, which do not endanger their security and health;

e) to provide, free of charge, individual protection equipment adequate for the activities performed by the daily workers;

f) to immediately inform the appropriate territorial labour inspectorate with regard to any event involving daily workers;

g) to record labour accidents involving daily workers during the performance of their activities; the method of recording is provided by means of the methodological norms for the application of this law."

Art. 5¹. - The appropriate territorial labour inspectorate is responsible with investigating the incident involving daily workers.

Art 9 - (2) The amount of the gross remuneration agreed by the parties cannot be lower than the value/hour of the minimum gross salary guaranteed at country level and is paid at the end of each day of labour or at the end of the week, before the daily worker and the beneficiary sign the log book.

(3) The proof of the remuneration payment is represented by the daily worker's signature in the log book.

Art. 11. - (1) Unskilled casual labour can be provided in the following sectors provided in the Activities classification in the national economy, as updated:

a) agriculture, hunt and related services, except for animals breeders in semi-free, traditional and transhumance system;

b) forestry, except for forest exploitations;

c) fishing and aquaculture.

Implementation in the romanian legislation of the directive 2009/52/ce of the European Parliament and Council as of June 18th, 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals

In order to transpose Directive 52/2009, in July 2011, Romania amended and completed 3 legislative acts, respectively:

- Government Emergency Ordinance no. 194/2002 on foreign citizens' regime in Romania

- Government Emergency Ordinance no. 56/2007 on employment and foreigners' assignment on Romanian territory
- Labour Code

In what follows, we illustrate the way the Directive's provisions are included in the Romanian legislation, as of June 2014.

Art 2 Definitions

The Romanian legislation does not use the term "*staying third-country national*", but "foreigner" (Foreigner – person who does not have Romanian citizenship, the citizenship of another European Union member state or of the European Economic Area or the citizenship of the Swiss Confederation).

Art 3 Interdiction of illegal employment

The interdiction of illegal employment within the meaning of Art. 2 d) of the *Directive 52/2009, respectively* "employment of a third-country national illegally staying on the territory of a member state", is implicitly provided by OUG 56/2007 – Art. 26 on employment and foreigners' assignment on Romanian territory; the aforementioned OUG provides that allowing a foreign citizen without a labour permit or residence permit for labour purposes to work is a contravention.

Art 4 Employer's obligations

The provisions of the first paragraph are strictly integrated within the Government Emergency Ordinance no. 56/2007 on employment and foreigners' assignment on Romanian territory, as follows:

- a) the labour permit is requested by the employer to the General Inspectorate for Immigration based on the residence permit of the foreigner (Art. 4);
- b) to prove the legal employment of the foreigner, the employer must have a certified copy of the labour permit or of the residence permit for labour purposes (Art. 23).
- c) the employer must register the individual labour agreement concluded based on the labour permit with the Territorial Labour Inspectorate (Art. 17).

In what regards the second paragraph, the Romanian laws do not allow for simplified procedures when the employer is a natural entity, neither when foreigners are long-term residents.

Due to the fact that the steps provided by the Romanian legislation for foreigners' employment involve submission of the residence documents to the General Inspectorate for Immigration before employment, the provisions of the paragraph 3 of the Directive are not applicable for the context in Romania.

Art 5. Financial sanctions

Financial sanctions are included in the Romanian legislation as follows:

OUG 56/2007 - Art 26

- a) employing a foreigner without a labour permit or a residence permit for labour purposes is punished with fine from 3,000 lei to 4,000 lei (700 – 900 EUR) for each foreigner, without exceeding 100,000 lei (22.700 EUR).
- b) continuing to employ a foreigner after the expiration of the labour permit or of the residence permit for labour purposes is punished with fine from 1,500 to 2,000 lei (350 – 450 EUR) for each foreigner, without exceeding 100,000 lei (22.700 EUR).

OUG 194/2002 - Art 144

(3) The employer, legal or natural entity, must bear the expenses for the expulsion of the foreigner illegally employed or whose residence permit is no longer valid.

With regard to paragraph 3, Romanian legislation does not allow for reduced sanctions when the employer is a natural entity.

Article 6. Outstanding payments that are to be made by employers

All types of outstanding payments provided under paragraph 1 (outstanding remunerations, social duties and taxes, expenses with payments' transfer) are covered by the Romanian legislation (OUG 56/2007 Art 27 ^1 and Labour Code – Art 265), even if on a higher level than provided by the Directive. Thus, the salary level is assumed to have

been equal to the gross medium salary per economy, except for the case when either the employer, or the employee can prove the opposite, while the directive set as reference at least the minimum salary.

With regard to the provisions of paragraph 2, related to making complaints against the employer, to the possibility of enforcing a decision against an employer, as well as the possibility to require competent bodies to initiate procedures for recovering the outstanding remunerations, without a complaint being necessary, there are no procedures specific for the situation of the illegally-employed foreigners.

And though, the provisions of the Labour Code apply to all employees, including to foreign citizens.

Provisions of paragraph 3 related to the assumption that a labour relation lasted for at least 3 months, except for the situation when the employer or the employee can prove the opposite, are not found in the Romanian legislation.

With regard to the provisions of paragraph 4, related to the existence of certain mechanisms that guarantee the receipt of outstanding payments including in the situation when they returned willingly or they were returned, there are no explicit provisions in the Romanian legislation.

Provisions of paragraph 5 related to the possibility of extending the residence permits up to the moment of recovering the outstanding payments cannot be found in the Romanian legislation. This possibility is granted according to OUG 194/2002, Art 130 only to foreigners that are victims of the human or migrants trafficking. Foreigners that are victims of the human or migrants trafficking can be granted a temporary residence permit, for a 6-month period, with the possibility to extend it for new periods under the same conditions, even if they reached Romania illegally, at the request of the prosecutor or court of law, under the following conditions:

- a) they show an obvious intention to cooperate with the Romanian authorities in order to facilitate the identification and criminal judging of the participants to the crimes whose victims they are;
- b) they are no longer in relation with the persons suspected to have committed the crimes whose victims they are;
- c) granting the residence permit is beneficial for the development of the criminal investigations;
- d) their staying in Romania represents no danger for the public order and national security.

Art 7. Other measures

All provisions of paragraph 1 are transposed in the Romanian legislation, as follows:

In OUG 56/2007 Art 26 ¹ and in Labour Code Art 265, at the request of the General Inspectorate for Immigration or of the Territorial Labour Inspectorate, competent bodies (courts of law) may order, with the observance of the legal provisions, the following measures:

- a) total or partial loss of the employer's right to benefit from public benefits, aids or subventions, including from European Union funds, for a period of up to 5 years;
- b) interdiction of the employer's right to attend the awarding of public procurement agreements for a period of up to 5 years;
- c) total or partial recovery of public benefits, aids or subventions, including of the European Union funds, awarded to the employer, for a period up to 12 months before its action being ascertained;
- d) temporary or permanent closure of the site(s) where the actions were committed or the temporary or permanent cancelling of the authorization to carry out the professional activity concerned, if this is justified by the serious character of the action.“

Provisions of paragraph 1 apply to natural entities, inclusive.

Art 8. Subcontracting

Provisions of the article regarding subcontracting can be found in the Romanian legislation, as follows:

OUG 56/2007 - Art 27¹ and Labour Code – Art 265

When it is ascertained that the action was committed by a subcontractor, both the main contractor and any intermediary subcontractor will be held responsible – if they were aware of the fact that the employing subcontractor was employing foreigners that were illegally staying in the country – together with the employer, to make the payments or instead of the employing subcontractor or of the contractor whose direct subcontractor is the employer.

And though, no stricter norms are provided with regard to responsibility.

Art 9 Crime

Criminal elements related to illegal employment are present both in the Labour Code, specifically, and in the Criminal Code, in its continuous or repeated form (paragraph 1 a); instigation, participation and complicity are included in Paragraph 2.

Paragraph 1 b) of the Directive corresponds to Art 264 of the Labour Code

It is considered a crime and is punished with imprisonment from 3 months to 2 years or with a fine the employment of more than 5 persons, regardless of their citizenship, without concluding an individual labour agreement.

Paragraph 1 c) of the Directive corresponds to Art 265 (3) of the Labour Code

If the labour performed might endanger their life, integrity or health, the punishment is imprisonment from 6 months to 3 years.

Paragraph 1 d) of the Directive corresponds to Art 265 (2) of the Labour Code

Employment of a person that is illegally staying in Romania, knowing that s/he is the victim of human trafficking, is punished with imprisonment from 3 months to 2 years or with a fine.

Paragraph 1 e) of the Directive corresponds to Art 265 (1) of the Labour Code

Employment of a minor without observing the legal provisions related to age or using him/her for activities that are in compliance with the legal provisions related to the minors' labour regime is a crime and therefore punished with imprisonment from 3 months to 2 years or with a fine.

Article 10. Criminal sanctions

Romanian legislation makes no distinction between natural or legal entities, both being treated equally with regard to illegal employment.

Article 11. Legal entities responsibility

The Romanian Criminal Code (Art 135-151) includes the general responsibility of legal entities, while OUG 144/2002 – Art 142 includes the responsibility of legal entities in case of facilitating foreigners' illegal residence on Romanian territory, as follows:

1. If the action was committed in the name or for the interest of a legal entity by its bodies or representatives, it is punished with fine from 15,000 lei to 30,000 lei.
2. The same punishment is applied if the action was committed for the interest of a legal entity due to the non-performance of the control attributions by the persons mentioned under par. (1), by any person under their authority.
3. The legal entity's liability does not exclude the criminal liability of the natural entities who were involved in the crime.

Article 12. Sanctions applied to legal entities

Legal entities are applied punishments according to Article 7, but there is no public list of employers, legal entities, who were considered liable for the crimes specified under Article 9.

Article 13 – Contestations facilitation

The data available does not indicate that the provisions of the Directive were transposed into the Romanian legislation; illegally employed foreigners do not have easy access to making complaints against employers, directly or by means of third parties.

With regard to the possibility of obtaining limited residence permits, the legislation only provides for this possibility in cases of human or migrants trafficking, when victims choose to collaborate with the investigation bodies.

