



EXECUTIVE SUMMARY

Romania*



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Introduction

Romania, a country of approximately 22.2 million, is a constitutional democracy with a multiparty, bicameral parliamentary system. Poverty in Romania has been on a continual increase since the global financial crisis due to the combination of slow economic reforms, internal corruption, and excessive bureaucracy.¹ Discrimination is a significant problem in Romania, particularly discrimination against street children, Roma children, and HIV-positive children. Poverty, social exclusion, discrimination and stigmatisation are root causes and aggravating factors of vulnerability to commercial sexual exploitation of children (CSEC).

Romania has a troubled past in relation to its child protection policies. During the communist regime, the Romanian government had a 'no contraception' and 'no abortion' policy and encouraged Romanians to grow large families. These policies led to a huge influx of births and many families had children they could not support. The Romanian government eventually intervened and, in an attempt to solve the problem, placed the children in large generic institutions that the state had created. Children went through a continual system of being separated and moved from institution to institution until they were finally released from the system at age 18.

Reforms in the late 1990s saw the closure of these large generic institutions and a decentralised county run system was set up instead. The focus also shifted to providing

support for families and alternative means of child care. Romania further reformed many of its laws in the early 2000s in an attempt to bring Romania in line with international standards in preparation for accession to the European Union (EU). Although these reforms initially strengthened child protection in Romania,² new issues and problems arose as a result of Romania's accession to the EU. The combination of Romania's continual economic problems and newly opened borders saw many parents leaving Romania to work. As a consequence, children were often left without supervision and care as one or both parents left for work,³ increasing their vulnerability to exploitation.

Trafficking in children for sexual purposes in Romania has significantly increased since Romania's accession to the EU. Open borders within the EU have facilitated child trafficking routes and allowed the further development of trafficking networks.⁴ Currently, Romania's anti-trafficking legislation does not fully comply with international standards. The US State Department's *Trafficking in Persons (TIP) Report* ranks Romania as a Tier 2 country, that is, a country that has made 'significant efforts' to meet the standards in the *Trafficking Victims Protection Act*.⁵ In 2013, it is expected that new, comprehensive, and long-term legislative reforms will come into effect and bring Romania's domestic legislation in line with international obligations.⁶ However, there has been international concern in regard to the full implementation of anti-trafficking legislation.⁷

There is limited data on **child prostitution** in Romania. Roughly five percent of the homeless children in Romania are forced into prostitution. In Bucharest alone, 30 percent of sex workers are under the age of 18.⁸ Despite the Romanian *Criminal Code* being amended to comply with the *Convention on the Rights of the Child's* (CRC) *Optional Protocol on the Sale of Children, Child Prostitution, and Child Pornography* (OPSC), many child victims of commercial sexual exploitation are still treated as criminals and prosecuted.

Romania is a well established destination country for child sex tourists. Although several cases of **sexual exploitation of children in tourism** have been documented in Romania and numerous offenders have been arrested

and prosecuted, there is no central database documenting the extent of the issue in Romania.

There is very limited information in Romania about the occurrence of **child pornography/child sexual abuse materials**. In fact, Romania has only recently expanded its resources to include up-to-date filtering and online law enforcement tools in order to combat child pornography/child sexual abuse materials. Furthermore, although Romanian law only criminalises possession of child pornography on computer systems and data storage mediums, the laws regulating possession in other forms are extremely vague. Romania should amend its *Criminal Code* to include criminalisation for possession in any form.

National Plan of Action

Previously, Romania had focused its Plans of Action on human trafficking. In 2010, the focus shifted to all forms of CSEC and Romania's strategies and mechanisms to address CSEC are now embodied within the *National Strategy for the Protection and Promotion of Children's Rights for 2008-2013* ("the National Strategy") and the corresponding Operational Plan for implementation. The National Strategy is Romania's first comprehensive Plan of Action aligning Romania's laws and policies with international child protection laws and standards.⁹ The National Strategy's overall objective is to mobilise the necessary resources and ensure accountable and effective partnerships between stakeholders. The government, through designated authorities, carries out the coordination and monitoring of the National Strategy. The Operational Plan breaks down each of the Strategy's main objectives and assigns each one operational goals, specific activities or actions to be taken, entities responsible for carrying out these

activities, a timeline for realisation, and final indicators or results.¹⁰

However, there are significant constraints to realising these results. Namely, the lack of experience of particular sectors or lack of trained personnel, reluctance to transfer authority to local entities due to an apparent lack of experience in management and organisation, lack of funding for a coherent professional training structure, and differences in salaries preventing more qualified personnel from relocating. The Committee on the Rights of the Child ("the Committee") has also expressed concern that the National Strategy may insufficiently address the most vulnerable groups and further recommends that special attention be paid to those children living in poverty, Roma children, children with disabilities, children with HIV/AIDS, street children, and children in need of alternative care.¹¹