Article 14. Inspections

Territorial Units of the General Inspectorate for Immigration together with the Territorial Labour Inspectorates perform regular controls for identifying illegal foreign employees and fighting foreigners' illegal work, based on a risk assessment of the business sectors.

4.2 Legal analysis of the anti-trafficking legislation

A legal perspective analysis of the anti-trafficking legislation performed by experts in this field²⁷ shows that, although Romania harmonized its national legislation with the community legislation and with the international treaties it is part of, an improvement is necessary of the coordination of the regulations in this area, an internal harmonization of the legislative frame.

Authors consider the legislation in this field and also the institutional anti-trafficking framework need more stability, predictability and coherence for the latter was reorganized several times during the last years. In the authors' opinion, these institutional reorganizations need legislative solutions for transitory situations, so that the inter-institutional cooperation activity does not suffer.

The analysis quoted suggests the following tangible improvement solutions:

- to explicitly regulate the way to identify and refer the victims of human trafficking, activities and responsibilities of each institution to create the legal framework of a system procedure.
- to clarify several aspects related to the list of indicators that needs to be updated, completed or detailed, depending on all form of exploitation; such an example is given by the situations that may contribute to the identification of possible human trafficking victims for the purpose of labour exploitation: they live in the same place where they work, such as spaces for agriculture (cereal deposits, animal shelters) or industrial spaces (goods warehouses), without having other accommodation solution, they have no labour agreement, they do not have the appropriate training for the activity they carry out, they do not have adequate equipment for the activity performed or the equipment was modified to be used by the exploited children, the employer cannot submit supporting documents for salaries payment or there is evidence of exaggerated amounts due to the employer for transportation, accommodation or for other services necessary for the daily living;
- to create and implement a mechanism of efficiently using the particular cases with a view to facilitating the periodical assessment of the institutional reaction efficiency and of the measures adopted by the management of the public institutions, but also of the non-governmental organizations in the activity of identifying and referring the victims of human trafficking.
- to provide an unitary working method by setting quality standards for the services in the field of human trafficking victims prevention – a uniform message is necessary and a working methodology that constitutes the basis of the information and training with regard to the trafficking in human beings field (and to which all professionals/institutions that perform activities of information/training in this field can refer to), with the recommendation that this instrument should be included in a mandatory legislative act;
- to create a new methodology regarding the monitoring and assessment for the implementation of the Anti-trafficking National Strategy and of the related plans, but also a methodology for the assessment of the trafficking risks that provides a unitary assessment on a national level;
- the annual report regarding the trafficking situation in Romania, elaborated by the The National Agency against Human Trafficking (ANITP), based on bi-annual and annual assessments, must assume as main objectives the identification and correction of the problems occurred during the application of the anti-trafficking policies and norms, as well as the assessment of the progress recorded for the implementation of the Anti-trafficking National Strategy;
- monitoring and assessment actions regarding the trafficking situation must also be completed by the conclusions included in the periodical reports elaborated by the anti-trafficking experts Group of the European Commission, GRETA, in the trafficking-related reports elaborated in the USA, in other types of international documents or initiatives; another aspect specified is the reference to external anti-trafficking performance indicators, but also to indicators related to the costs of the anti-trafficking activities in the process of assessing the impact of the anti-trafficking Strategy;

²⁷ Several proposals related to the harmonization of the legislation in the field of preventing and fighting human trafficking, Alin Coșniță, Bianca Tuncay, 2013 http://www.ijci.eu/published/IJCI_70_Cosnita_si_Tuncay.pdf

- ex-post assessment of the strategy impact must also consider the analysis of the way resources are used, the estimated impact and efficiency of interventions.

Another study that analyses the policies regarding the labour exploitation²⁸ phenomenon makes recommendations regarding the anti-trafficking national framework, proposing the necessity to complete with detailed information related to certain procedures for the identification and referral of victims, so that it becomes a standard one, the necessity to detail the list of indicators and, depending on the specific form of exploitation, including labour exploitation, as well as the necessity of a specific norm for assistance of the human trafficking victims depending on the form of exploitation, that the current legal framework does not include.

Another recommendation related to the legal framework is made by GRETA experts who, in the Report regarding Romania, believe that it is necessary to also review the criminal law provisions in practice, with a view to ensuring an approach focused on the victim. Victims should be protected and assisted, their human rights guaranteed during and after the criminal procedure ends. Also, GRETA emphasizes the necessity to set as priority the efficient access to compensation and means of fighting for the human trafficking victims.

4.3 Analysis of policies and practices for prevention and fighting labour exploitation

References to the labour exploitation in GRETA Report for Romania 2012²⁹

The report for Romania from 2012 shows that the Group of Experts on Action against Trafficking in Human Beings (GRETA) received reports according to which certain labour recruitment agencies were involved in human trafficking cases. The report also specifies that the Romanian authorities did not provide GRETA representatives with information either related to the regulations applicable to the labour recruitment agencies with regard to the jobs abroad, or to the measures adopted by the competent authorities to ensure observance of these legal provisions.

By means of the report, GRETA requires Romanian authorities, including the authorities responsible for ensuring compliance with the labour legislation, to carry out several proactive investigations with regard to the human trafficking cases for the purpose of labour exploitation.

In what regards training of employees that enforce legal provisions, GRETA believes that Romanian authorities should try to enhance their investigation abilities, especially in the field of trafficking in human beings exploited in labour.

Furthermore, GRETA believes that Romanian authorities should continue to support research with regard to the trafficking in human beings issues, which could be the basis for information related to the future measures and policies in the field, both regarding the trafficking carried out on Romanian territory and also to trafficking of foreign citizens for labour exploitation. According to GRETA, the Ministry of Justice should analyse the data collected with regard to the investigations, criminal proceedings and traffickers' convictions.

By means of the report, GRETA requires Romanian authorities, including the authorities responsible for ensuring compliance with the labour legislation, to carry out several proactive investigations with regard to the human trafficking cases for the purpose of labour exploitation. GRETA suggests that the enhanced involvement of the labour inspectors and of the representatives of the Romanian Office for Immigration (currently the General Inspectorate for Immigration) might contribute to fighting trafficking for labour exploitation of foreign citizens in Romania; GRETA believes that Romanian authorities should pay more attention to the identification of the foreign citizens that might be trafficked, as well to ensure training for the relevant personnel in this field.

²⁸ *Transnational study on the features of the policies in the human trafficking field for the purpose of labour exploitation (2009 – 2011)*, R. Ungureanu, B. Tuncay, Paola Borghi, Viktoria Sebbelyi, Sanija Burageva, and colab., Bucharest, 2013.

²⁹ *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania* <http://www.coe.int/t/dgbl/monitoring/trafficking/docs/Reports/Raport%20final%20GRETA%20ro.pdf>

Other GRETA suggestions refer to enhancing efforts regarding the fight against trafficking causes, especially by facilitating the access to education and employment for vulnerable groups, especially women and Roma population.

*Report of the USA State Department on trafficking in persons for 2014 (Report for Romania)*³⁰

The report for Romania emphasizes the efforts of the Romanian Government in the field of preventing and fighting human trafficking, although it is specified that the minimum standards for eliminating trafficking in human beings are not completely fulfilled.

Recommendations for Romanian include:

- to resume funding assistance programmes for the human trafficking victims, including to assign funds for NGOs that provide services to victims;
- to increase the quality of the services provided to victims, provision of substantial care by means of psychological counselling and other victims assistance services;
- to build in Bucharest a shelter exclusively meant for repatriated victims of human trafficking;
- to remove movement restrictions imposed on the victims during their stay in the government-funded centres in case these measures are not for the victims' own safety;
- to improve efforts for the identification of potential victims inside the vulnerable population categories, such as immigrants without id's, foreign workers, Roma population and children that are begging or prostituting;
- to investigate in detail and start criminal proceedings in cases of suspected complicity of governmental employees to human trafficking actions and punishment with imprisonment of the public clerks convicted for such crimes;
- improve efforts to collect information related to human trafficking crimes punished by Law no. 678/2001 and other relevant laws, by elaborating different statistics for trafficking in human beings for sexual exploitation purposes and for trafficking in human beings for labour exploitation purposes;
- to consider granting labour permits to foreigners that were victims of the human trafficking for the period of their temporary residence permits;
- to continue organizing trainings for judges on the topic of the victims' sensitivity;
- to set up a rapporteur function on a national level, whose task is to provide periodical independent assessments of the national policies in this field.

Conclusions and recommendations regarding policies in the field of human trafficking for labour exploitation included in the Transnational study on the features of the policies in the human trafficking field for the purpose of labour exploitation (2009 – 2011)³¹

The study identifies different issues related to the field of labour exploitation and makes several enhancement recommendations, thus, among the issues identified, there are³²:

- reduced capacity to identify victims and make convictions, as well as low number of convictions for the labour exploitation crime, due to possible gaps existing in the institutional and legal framework, as well as due to the deficiencies of cooperation and coordination of efforts between the police, prosecutors and labour inspectors from the countries of origin, transit and destination;
- low number of specialized assistance services for trafficking victims and the existence of discrepancies with regard to their organization and functioning and the reduced implementation capacity of the national Mechanism for the identification and referral of the trafficking victims;
- absence of an unbiased observer of the implications and results of public policies in the trafficking field, who has the necessary authorization and independence and also the ability to make assessments and recommendations on the efficiency and sustainability of the anti-trafficking initiative on a national level;

³⁰ <http://romania.usembassy.gov/rapoarte.html>

³¹ *Transnational study on the features of the policies in the human trafficking field for the purpose of labour exploitation (2009 – 2011)*, R. Ungureanu, B.Tuncay, Paola Borghi, Viktoria Sebhelyi, Sanija Burageva, and colab., Bucharest 2013.

³² *Ibidem* 51

- incapacity to distinguish between trafficking for the purposes of forced labour, human smuggling and illegal employment, which doesn't allow the responsible parties to adopt adequate assistance measures for victims;
- Indicators for the identification of possible victims are not adapted depending on the exploitation type, respectively labour exploitation, which makes it difficult to trace and identify labour exploitation.

Recommendations included in the study refer to:

- a greater emphasis on labour exploitation in the National Strategy and Action Plan for fighting human trafficking, as an increasing form of exploitation; also, elaboration of a special summary regarding labour exploitation in the annual reports on human trafficking, where to present the causes, the forms of exploitation, areas where exploitation takes place, as well as the measures for the prevention and the ones for criminal proceedings;
- complete the legislation regarding the national Mechanism for the identification and referral of the trafficking victims with detailed information regarding certain procedures for victims identification and referral, so that it becomes a standard one;
- detail the list of indicators also depending on the specific form of exploitation, including labour exploitation;
- improve data collection, processing and analysis and also the activities of information dissemination to the institutions responsible for the implementation of the policies in the trafficking field for the purpose of labour exploitation;
- The need to strengthen collaboration with public/private, national and/or international organizations that act in the migration field, in employment and professional training in order to promote legal migration and increase the public opinion's level of awareness with regard to the labour conditions abroad, to each worker's rights and to the risk involved by "black labour".
- organize special training sessions for the personnel involved in the process of identifying victims exploited in labour, including for the trade unions representatives.
- perform training of trainers activities in the field of human trafficking prevention and fighting in order to increase the number of experts from the public and private institutions (including non-governmental organizations), with great emphasis on the indicators used for the identification and referral of victims exploited in labour;
- fight against the lack of denouncement, on a large scale, of the "black labour", inform and encourage people to make complaints and announce any competent authority, not only the police, in case there are suspicions of illegal work.

Anti-trafficking campaigns

The National Agency against Human Trafficking (ANITP) is the institution that coordinates human trafficking related policies.

In 2012, the National Agency against Human Trafficking (ANITP) carried out six national and regional campaigns and 36 local campaigns for information in secondary schools, high-schools, by means of advertising panels in bus stations, on the screens from the subway stations, in cinema halls and over the internet.

Generally, public campaigns for prevention and awareness carried out by the The National Agency against Human Trafficking (ANITP), together with other public institutions and non-governmental organizations mainly focused on the phenomenon of trafficking for sexual exploitation or used the general term trafficking in human beings.

Even in the context of a campaign addressed to persons leaving abroad to work, the focus is on the risk of human trafficking for the purpose of sexual exploitation, such as the campaign organized during the period May-September 2008 by ANITP, OIM and the Ministry of Internal Affairs from the Czech Republic, called "Labour in the Czech Republic"; the campaign was aiming at warning people with regard to the danger of human trafficking for the purpose of sexual exploitation, for those who travel to the Czech Republic for labour purposes.

But there were also several campaigns organized related to labour exploitation. Examples of campaigns organized by ANITP that focused on labour exploitation:

- the national campaign for preventing trafficking “Get informed to safely work abroad” launched by ANITP in 2013, in collaboration with the Consular Department of the Ministry of Foreign Affairs, whose purpose was to inform Romanian citizens wishing to work abroad so that to avoid dangers and risks of human trafficking on the labour market.

The Campaign with the slogan - “Working is a right. Exploiting work is a crime!” – focused on the population aged between 26 and 40, men, with average studies, originating from rural areas, but also to the general public.

The main activities aimed at informing vulnerable persons with regard to the human trafficking phenomenon, the conditions that must be fulfilled for working abroad, the way Romanian citizens can be assisted in the country and abroad and consisted in: meetings with students from different faculties in Bucharest, during which aspects related to human trafficking were presented and also means to prevent it, services in this field offered by ANITP and the Ministry of Foreign Affairs, flyers and guides with useful information, a video spot on the topic of preventing human trafficking for labour exploitation, which was broadcasted by closed-circuit televisions from commercial centres, as well as cinema halls.

For 2014 information meetings are organized addressed especially to students in the final classes of high school, mainly from arts and vocational high-schools.

- Campaign launched by ANITP «Beware of “PERFECT” opportunities of “PERFECT” jobs» (carried out during the period July 2007- February 2008), based including on TV spots and information booklets warning the possible dangers a job abroad involves.

- Campaign organized by ANITP between October 2008 and June 2009, called "Your money makes traffickers rich ... Your money kills souls!" tried to increase awareness among possible users of sexual services and cheap labour force, as well as among persons who give money to beggars, with regard to the consequences of sexual and labour exploitation and informing them on the sanctions included in the legal framework for human trafficking.

Another campaign – the national campaign “The right to work is yours. Don’t sell it to traffickers!!!”, meant to prevent exploitation by forced labour was the one initiated by the Ecumenical Association of Churches in Romania – AIDRom and carried out in cooperation with the Bucharest Regional Centre of the National Agency against Human Trafficking (ANITP) and with the CARITAS organization in Bucharest.

The campaign, whose message was “Human trafficking is a serious breach of human rights and an offense to the dignity and integrity of the human being” was organized during the period August 1st – September 30th, 2010 in the counties of Ilfov, Giurgiu, Ialomita, Teleorman, Calarasi, Dambovita, Arges, Bacau, Iasi, Constanta and Bucharest municipality. The target group of the campaign was made up of young graduates and unemployed people or persons who might become unemployed.

The purpose of the campaign was to fulfil the gap of information related to the dangers of exploitation by forced labour, in a context in which young graduates and unemployed people, especially during summertime, are willing to accept any job offer without being appropriately informed with regard to these offers.

From the information that could be obtained, there were no campaigns organized by public institutions and/or private organizations that focused exclusively on preventing and/or fighting trafficking for exploitation by labour in agriculture, the campaigns focusing on the general labour exploitation.

National strategies in the anti-trafficking, immigration and illegal work fields

National Strategy against trafficking in human beings for the period 2012-2016 and the National action plan for 2012-2014 for the implementation of the National Strategy against trafficking in human beings for the period 2012-2016 (approved by HG No. 1.142/2012)³³

³³ http://www.mai.gov.ro/Documente/Transparenta%20decizionala/Anexa_1%20Strategie%20trafic%20persoane.pdf

http://www.mai.gov.ro/Documente/Transparenta%20decizionala/Anexa_2%20Strategie%20trafic%20persoane.pdf

The strategy shows that the main exploitation methods among victims are forcing them to prostitute, labour or carry out services in a forced manner or with the in compliance of the legal norms regarding the conditions of labour, payment, health and security, as well as forcing them to beg, all associated with several other abuses: physical, emotional or other kind.

The content of Chap. VII *Action directions, general objectives and specific objectives*, sub-chapter VII.1 *Prevention of Trafficking in human beings* shows that public policies for the prevention of trafficking in human beings must be continued, also using for their implementation new methods and means of approach; the starting points are, on the one hand, an action to centralize all prevention efforts made before both by public institutions and by non-governmental organizations in order to avoid overlaps and increase efficiency of the joint action and, on the other hand, a substantiation resulted from researches in the field regarding target-groups and risk areas.

Some of the issues that the anti-trafficking fight faces, identified in the Strategy, are the lack of certain reports or incomplete/overdue reports of the institutions with responsibilities in this field regarding activities carried out and results obtained and inconsistency in the accuracy and completion of the data collected and disseminated at the level of the institutions responsible for the implementation of the policies in the trafficking in human beings field. Therefore, the Strategy assumes among its general objectives to **increase capacity of collection and analysis regarding data** on human trafficking, to aggregate data collected by the institutions with responsibilities in this field and adopt a data-exchange mechanism, create the National Rapporteur institution (unbiased, independent observer of all public policies implications and results in this field), the expected results being:

- a) uniform and similar method for data measuring and interpretation;
- b) alignment to European trends of collection and assessment in relation to the human trafficking phenomenon;
- c) increased data collection and analysis capacity regarding the human traffickers segment;
- d) enhanced quality of assessment reports;
- e) high degree of impartiality and independence in assessing national policies and their implementation.

Furthermore, some of the specific prevention objectives included in the Strategy are:

- To increase the level of information and awareness of the overall population, as well as of the risk groups, regarding the human trafficking implications.
- To reduce risk factors that lead to victimization.
- To monitor the activity of the economic operators from professional sectors with increased labour force fluctuation (constructions, agriculture, wood exploitation, tourism etc.).

With regard to the monitoring and assessment of human trafficking and policies implementation, the strategy provides a series of improvements of the current data collection mechanisms from the point of view that all institutions should use a set of common/similar indicators, as well as from the data exchange point of view in order to provide, in real time, an overall image of the trafficking in human beings in Romania.

In the Action plan for 2012-2014 for the Strategy implementation, one of the prevention activities is represented by the development of annual prevention campaigns that aim at discouraging the demand related to all kinds of exploitation, campaigns that can be organized by ANITP and other non-governmental organizations.

Also, in order to reduce risk factors that lead to victimization, the plan includes the organization of professional training courses and enforcement of measures to stimulate employment for persons among the risk groups.

Another objective related to prevention is to monitor the activity of the economic operators from professional sectors with increased labour force fluctuation (constructions, agriculture, wood exploitation, tourism etc.), which will be performed by means of periodical controls for preventing or identifying human trafficking situations for labour exploitation purposes (the activity planned will be performed twice a year by the Ministry of Labour, Family and Social Protection / Labour Inspection).

*National Immigration Strategy for the period 2011-2014*³⁴

The document suggests several strategic objectives, out of which:

1. To promote legal migration, for all parties benefit: Romanian society, immigrants and their countries of origin.

The main steps for achieving this objective are:

- permanent information regarding the possibilities and conditions for legal migration to Romania, both of foreigners' from third countries with high potential of migration to Romania and of the foreigners that already are on Romanian territory;
- admission of third countries foreigners for labour purposes depending on the necessities identified on the local labour market, by making annual evaluations of the local labour market for the purpose of identifying in due time the deficient areas and setting the admission levels necessary to cover this deficiency. The Strategy emphasizes the importance of flexibility in applications processing, at the same time with preventing the admission of foreigners who do not comply with the qualification and competency requirements from the internal labour market. Also, the strategy specifies that, by ensuring foreigners admission at the established levels, temporary immigration is encouraged for labour purposes, giving immigrants a chance to get professional experience that can be later used in their country of origin.