The Directorate for Protection of Children's Rights (DGPC) was established in 2004 and is the primary body responsible for the coordination and monitoring of all activities under the National Strategy. The DGPC collaborates with numerous stakeholders and works closely with the National Agency against Trafficking in Persons (ANITP) specifically. ANITP is a specialised body that works to coordinate, evaluate, and monitor, at the national level, the implementation of policies in the field of trafficking in persons by public institutions, as well as those in the field of victim protection and victim assistance.¹² All institutions and organisations in Romania working in anti-trafficking are bound by a Memorandum of Cooperation and work under the Inter-Agency Working Group for Coordinating and Assessing the Preventing and Combating of Trafficking in Human Beings (GIL), or in tangent with DGPC.¹³

Several data collection systems were set up shortly after DGPC and ANITP were established. ANITP developed a national system to collect data on trafficking in adults and children. DGPC created a separate but similar database exclusively for child trafficking. The DGPC system collects and amalgamates information from a variety of national and regional databases that collect information on unaccompanied Romanian children outside Romania, repatriated Romanian children or alleged victims of child trafficking, as well as internal victims of trafficking.¹⁴ By amalgamating these databases together, the DGPC system provides a more complete view of the problem. Additionally, the Department

for the Investigation of Criminal Offences of Organised Criminality and Terrorism (DICOOCT) collects and consolidates case law data and relays this to the Centre of Resources for Combating Trafficking in Persons with the General Directorate for Combating Organised Criminality (CRCTP within the GDCOC). However, coordinated efforts to develop a *unified* data collection mechanism in Romania for recording data on trafficking victims remain insufficient.

On a regional and international level, Romania has made considerable efforts to improve collaborations, particularly in the area of anti-trafficking, through participation in numerous European and international partnerships and campaigns. The Romanian government and police authorities collaborate with and receive training from CEPOL (European Police College), Eurojust, Europol, INTERPOL, the UK Metropolitan Police, and the United States Federal Bureau of Investigation (FBI).

In addition, Romania has also entered into cooperation agreements with neighbouring countries to ensure bilateral child protection. However, some of the provisions included in the agreements with particular countries may actually hinder protection of Romanian CSEC victims. For example, in certain situations, Romanian CSEC victims in France may be repatriated against their wishes or without their best interests taken into consideration. Romania should ensure that all agreements focus on the best interests of the child, rather than on the political and economic interests of the country.

Prevention

Much of the effort towards prevention of CSEC in Romania goes into awareness raising activities. These awareness raising activities include campaigns, projects, and initiatives created and implemented by stakeholders such as NGOs and government departments. The activities are often implemented in collaboration with multiple stakeholders as well as regional or cross-border counterparts. However, the majority of awareness raising campaigns have focused on human trafficking and need to be expanded to include all manifestations of CSEC. Furthermore, such activities have predominantly been directed at potential victims of CSEC as well as the general public, and need to be expanded to include potential perpetrators as well. Child trafficking prevention has been introduced as part of the Human Rights and Children's Rights education curriculum in Romanian schools. ANITP has furthered the government policy by providing training courses

for professionals in the education system. However, in order to guarantee widespread impact, these measures must be formalised through educational polices and made compulsory in all schools.

The Romanian government, along with significant industry partners, support The Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism ("The Code"). The Code is an independent international organisation that outlines a code of six criteria for tourism services. The six criteria aim to ensure the private sector is complying with its corporate social responsibility to protect children from commercial sexual exploitation. Romania also works in collaboration with the European Financial Coalition (EFC) to combat online CSEC. The EFC is comprised of financial institutions, ISPs, law enforcement bodies, protection agencies, and NGOs.

Protection

Child rights instruments related to CSEC

Romania has ratified the principal international treaties concerning the rights of the child, including the CRC, the OPSC, the ILO *Convention on Worst Forms of Child Labour*, and the *UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children* ("Trafficking Protocol"). Although Romania has not made any reservations to the CRC, it has not yet published a report for the OPSC. Romania has also ratified a number of significant regional agreements which seek to protect against CSEC. The Romanian Constitution ensures full applicability of all properly ratified international treaties. There is no single consolidated act on children's rights in Romania; instead there are several different pieces of legislation that address

children's rights such as the *Criminal Code*, the *Family Code*, *law 272/2004 on the protection and promotion of the rights of the child* and *law 122/2006 on asylum*.