2. To strengthen control of foreigners' legal residence on Romania's territory and appropriate enforcement of expelling and restrictive measures. The objective aims at diminishing illegal migration by preventing immigration of the categories of people who do not satisfy the legal conditions, as well as fighting illegal residence, illegal labour and trafficking of immigrants.

Achievement of this objective involves Romania's alignment to the policies of the European Union in this field and the appropriate segregation of responsibilities with the member states. Also, permanent information needs to be provided for the potential immigrants and foreigners staying on Romanian territory regarding, on the one hand, restrictive sanctions and measures that can be applied to foreigners that are illegally staying or that carry out illegal work and, on the other hand, regarding the risks involved by the statute of illegal migrant such as migrants trafficking, different forms of exploitation, public custody, expulsion policies etc.

Another measure aiming at achieving this objective is to enhance cooperation between Romanian authorities authorized to fight illegal immigration and labour, but also the cooperation with third countries with migrating potential. For the first situation, it is specified the cooperation of the National Office for Immigration, as specialized structure in this field, with the other authorities that have attributions related to foreigners, for fighting illegal immigration with institutions such as Romanian Police, Romanian Gendarmerie, Romanian Border Police, and, for fighting illegal labour, with the Labour Inspection.

3. Romania's participation, together with the international community and the EU states, to the identification of durable solutions for persons that need international protection.

The objective aims to integrate foreigners who obtained some form of protection in Romania by means of specific programmes and partnerships, and to inform public opinion with regard to the special situation and needs of refugees etc.

4. To socially integrate legally staying foreigners. The objective mainly aims at foreigners who recently came to Romania and need Romanian language knowledge and also cultural orientation and counselling.

The national strategy is implemented by inter-institutional cooperation, as well as by annual action plans that provide the concrete activities and responsibilities of all ministries and institutions with attributions in the immigration field.

*The national Strategy regarding the reduction of illegal labour incidence for the period 2010-2012 and the National plan for its implementation*³⁵

³⁴ [http://ori.mai.gov.ro/api/media/userfiles/HOTARARE%20498\(3\).pdf](http://ori.mai.gov.ro/api/media/userfiles/HOTARARE%20498(3).pdf)

³⁵ <http://www.mmuncii.ro/pub/imagemanager/images/file/Legislatie/HOTARARI-DE-GUVERN/HG1024-2010.pdf>

The strategy defines the concept of illegal work, also known as black work, as being the “activity provided by an employee for and under the authority of an employer, natural or legal entity, without complying with the legal provisions in force for the conclusion, execution, amendment, suspension or termination of the individual labour agreement”.

The general objective of the strategy is represented by reducing illegal labour and employing under individual labour agreements a number as large as possible of employees.

The strategy recommends as main action directions:

- Prevention of illegal labour cases incidence by means of information campaigns, round tables, booklets editing and their distribution in schools, high schools, faculties, discussions in TV shows etc.
- Identification of illegal labour situations, by multiplying controls and making them efficient, and by collaboration with other factors, including the public.

Other examples of good practice in the field

National Strategy against trafficking in human beings (ANITP) participates in job fairs in order to provide information with regard to the dangers related to trans-national trafficking for labour exploitation.

Furthermore, ANITP manages a free telephone line, set up in 2007, where cases of human trafficking can be announced and where information and advice can be provided to persons who intend to work abroad. The phone number that can be dialled free from Romania is 0800 800 678, while the one that can be dialled from abroad is +4021 313 31 00.

Another example of free phone line was set up and managed by the Labour Inspection in 2011, for preventing illegal labour, where illegal work situations could be announced; phone operators used to give general information regarding labour legislation. But, at this moment, the number is no longer functional.

Good practice manual in social integration of third countries citizens (RTT)³⁶

The manual, elaborated by the Association for Disputes Alternative Solving (ADRA), within an European project, wished to emphasize good practice examples related to the activity of integrating third countries' citizens, being addressed to all relevant actors in the field of social integration of RTT.

The use of the good practice manual will have as result: improving the activities of migration management of the institutions involved and meeting the information need of these institutions' representatives so that they are able to efficiently answer the needs of the third countries' citizens. Also, the manual wishes to be an instrument for a better harmonization and coordination of the activities of the institutions acting in the migration field.

The good practice manual is addressed to public and private institutions' representatives who have attributions in migration management and especially in facilitating the integration process of third countries citizens.

The good practice examples included in the manual refer to mobility on labour market, family reunion, education, health, long-term residency, access to citizenship, social services, political participation and anti-discrimination.

4.4 Trade unions and their role in the issue of illegal labour and labour exploitation

The data that could be identified show that trade unions have interventions rather focused on prevention and/or fighting illegal work, either we talk about Romanian workers, or immigrants.

Besides certain concrete actions, many types of involvement are the ones specific to the trade unions activity, such as involvement in protest actions, negotiation, informing trade union members with regard their different rights in work, make legislative proposals, collaborate with other institutions etc.

1. The National Trade Unions Block

³⁶ *Good practice manual in social integration of third countries citizens, ADRA 2012* <http://ori.mai.gov.ro/api/media/userfiles/Manual%20ADRA.pdf>

Supporting immigrant workers in Romania

Information taken from the website of the trade union organization The National Trade Unions Block (BNS) shows the services provided to immigrants by this organization³⁷. Thus, BNS provides assistance and counselling for immigrant workers staying in Romania for labour purposes, regardless of whether they are already trade union members affiliated to the confederation or they are non-affiliated workers who have problems in their labour relationship.

BNS permanently represents, negotiates and defends rights of workers affiliated to this trade union organization, both in the relationship with employers and in national and international courts.

Currently, BNS has affiliated members originating from Chile, Argentina, Brazil, the Ivory Coast, Nigeria, Spain, Portugal, Serbia, Montenegro or Slovenia, most of them acting in the sports field.

The website specifies that any worker with a legal status of immigrant can ask for the confederation's help if problems occur in his/her labour relationship even if s/he is not a member of the BNA trade union.

In the context of carrying out an European funded project (*Trade union representation for migrant workers in Romania*)³⁸, BNS set up a Counselling office dedicated to migrant workers (*Immigrant in Romania*)³⁹, whose help they can ask in case they need information related to labour legislation in Romania, in case their rights are breached, in case of labour conflicts, in case of communication issues towards authorities or employers or in case they have troubles integrating into the society.

The information taken from the BNS website show that, on a central level, the Office has legal counsellors and interpreters that can facilitate communication in international communication languages (English, French, German, Spanish, Italian, Portuguese, Hungarian etc.), but also in languages less often used in Romania, such as Chinese, Russian, Arabic, Turkish. Also, on a territorial level, BNS has experts in immigration issues who can provide information regarding foreign workers' rights and obligations, they can act as mediators in case of conflicts and can help with immigrants' social integration.

At the same time, the counselling office is meant for social partners, who can benefit from counselling and information regarding the status of immigrants' workers on the labour market, their social and legal situation, thus meeting the needs of the immigrant workers who work on the Romanian labour market.

BNS also elaborated a guide addressed to social partners who meet, in their activity, the immigration phenomenon for labour purposes to Romania. The Guide regarding immigrants in Romania⁴⁰ includes worker's rights and obligations in Romania on a general level, according to the legal provisions, provisions that are also applicable to the immigrant worker with residence and labour permit in Romania, as well as the rights and obligations of a foreigner in Romania, focusing on the way national laws apply in case of employing different categories of foreign citizens.

Within the aforementioned project, BNS also performed a research on the immigration phenomenon in Romania⁴¹ in order to identify the migrants needs; among the conclusions regarding the trade unions involvement in the immigrants problem we find: the need for an inter-institutional collaboration for the management of the migration phenomenon (with the Territorial Labour Inspectorates, the General Inspectorate for Immigration, with non-governmental organizations etc.), to increase the information level of the of foreign workers with regard to the right, obligations and dangers related to the labour market in Romania, to build a polyglot website and establish external contacts that are able to disseminate information.

³⁷ <http://www.bns.ro/wps/portal/Acasa/Piata-Muncii/Servicii-Imigranti>

³⁸ http://imigrantinromania.ro/wps/portal/Home/home!/ut/p/b1/04_Sj9CPykyssy0xPLMnMz0vMAJGjzOLdjFwC3b3dDQ3eLcwNDDx9vdxdvZ1djQwMTYEKI0EKDHAARwNC-sP1o8BKTPxCjY1C3UKDA_2MXA08TYMNLyMCQw1MXM2gCvBY4eeRn5uqX5.AbYZB4qgLANFkGfo!/dl4/d5/L2dBISEvZ0FBIS9nQSEb/, project of BNS, in partnership with ARCA organization (Romanian Forum for Refugees and Migrants)

³⁹ *Immigrant in Romania*

http://imigrantinromania.ro/wps/portal/Home/home!/ut/p/b1/04_Sj9CPykyssy0xPLMnMz0vMAJGjzOLdjFwC3b3dDQ3eLcwNDDx9vdxdvZ1djQwMTYEKI0EKDHAARwNC-sP1o8BKTPxCjY1C3UKDA_2MXA08TYMNLyMCQw1MXM2gCvBY4eeRn5uqX5.AbYZB4qgLANFkGfo!/dl4/d5/L2dBISEvZ0FBIS9nQSEb/

⁴⁰ <http://imigrantinromania.ro/wps/wcm/connect/ee81ea2-c8d4-4570-96bb-bbbaee6017/Ghid+adresat+partenerilor+sociali.pdf?MOD=AJPERES&CACHEID=ee81ea2-c8d4-4570-96bb-bbbaee6017>

⁴¹ *Trade Union representation for immigrants workers in Romania*. Study of immigration in Romania, S. Toader, A. Smirna, O. Jurca, D. Cernat, 2010

The aforementioned research also presents the actions taken by BNS in relation to several foreign workers exploited in labour – the situation of over 200 Chinese workers exploited in labour in Romania in constructions. These workers had residence permits for 90 days for other purposes than labour and had been recruited by a company in China, with the promise of a 900 euro salary. Workers lived in extremely inappropriate conditions, without any hygiene; in the same small space 240 persons were living, sleeping, eating and washing. Workers were using their own equipment for working, less the footwear (safety and rubber boots) that was delivered to them at very expensive prices, the money being retained from their salaries.

For this situation, BNS announced Labour Inspection, the Romanian Office for Immigration, the Embassy of China and the Chinese Trade Union Confederation, the case ending with the repatriation of all workers.

Other contributions to this field that BNS believes it can bring are: participate to the process of completing and improving Romanian legislation related to foreigners’ regime and especially of the foreigners immigrating to Romania for labour purposes, pressure the Romanian government into ratifying relevant conventions of the International Labour Organization, involve, together with other trade union organizations, in negotiating the number of labour permits issued per year.

With regard to Romanian migration abroad, BNS had the initiative to propose to the trade unions from the destination countries where Romanian citizens migrate to conclude partnerships that allow Romanian immigrants to benefit from the trade union identity transfer to the respective destination countries, but the initiative did not receive any answer from those trade unions⁴².

2. The National Confederation of Free Trade Unions of Romania – Brotherhood (CNSLR – Fratia)

Fighting illegal work

CNSRL-Brotherhood got involved in the project Social dialogue – to a flexible route for employment and inclusion, in the context of which the research Analysis of illegal labour – actual status and promoting the benefits of legal employment, 2013.⁴³

The research lists the trade unions’ means of direct intervention for the prevention and fighting illegal labour:

- informing members with regard to the labour legislation and to the provisions of the collective labour agreement at unit and sector level;
- promoting measures for the prevention and fight of illegal labour, at all levels (unit, territory, sector, national structures);
- specialized consultancy for actual cases identified at unit level, mediation of possible conflicts, pressure the employer;
- support administration measures by collaborating with the Territorial Labour Inspectorate, AJOFM/ANOFM, CNAS, houses of pensions, Ministry of Labour;
- specific actions for getting the general public’s attention related to illegal labour (marches, meetings, conferences);
- development and implementation of European Funds projects on different topics;
- consultancy regarding development of projects on specific topics;
- improvement of the legal framework related to labour conditions;
- participation to protest actions that are directly or indirectly related to illegal labour.

Also, the research shows that, in the context in which the main objective of the trade unions activity is to protect its members’ position on the labour market, in companies where solid trade union organizations are set up illegal labour is reduced, especially in its severe forms, up to being completely eliminated.

⁴² „Trade Union representation for immigrants workers in Romania”. Study of immigration in Romania, S. Toader, A. Smirna, O. Jurca, D. Cernat, 2010

⁴³ <http://ascri.ro/dialog-social/wp-content/uploads/2013/06/Analiza-mmfl-final.pdf>

The investigation performed within the aforementioned project (which involved employers and employees from small and medium enterprises, trade union representatives, employers' associations, territorial labour inspectorates) shows that the role and methods of trade unions intervention for preventing and fighting black labour are not well known to / the interested parties are not aware of them – employees and employers. Therefore, the question *What is/might be the role of the trade union organizations for fighting illegal labour?* is left with no answer or the answer is “I don't know”, while others say either that they have no role or that they cannot do anything for they are politicized or that their role is limited in the private sector where the employer does not allow for trade unions to be set up.

There are also positive answers, but many are vague („*great*”, „*important*”), while many respondents only mention information and mediation as possible actions. Ampler answers are offered by trade union representatives and refer to the following methods of involvement: maintain contact with employers, emphasize breaches, organize debates, participate to joint actions with Labour Inspection, with employers' associations, attempt to persuade trade union members not to accept illegal employment etc.

CONCLUSIONS

As emphasized by the studies, analysis and statistical data in the field included in this work, the Romanian agriculture sector, **the social and economic context and also the context of labour conditions** from the last years can be characterized by several well-defined features, without being exhaustive:

- large agricultural surface and considerable resources, but not cultivated, lack of productivity and competition;
- oversized employment as compared to the UE average, but mainly in the subsistence and semi-subsistence agriculture;
- sector affected by the context of the global financial crisis, due to economic decrease (that affected both the population and companies);
- lack of agricultural equipment, lack of investment and dedicated funding;
- from demographic perspective, rural population is old and diminishing;
- youth migration from rural to urban and massively to foreign countries;
- a lower level of education for rural population;
- cheap labour, as compared to workers from other countries;
- low level of salaries as compared to other sectors of activity;
- seasonal character of agricultural labour;
- high expansion of black labour phenomenon.

How do these data correlate to the phenomenon of labour exploitation in agriculture and what are the possible hypotheses for the future evolution of this phenomenon?

At first, it is useful to list all **characteristic aspects of the labour exploitation phenomenon**, at this moment, as emphasized by the specific official information, research and analyses:

- the number of labour exploitation cases is smaller than the one regarding sexual exploitation, but, due to the fact that labour exploitation situations are more difficult to identify and the system for data collection and centralization by exploitation types and fields needs improvement, it is possible that these cases are more;
- international traffic (involving Romanian workers abroad) is more numerous as compared to the national one (occurred on Romanian territory), which is reflected by official figures, but also from the presence in online media, where international traffic is much more visible;
- poverty is a vulnerability source for the traffic and especially for the international one, being one of the main causes that determine people to look for better jobs and higher incomes, being easier to mislead by the false promises of traffickers;
- since black work is a phenomenon often occurring in the agriculture sector, situations of national traffic can hide under this mask, not claimed and even not recognized as such by its victims and even by the

authorities, as long as there are problems with the system of identifying and centralizing labour exploitation cases;

- a significantly large number of people who leave to work abroad are coming from the rural environment, affected by a higher level of poverty and a lower level of education, with low financial demands, elements that increase their vulnerability towards trafficking and exploitation;
- the number of immigrants who come to Romania to work is low, but on an increasing trend.

Corroborating all this data, hypothetical scenarios can be elaborated regarding the phenomenon of trafficking for labour exploitation in agriculture, at least the following:

Scenario 1:

The positive trend of recovery from the global economic crisis and Romania's possible economic recovery and growth, together with the agricultural sector development by means of major investments and funding from European Funds (for aspects such as agricultural equipment, human resources qualification etc.) and the application of complex strategies for resources exploitation and increase in productivity and competition might determine the agricultural sector to become more attractive both for Romanian workers, especially young population, but mostly for foreign workers, leading to an increase in the number of immigrants who wish to work in the Romanian agricultural sector.

Development of potential and increase of agriculture incomes might lead to the increase in the number of labour exploitation situations (as it happens, for instance, in European countries with high agricultural potential). As a corollary, a possible decrease of the international traffic phenomenon might also occur, due to the creation of new jobs in agriculture who might be wanted by Romanian workers, at least by a segment with experience/qualification or interested in working in this field.

On the other hand, as shown by the specialized analyses, in the context of the social and economic changes and with regard to free circulation and frontiers disappearance, Romania can become, in its turn, a destination country for sexual exploitation trafficking; the same trend might be also valid with regard to trafficking for labour exploitation.

Scenario 2:

The hypothesis of this scenario is that Romania's economic recovery/growth, respectively in the agriculture field, is delayed (including in the global context of the crisis persistence), lack of investments and funding continue or do not produce the estimated development, the effects being more poverty, drastic decrease of living conditions, especially in the rural environment and in the context of the agricultural sector.

This situation might lead to the increase of the labour exploitation phenomenon on a national and international level, to the persistence and increase of Romanian workers' labour migration abroad, as well as of the young population migration from rural to urban areas, increasing even more vulnerability towards trafficking and exploitation of women, men and children.

Scenario 3:

The hypothetical context regarding the lack of development in the agriculture field and the decrease of Romania's economic power might also lead to the persistence or increase of the national trafficking phenomenon and, at the same time, due to the general economic destabilisation, might increase immigration to Romania, respectively the exploitation phenomenon on Romanian territory of foreign workers who came to work here, forced, in their turn, by poverty and unemployment. Also, international trafficking of Romanian workers might also increase. We might talk, in this scenario, about three increased trafficking situation: national (Romanians and foreigners), international (Romanians).

The ways to answer the challenges provided by these scenarios, as recommended by a series of internal and international analyses and reports in this field, might be of legal nature (improvement of the specific legal framework), increased inter-institutional cooperation on a national and international level, focusing on labour exploitation, adequacy of the answer provided by the authorities and by all the other factors

involved in the anti-trafficking field, depending of the new types of trafficking and on the new target groups exposed to exploitation (for example, prevention activities focused on immigrants).

Making an analysis from the gender perspective, statistical data show that men have a superior employment rate in agriculture than women, most of them being workers on their own account, while women are categorically predominating in the category unpaid family workers, which shows the high vulnerability of women from social and economic perspective and related to the labour market; women are also the ones who work in part-time jobs much more than men.

Most of the men and most of the women are classified into the category of age 35-44, while for women the age category 55-64 is next as numerical predominance.

With regard to labour exploitation, especially in agriculture, data shows a predominance of men, as compared to women, the reverse situation being specific for sexual exploitation trafficking, where the number of women is categorically superior to the one of men.

Sexual exploitation trafficking continues to be the widest spread type of trafficking. Analysis of data regarding the trafficking in human beings phenomenon during the last years shows a decreasing tendency of the general phenomenon, but, at the same time, **an increase of the labour exploitation preponderance** within the total cases of trafficking. Despite all these, Romania continues to be an important country of origin for trafficking in human beings.

Statistical data does not manage, though, to capture the trafficking phenomenon in its entirety. Among the reasons that support a larger number of persons trafficked, inclusive by labour, there are: issues related to the victims identification capacity, simplification of the victims residence conditions in the destination countries in Europe, the fact the victims do not speak the language of the destination country and therefore they cannot communicate, they are held captive or under watch and cannot contact authorities, incapacity to notice the victim statute, exclusion from the identified cases of the victims that remain in the destination country and follow a social insertion programme.

Also, there is little information related to foreign citizens, trafficking victims exploited in Romania, although experts in this field believe that this part of the traffic is increasing (source: Trafficking in human beings. Overview of the situation in Romania, an Animanova Project – Integration on the labour market for trafficked persons, Centre Partnership for Equality, 2012).

Data of the National Agency against Human Trafficking shows an obvious prevalence of labour exploitation in agriculture, as compared to other fields of activity.

Nevertheless, there is little information regarding the human trafficking by labour exploitation in agriculture. Different public institutions and non-governmental organizations have partial data, depending on their specific activity.

Information can be found, generally, with regard to human trafficking for sexual exploitation purposes, phenomenon that occurs more frequently, as shown by the statistics and analyses available. In general, both the related legislation and the policies and campaigns are focused mainly on the sexual exploitation issue.

The National Agency against Human Trafficking (ANITP), the institution which centralizes all data with regard to human trafficking, managing the National Integrated System for Human Trafficking Monitoring and Assessment (SIMEV), does not have any details regarding the labour exploitation situations and conditions and, implicitly, regarding labour exploitation in agriculture, as shown by the answers to the requests for information sent in the context of the work. International trafficking for labour exploitation (Romanian workers abroad) is more present in the media, as compared to the national trafficking for labour exploitation.

Also, trafficking for labour exploitation of foreigners on Romanian territory is a low level phenomenon, at least from the perspective of the data available.

ANITP data show the predominance of labour exploitation in agriculture and animal breeding, as compared to the total victims exploited in labour during 2012 and 2013, most of them being men, and coming from the rural environment, especially from the counties of Bacau and Mures. Most of the victims have been trafficked abroad, mainly in Germany and Italy.

Year	No. of victims identified as being exploited in labour (total)	out of which women	out of which men	out of these victims, identified as being exploited by labour in agriculture
2012	410	108	302	294 (out of which 135 exploited in Romania)
2013	375	80	295	269 (out of which 83 cases in Romania)

Recruitment was performed by the recruiter directly approaching them, the person being unknown to victims before (for 68% of them); most of the victims were manipulated and cheated by the promise of jobs, in the country or abroad. Also, data show that, in 2013, two thirds of the victims of human trafficking originating from Romania were recruited through acquaintances, which shows a decreasing tendency for the number of victims recruited by means of recruitment agencies and employment ads.

With regard to foreign citizens trafficked on Romanian territory, ANITP data shows that, in the first half of 2011, five foreign citizens (from Bangladesh) were identified as victims of sexual and agriculture labour exploitation.

Conditions of exploitation in labour / labour exploitation in agriculture, as shown from the trafficking cases included in the report, are summarized as follows:

- with regard to recruitment: it is performed by means of misleading promises made by traffickers related to a well-paid job and decent living conditions with regard to accommodation and food, including the promise of free of charge accommodation and food; traffickers are both in Romania and in the destination countries, usually working as a team / in complicity;
- with regard to exploitation:
 - labour is carried out in the field, at strawberries, oranges harvesting or in a sheep yard, mushroom farm;
 - for international trafficking, victims are often abandoned on the territory if the country where they went for work;
 - traffickers confiscate victims' identity documents and mobile phones;
 - labour is not paid or is little paid, contrary to the promises made
 - inhuman living and accommodation conditions, lack of hygiene, lack of food resources;
 - long working hours, including at night and during weekends;
 - conclusion of false labour agreements or total lack of labour agreements;
 - physical and verbal abuses, intimidation threats from traffickers against complaints related to retaining documents, labour unpaying, lack of appropriate conditions.
- victims profile: social and economic vulnerability, poor economic situation, persons from the rural environment (mostly from the counties of Vaslui, Bacau), low level of education;
- preponderant countries for international trafficking (Romanian workers exploited abroad): Spain, Greece, Italy, Cyprus
- preponderant counties for national trafficking: Covasna, Bacau
- countries of origin for foreign citizens trafficked in Romania: Bangladesh.

With regard to the anti-trafficking legal framework, analyses show that Romania harmonized national legislation with the community one and the international treaties to which it is part, but it is still necessary to improve coordination of regulations in this field, an internal harmonization of the legal framework. Thus, more stability is necessary, more predictability and coherence of the related legislation, but also of the institutional anti-trafficking framework, which underwent many reorganizations during the last years. The main references to human trafficking for labour purposes can be found in the law that regulates the trafficking field (Law no. 678/2001 on human trafficking prevention and fight), in the Labour Code and

the Criminal Code, as well as in several related laws, also existing provisions regarding this phenomenon regulated in national strategies addressed to human trafficking, illegal labour and migration.

Several researches emphasize problems and recommend improvement solutions of the anti-trafficking legal framework, especially related to labour exploitation, such as:

- improvement of legislation regarding the national Mechanism for the identification and referral of the trafficking in human beings victims, with detailed information related to certain identification procedures of victims identification and referral, so that it becomes a standard one;
- indicators clarification, completion and detailing for all forms of exploitation, especially regarding the labour one;
- ensurance and integration in a mandatory normative act of unitary quality standards for the services in the field of preventing victims from human trafficking which should be the basis of information and training in the human trafficking field, valid for all professionals/institutions that carry out activities of information/training in the field;
- creation and implementation of a mechanism for using the record of cases in order to facilitate periodical efficiency assessments of the institutional reaction and of the measures adopted by the public institutions management, but also by the management of the non-governmental organizations, in the activity of identification and referral of human trafficking victims;
- creating a methodology for the monitoring and assessment of the National Immigration Strategy implementation and of the related plans, but also a methodology for assessing trafficking risks that provides a unitary assessment at national level;
- the necessity to elaborate specific norms for the assistance of human trafficking victims depending on the way they were exploited, that the current legal framework does not include;
- the annual report on the trafficking situation in Romania, elaborated by the National Agency against Human Trafficking, must assume as main objectives the identification and correction of problems occurred during the application of anti-trafficking policies and norms and the identification of the progress recorded in implementing the anti-trafficking strategy; also, monitoring and assessment actions related to the trafficking situation must be completed by the conclusions included in the periodical reports of the anti-trafficking experts Group of the European Commission GRETA, in the trafficking reports elaborated in the USA and in other kinds of international documents or initiatives;
- revision of the criminal law provisions for the purpose of ensuring a victim-focused approach, prioritization of efficient access to compensation and means of attack for victims of human trafficking.

Policies and good practice in the field of preventing and fighting trafficking for labour exploitation are initiated both on public level (institutions with a mandate in this field) and at private level (non-governmental organizations and trade union organizations), most of the times as a partnership.

We can name national strategies in the anti-trafficking field, in the illegal labour field, in the field of immigration, and also bilateral, trilateral and regional cooperation policies and instruments for the anti-trafficking fight and for Romania to develop strategic partnerships with third countries for preventing and fighting human trafficking; in the context of trafficking for labour exploitation we can name, for example, the regional cooperation partnership with organizations and institutions from countries such as: Hungary, Bulgaria, Cyprus, FYROM and Greece.

During the last years, in Romania several campaigns were developed both on national and regional level, in public-private partnership, which aimed at preventing and fighting trafficking for labour exploitation, with a focus on persons who leave abroad for work. There were no campaigns carried out by public institutions and/or private institutions that exclusively aimed at preventing and/or fighting trafficking for labour exploitation in agriculture, the campaigns focusing in labour in general.

Other good practice that must be named are the participation of the National Agency against Human Trafficking at job fairs where they provide information with regard to dangers connected to transnational trafficking for labour exploitation, the management, by the same institution, of a free of charge call line where situations of human trafficking can be announced, where information can be received for avoiding

trafficking situations and also information and advice in order to avoid trafficking for persons who intend to leave for work abroad.

A trade union initiative meant to support immigrants in Romania is the one developed by the National Trade Unions Block, who set up a Counselling Office dedicated to migrant workers where they can ask for information related to labour legislation in Romania, in case their rights are not observed, in case of labour conflicts, in case of communication problems with authorities or with employers or even if they have troubles integrating into the society; also, the office is meant for social partners, who can benefit of counselling and information regarding immigrant workers' statute on the labour market, their legal and social situation and thus meeting the needs of immigrant workers who work on the labour market in Romania.

Analyses, national strategies and reports (on an internal and international level) in the field focused on the trafficking issue announce different problems of the anti-trafficking field on labour exploitation, mainly related to victims identification and the indicators specific for labour exploitation, to the incapacity to make a difference between trafficking for forced labour purposes and human smuggling and illegal labour, which does not allow responsible actors to take adequate assistance measures for victims, to the small number of convictions for this type of crime etc.

The aforementioned documents also include several recommendations regarding improvement of policies and practices in the field of preventing and fighting trafficking for labour exploitation, among which we name:

- enhancing data collection, processing and analysis and also the activities of information dissemination to the institutions responsible for the implementation of the policies in the trafficking field for the purpose of labour exploitation;
- The need to strengthen collaboration with public/private, national and/or international organizations that act in the migration field, in employment and professional training in order to promote legal migration and increase the public opinion's level of awareness with regard to the labour conditions abroad, to each worker's rights and to the risk involved by "black labour";
- enhancing efforts regarding the fight against trafficking causes, especially by facilitating the access to education and employment for vulnerable groups, especially women and Roma population;
- organize special training sessions for the personnel involved in the process of identifying victims exploited in labour, including for the trade unions representatives.
- fight against the lack of denouncement, on a large scale, of the "black labour", inform and encourage people to make complaints and announce any competent authority, not only the police, in case there are suspicions of illegal work;
- to set up a rapporteur function on a national level, whose task is to provide periodical independent assessments of the national policies in this field etc.

ANNEX 1. ASPECTS CONCERNING MIGRATION AND IMMIGRATION

Brief introduction concerning the migration of Romanian citizens

Demographic studies drafted in Romania in order to show trends in the field and to provide the possibility of outlining some scenarios and future predictions indicate that the population decreasing trend was and remains constant. In actual figures, the period between the year 1990 and year 2006, the estimated loss was of approximately 1.5 million inhabitants and there are no reasons to consider that the trend would change in the future⁴⁴. This decrease in the population was caused, according to the above-mentioned study by several types of factors: a negative external migration higher than the natural increase, an increase in the mortality rate reaching above the birth rate and a decrease in the birth rate that maintained at a level below the mortality rate.

Romania is at present one of the largest sources of labour force for the European labour market. Obviously, the areas most affected by migration are those where the labour force level is the lowest. The migration researchers identified five stages⁴⁵ in the Romanian migration after 1989, each having characteristics well-determined by the specificity of emigration, namely:

- a) between 1990 and 1993 the ethnic minorities (German, Hungarian) and Romanians emigrated in mass, due to political unrest and poverty;
- b) between 1994 and 1996, the Romanian economic migration to the Western Europe, mainly for seasonal or illegal work, was low but also the migration of asylum seekers and ethnic migrants was very low;
- c) between 1996 and 2001 the emigration flows increased, as follows:
 - permanent legal migration to the U.S. and Canada, much higher than to the European countries
 - „incomplete” or circular migration to the European countries, for illegal work
 - increase of the migrant trafficking, phenomenon manifest in parallel to the illegal migration, but different by the violence and abuse used by the traffickers/ employers (affecting especially the women)
 - decrease in the number of the agreements for labour force recruitment with various European countries (Germany, Spain, Portugal, Italy)
 - the return of a small number of Romanian migrants from the Republic of Moldova, as well as a strong flow of Romanian migrants between Germany and Romania.
- d) between 2002 and 2007 it may be noted a rapid increase in the circular migration and the return of Romanians from the Schengen area, further to the removal of the visa requirements for this area
- e) between 2007 up to now, the Romanians have free access to the European labour market.

Therefore, the Romanian migration has been characterised by a slow but relatively constant increase⁴⁶, and in this context we refer both to the Romanian citizens who leave Romania, to look for better opportunities, especially as concerns the standard of living and who, in many cases, settle in another country and do not return to Romania, and to the foreign citizens coming to Romania, either to transit the country or to obtain a stay permit and settle here. In 2011, for example, in Romania there were 60,000 foreign migrants having a legal stay permit⁴⁷.

Even if at present, in Romania, the immigration is far from being as widespread as in other EU member states, we may anticipate such an increase in the future, Romania becoming a country of destination for citizens of other states, a hypothesis sustained as well by other studies emphasising that the status of EU member state, and the labour force pressure will determine an increase in the number of foreign citizens who will want to reside temporarily in Romania.

Other analyses emphasise that Romania will be, in a first stage, both emigration, and immigration country, and is to become a target for non-community workers, context in which the number of immigrants will

⁴⁴ *The demographic decline and the future of Romania's population*, Vasile Gheţău, 2007

⁴⁵ *Romania as country of origin, transit and destination of migrants*, Maria Stoicovici, 2012 *apud*

Some social-economic effects of the labour force migration on the countries of emigration. Romania's case., in „Theoretical and applied economy”, vol XVII, Monica Roman, Cristina Voicu, 2010

⁴⁶ *Romania as a country of origin, transit and destination of migrants*, Maria Stoicovici, 2012

⁴⁷ *Ibidem* 29

exceed that of emigrants, just like it happened in states such as Spain and Italy, but also in states having acquired the status of EU member states in 2004, such as the Czech Republic, Hungary and Slovakia⁴⁸.

As to the profile of the Romanians deciding to leave abroad, a study prepared in 2007⁴⁹ mentioned, for that period, that they were mainly workers, having an average or low level of qualification, aged between 25 and 35 years, coming from the centre, West, South and South-East of the country, most of them coming from rural areas and small towns. In this context, between 1990 and 2006 the jobs mainly taken by the Romanians were especially in construction, agriculture and domestic services. A study analysing the Romanian migration for work between 1990-2006 indicated that part of the persons leaving Romania to work and live abroad became victims of human traffickers and organised crime networks, and others worked illegally in Turkey, Italy and Spain, emphasising that one of the causes allowing for the development of illegal migration was the Romanian authorities' insufficient capacity to manage the migration phenomenon⁵⁰.

Another study dealing with a subsequent period mentions an obvious change of the profile; thus, between 2009-2010 there was a series of visible evolutions, one of them being the change of the Romanian migrant typology, in the years of reference migrating the specialists, the highest qualified persons in the following areas: health, education, technical, IT, the migration being rather considered a long-term project, tending to become permanent. These issues are also reflected in percentage increases of the concentrations of Romanian migrants to countries of destination such as the Great Britain, France, the Nordic countries or destinations outside the EU, such as Canada and the U.S.⁵¹.

The studies reveal that in Romania, in 2010, the number of Romanian migrants who left to work abroad was estimated at 2.8 million, Spain and Italy being the destinations concerned by almost 75% of the Romanians who left to work abroad⁵².

Other research also indicates the migrant profile: women and men part of the active population (15-64 years), go abroad to work, the migration being temporary, the men mainly work in construction, and the women in domestic services, their level of education is average, but they do have professional experience and qualification⁵³. The economic sectors where migrants work are construction, transport infrastructure and shipbuilding yards, trade and restaurant services, domestic and child care sector, other services, including hotels, restaurants, clothing and agriculture.

The period 2009-2010 also brought the economic crisis that obviously affected the rate of employment. The reports prepared in relation to migration during this period⁵⁴ indicated that the migration for work slowed down; in addition, due to the fact that the situation worsened at the European level and all the European Union states were affected, more or less significantly, by the recession, the money receipt from abroad from the Romanian workers decreased. The Romanian migrants working abroad lost their jobs or their jobs became more and more insecure, more threatened, the working time reduced and also the income received. This caused a significant increase of poverty in Romania, being affected in particular the categories already vulnerable, already subject to marginalisation and social exclusion.

Risks related to immigration and fighting foreigners' illegal work

As mentioned in the previous section, Romania is one of the main sources of labour force in Europe, such position having an impact as well at a national level, to the effect of the significant reduction of the labour force available. It is possible that this current deficit be covered in the future by the high number of immigrants taking over the vacant jobs, as well as the types of professions depopulated due to the massive leave of Romanians abroad. Nevertheless, although in the last decade there is an increasing trend,

⁴⁸ *Immigrant in Romania. Perspectives and Risks*, Ovidiu Voicu, Georgiana Toth, Simina Guga, Fundația Soros România, 2008

⁴⁹ <http://www.muncainstrainatate.anofm.ro/aderarea-la-uniunea-europeana-n-beneficiul-tuturor>

⁵⁰ *Migration and development, Policies and institutions in the international migration: migration for work in Romania 1990–2006*, Monica Șerban, Melinda Stoica, Fundația pentru o Societate Deschisă, 2007

⁵¹ *Study on the migration phenomenon in Romania. Inclusion of foreigners in the Romanian society*, Iris Alexe, Bogdan Păunescu, Fundația Soros România, 2011

⁵² *Social worlds of migration*, Editura Polirom, 2010

⁵³ *Romanian communities in Spain*, Dumitru Sandu, Fundația Soros România, 2010

⁵⁴ *The impact of the international economic crisis in Romania 2009-2010*, Unicef, 2011

the foreign workers coming to work in Romania are much fewer compared to the Romanian workers leaving to work abroad, the profile of the two categories of workers being similar.⁵⁵

At the end of the year 2009, in Romania there were 59,062 foreigners from third states having a legal stay permit, 4% more than at the end of 2008 and 76.2% more than in 2005. From the total 59,062 foreigners registered as legally staying at the end of 2009, 49,406 had a temporary stay right (84%) and 9,656 (16%) a permanent stay right.

The data provided by the Romanian Immigration Office in 2010⁵⁶ indicate that until the end of September 2010 59,358 persons were registered as legally staying in Romania, and from these persons, approximately 18%, namely 10,076 had a right of permanent stay. Most immigrants having a right of legal stay in Romania came from the Republic of Moldova (28%), Turkey (17%), China (15%) and Syria (4%).

As territorial distribution of the citizens from third states legally staying in Romania, it can be noted that they are concentrated up to 41% in the capital, more precisely in the area Bucharest-Ilfov, and approximately 33% chose, in relatively equal percentages (around 6%) the big urban conglomerations in the counties Iași, Cluj-Napoca, Constanța, Timiș, Prahova, Bihor.

During 2012, the General Inspectorate for Immigration ensured the management of the legal stay in the country for 102,759 foreign citizens, of which 55,823 from third states (most of them come from Moldova – 13,254, Turkey – 8,935 and China – 6,902) and 46,936 from EU member states, EEA and the Swiss Confederation (Italy – 10,678, Germany – 7,386, France – 5,697). Also, the access to the asylum procedure was ensured for 2,982 persons who submitted a request for being granted a form of protection, 216 of them also obtaining protection. The main purposes for which the foreigners settled in Romania are related to the right to family unity (family reunification, family members of Romanian, EU or EEA citizens), to education (students), employment or permanent settlement on the territory of our country.

During 2013, the General Inspectorate for Immigration issued 2,093 employment authorisations for foreign citizens. Most of these authorisations were for the type of authorisation: permanent worker 1,557, secondee 163, sportsman 201 and highly qualified 144.

Studies prepared in the field also confirm the presence of immigrants in the hidden economy and the existence in Romania of immigrants whose status is not regulated⁵⁷, even if there are no statistics on the size of the phenomenon. However, as to the immigration phenomenon Romania undergoes the actual risk of becoming targeted by illegal immigration⁵⁸ and this fact was emphasised in various contexts.

The National Immigration Strategy for the period 2011-2014⁵⁹ also presents the risks in a different perspective, mentioning that Romania's future status as Schengen state will have consequences for:

- a) the increase of the foreigners who stay illegally in Romania waiting for the creation of the conditions for crossing the internal border to Hungary without border checks;
- b) Romania's turning into a state of transit to the other member states for foreigners in third states staying illegally in Bulgaria (the hypothesis is valid if Bulgaria accedes to the Schengen area at the same time with Romania or subsequently) and Greece.

The strict labour legislation in Romania associated with the many documents requested, the difficult actions involved and the higher expenses for the employer who wants to offer a job to a foreigner create a favourable context for foreigners' working under the table. In order to be employed, a foreigner needs an authorisation to be obtained by the employer and issued by the Romanian Inspectorate for Immigration. According to the legal provisions, a foreigner may be employed in Romania only if that position could not be taken by a Romanian or an EU or EEA citizen. It is difficult for a foreigner to get employed in Romania because besides proving the necessary qualifications and experience for that position it is

⁵⁵ *Study on the immigration phenomenon in Romania. Foreigners inclusion in the Romanian society, Fundația Soros România 2011*
http://ec.europa.eu/evsi/UDRW/images/items/docl_20205_314013002.pdf

⁵⁶ *The Romanian Immigration Office, 2010*

⁵⁷ *Report on the activity of the Romanian Immigration Office in 2009 and respectively 2010 in order to fight foreigners' illegal work*

⁵⁸ http://www.euractiv.ro/uniunea-europeana/articles%7CdisplayArticle/articleID_16622/

⁵⁹ <http://ori.mai.gov.ro/detalii/pagina/ro/Strategii/185>

necessary to make efforts and expenses for the documents that must be prepared or obtained by the employer who wants to offer that position to a third state citizen⁶⁰.

Migrant workers' access to and participation in the labour market are also hindered by the lack of firm legislation concerning the operation of foreign labour force recruitment and placement companies; many times the fee charged by brokers exceeds the salary received by these workers in one year in Romania; the costs for obtaining the employment authorisation and the stay permit – are either paid directly by the migrant worker prior to his/ her arrival in Romania, or are deducted from the salary for the period of work for that company; the migrant worker does not know the full content of his/ her employment contract, drafted in many cases only in Romanian or some of its provisions are not complied with by the employer; the salary negotiated is often not the salary received; the workload is oversized, the additional hours of work are not paid, etc.⁶¹

In order to mitigate the above-mentioned risks and to fight foreigners' working under the table, more campaigns and initiatives were conducted between 2010 and 2014. For example, such an initiative since 2010 involved the drafting and implementation of *The plan for operative cooperation in identifying illegal foreign employees and fighting the foreigners' illegal work*, by the Romanian Immigration Office (the current General Inspectorate for Immigration) and the Labour Inspection. In this context, the following were established and implemented:

- two actions for identifying the foreigners illegally employed in construction;
- two nationwide actions in the field of milling industry and bread manufacture;
- one action in the field of light industry (textiles, manufacturing of clothing, leather goods and shoes);
- actions during the summer to identify the foreigners involved in moneymaking activities without fulfilling the legal requirements (bars, restaurants, night bars).

According to the official data, in 2010 1,943 actions and inspections were conducted in order to fight foreigners' illegal work, a 77% increase compared to 2009 when only 1092 were conducted. Thus, 254 foreigners carrying out moneymaking activities illegally were identified; 59 of them were staying illegally in Romania and 195 had a right of stay in Romania but did not meet the requirements for carrying out such activities⁶².

As for the first semester of 2012, according to the data provided by the General Inspectorate for Immigration 1617 foreigners illegally staying in Romania were identified, most of them from states such as Moldova, Turkey, Tunisia, Algeria and Morocco; these foreigners were mainly identified in Bucharest but significant numbers were found as well in other counties, such as Cluj, Arad, Timiș or Iași.

⁶⁰Country Report Romania in Migration, Employment and Labour Market Integration Policies in the European Union (2000-2009), <http://www.labourmigration.eu/research>

⁶¹Ibidem

⁶²Report on the activity of the Romanian Immigration Office in 2010 in order to fight foreigners' illegal work <http://ori.mai.gov.ro/api/media/userfilesfile/rap.pdf>

Table 16: Foreigners found to stay illegally (regardless of the action taken), by the country of origin

Country	2012	%	2011	Dif	Evolution
MOLDOVA	247	15,28%	452	-205 ↓	-45,35%
TURCIA	190	11,75%	233	-43 ↓	-18,45%
TUNISIA	127	7,85%	163	-36 ↓	-22,09%
ALGERIA	124	7,67%	25	99 ↑	396,00%
MAROC	104	6,43%	52	52 ↑	100,00%
CHINA	75	4,64%	117	-42 ↓	-35,90%
SERBIA	71	4,39%	74	-3 ↓	-4,05%
SIRIA	58	3,59%	36	22 ↑	61,11%
ISRAEL	52	3,22%	48	4 ↑	8,33%
PAKISTAN	52	3,22%	46	6 ↑	13,04%
Alte tari	517	31,97%	634	-117 ↓	-18,45%
Grand Total	1617	100,00%	1880	-263 ↓	-13,99%

Table 17: Foreigners found to stay illegally (regardless of the action taken), by the county of location

County	2012	%	2011	Dif	Evolution
Bucuresti	331	20,47%	503	-172 ↓	-34,19%
Cluj	133	8,23%	158	-25 ↓	-15,82%
Arad	131	8,10%	85	46 ↑	54,12%
Timis	125	7,73%	71	54 ↑	76,06%
Iasi	119	7,36%	147	-28 ↓	-19,05%
Constanta	72	4,45%	96	-24 ↓	-25,00%
Bihor	67	4,14%	83	-16 ↓	-19,28%
Ilfov	61	3,77%	0	61	-
Suceava	41	2,54%	45	-4 ↓	-8,89%
Mehedinti	40	2,47%	25	15 ↑	60,00%
Judet	497	30,74%	667	-170 ↓	-25,49%
Grand Total	1617	100,00%	1880	-263 ↓	-13,99%

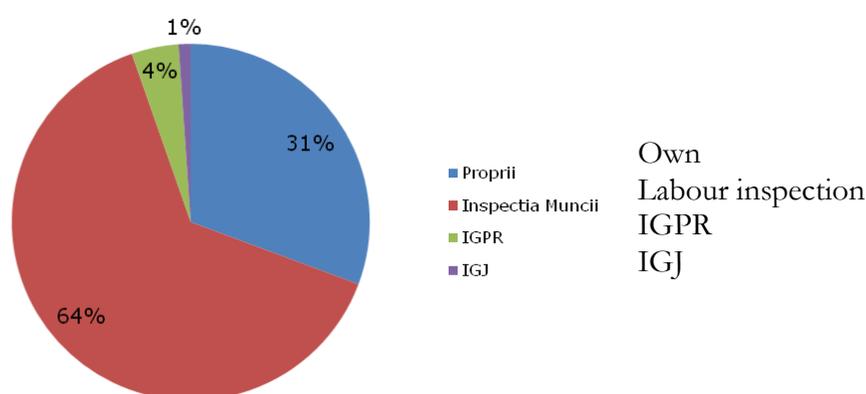
By the reason of identification, most of the cases are cases of illegal stay but also some cases when the reason of identification was the attempt of or illegal border crossing, rejection of the asylum application, non-compliance with the decision to return, failure to comply with the purpose of the stay, illegal work etc.

Table 18: Foreigners found to stay illegally (regardless of the action taken), by the reason of identification

Reason	2012	%	2011	Dif	Evolution
ILLEGAL STAY	1179	72.91%	1404	-225	-16.03%
ATTEMPT OF/ ILLEGAL BORDER CROSSING (EXIT)	163	10.08%	0	163	-
REJECTED ASYLUM-SEEKER	72	4.45%	22	50	227.27%
FAILURE TO COMPLY WITH THE DECISION TO RETURN	67	4.14%	123	-56	-45.53%
ATTEMPT OF/ ILLEGAL BORDER CROSSING (ENTRY)	42	2.60%	0	42	-
FAILURE TO COMPLY WITH THE PURPOSE OF STAY	42	2.60%	84	-42	50.00%
FOR TRANSFER DUBLIN	25	1.55%	16	9	56.25%
ILLEGAL WORK	10	0.62%	81	-71	-87.65%
SUBJECT TO EXPULSION	10	0.62%	4	6	150.00%
ON THE REQUEST OF PUBLIC ORDER AND NATIONAL SAFETY STRUCT.	5	0.31%	6	-1	-16.67%

DECLARED NON-GRATA	1	0.06%	1	0	0.00%
SUBJECT TO A EUROPEAN ARREST WARRANT	1	0.06%	2	-1	-50.00%
SUBJECT OF AN ALL-POINTS BULLETIN	0	0.00%	1	-1	-100.00%
ILLEGALLY ENTERED	0	0.00%	136	-136	-100.00%
Grand total	1617	100%	1880	-263	-13.99%

The Report of the General Inspectorate for Immigration published in 2012⁶³, also illustrates the types of actions performed to achieve the objective of fighting illegal migration and illegal work in Romania, as follows: 916 actions and inspections were conducted in 916 companies to fight the work under the table. From the 63 foreigners identified 22 stayed illegally in Romania, and 41 had a right of stay in Romania, but did not fulfil the legal requirements to work in those contexts.



In 2013, in order to fight illegal work, the General Inspectorate for Immigration conducted 624 actions and inspections, 211 using its own staff and 413 in cooperation with structures having competence in the field. Further to such actions 58 foreign citizens that did not meet the legal requirements for such activities were found.

These actions were also conducted during 2014. Thus, in February 2014, the Bucharest Directorate for Immigration within the General Inspectorate for Immigration conducted more actions and inspections in order to prevent and fight the illegal stay and work of foreigners in Romania. Further to the actions conducted in Bucharest 13 foreign citizens were found to stay illegally; 5 of them were from Turkey, 3 from the Republic of Moldova and 1 from each of Costa Rica, Ethiopia, Philippines, Iran and Pakistan. In order to fight illegal work carried out by foreign citizens, the representatives of the Bucharest Directorate for Immigration found during the same period three breaches of the relevant legislation, and applied contravention sanctions in value of lei 5,200 lei⁶⁴. In 2014 other series of inspections were conducted in cooperation with the Territorial Labour Inspectorate of Cluj, in relation to 23 companies for which foreign citizens work. Subsequently, the undertakings received contravention sanctions for the failure to comply with the legal provisions in force, the measures consisting in fines having a total value of lei 17,400 and 7 warnings⁶⁵.

⁶³<http://ori.mai.gov.ro/api/media/userfiles/analiza%20statistica%20sem%20I.pdf>

⁶⁴<http://www.amosnews.ro/controale-scopul-combaterii-sederii-si-muncii-ilegale-strainilor-pe-teritoriul-romaniei-2014-02-22#sthash.kpK42JEX.dpuf>

⁶⁵<http://www.monitorulcluj.ro/social/35170-in-cluj-napoca-traiesc-pesto-5800-de-straini#sthash.3ozMSFDX.dpuf>