Legislation

Trafficking of children for sexual purposes

Romanian legislation criminalises all forms of trafficking in persons through *law 678/2001 on preventing and combating trafficking in human beings*. In 2004, *law 272/2004* was enacted for the protection and promotion of the rights of the child. Also in 2004, amendments to the *Criminal Code* incorporated further legal provisions for all forms of trafficking.¹⁵ Article 205 of the *Criminal Code* specifically criminalises trafficking of children and also increases imprisonment periods for instances

of aggravated offences.¹⁶ The definition of exploitation provided in the *Criminal Code* is comprehensive and consistent with the Trafficking Protocol.¹⁷ However, the elements of a trafficking offence provided in national legislation do not fully comply with the Trafficking Protocol. However, the new 2009 *Criminal Code* will come into effect in 2013 in an attempt to further streamline national legislation with European and international standards.

The effectiveness of national anti-trafficking legislation is dependent on the appropriate training and understanding of not only law enforcement officials, but also the judiciary. Most concerning, the US TIP Report on Romania suggested that the reason the prosecution of trafficking offenders has been delayed as far back as 2005 may be due to judges' lack of understanding of anti-trafficking laws.¹⁸

Prostitution of children

The *Criminal Code* prohibits all activities related to prostitution and provides increased penalties for the prostitution of children. Article 218 of the *Criminal Code* specifically criminalises 'sexual intercourse with a minor.' Article 99 of *federal statute 272/2004* provides children with broader protections against other forms of exploitation and places responsibility on public authorities and institutions to adopt specific regulations and enforce adequate prevention and protection measures.¹⁹ Although it appears there is broad protection offered to children against prostitution, there are still significant gaps in the legislation. In accordance with the OPSC, Romania should amend its legislation to make sure that offences committed against children are punished uniformly, irrelevant of age. Additionally, the requirement in Article 218 of the *Criminal Code* that a child between 15 to 18 years old must have an established relationship with his/her perpetrator prior to the exploitation in order for the act to be criminalised should be removed.

Child pornography/child sexual abuse materials

The majority of child pornography offences are currently contained in the *Criminal Code* and *federal statute 196/2003*. However, mere possession is not an offence, only possession with the intent to distribute.²⁰ Additionally, protection under *federal statute 196/2003* may be obstructed by the fact that some individuals may use statutory defences such as the artistic and scientific merits of their work to be exempted from criminal liability.²¹ Romanian legislation against 'grooming' is restricted to grooming in order to commit 'sexual intercourse' and does not extend to other forms of CSEC such as child pornography/child sexual abuse materials. In order to fully meet the requirements of the OPSC, Romanian law should be expanded to include all forms of CSEC and make mere possession an offence.

Commercial sexual exploitation of children in tourism

The *Criminal Code* and federal statutes criminalise the commercial sexual exploitation of children in tourism. Bolstering the effectiveness of legislation, Article 11 of the *Criminal Code* allows for the prosecution of offences committed outside of Romania by Romanian citizens or persons without citizenship residing in Romania. However, the double criminality rule used by Romania means that the act committed must be considered an offence both in Romania and the place where the act was committed. Romania also applies the universality principle under Article 13 of the *Criminal Code* which criminalises acts outside Romania by foreign citizens or persons without citizenship if the act is considered an offence both in Romania and the country where the act was committed and the perpetrator is currently within Romanian borders. Romanian law does allow for the extradition of all wanted persons based on an international convention or reciprocity.²² However, certain criteria must be met when the extradition concerns a Romanian citizen.

Support services for children

Support services for children in Romania have improved greatly in the last 20 years. Of particular importance is the closing down of a number of large generic institutions in favour of 'family friendly type environments' such as foster care, and the transferring of jurisdiction to county authorities of the many welfare services.²³ However, there are still large gaps in the system. Notably, local authorities responsible for the implementation of childcare programs are understaffed, underfunded, and lack fundamental training.

In Romania there are a number of specialist centres and support services available for child trafficking victims. *Federal statute 678/2001* establishes much of the framework concerning trafficking victim assistance. As of 2010, there were 12 specialist centres for child trafficking victims and those Romanian children returning unaccompanied to the country. These centres provide mental, psychological, social, and legal assistance through probation services and translation services for foreign children.

Since 2007, there has been a national hotline in

Romania for missing and exploited children to make reports and request technical assistance. In 2009, an emergency line was also established and increased the capacity and effectiveness of the national hotline system. The hotlines collect information and submit written reports to the police with a recent photo of the child. There is also a hotline for reporting trafficking in persons and a hotline for reporting content on the Internet such as sexual abuse images online or children being exploited. However, despite advances in training and the development of a national hotline, support services for victims of all forms of CSEC are severely lacking.

Training of law enforcement

Most CSEC related training of law enforcement personnel is conducted in collaboration with European and international partners. Additionally, the training appears to be focused on either human trafficking or child pornography.²⁴ Although there have been a number of initiatives on training law enforcement personnel, the impact of such initiatives is difficult to discern given the lack of monitoring and evaluation following the trainings.

Child and Youth Participation

In Romania child and youth participation still remains isolated to specific projects and initiatives and has not yet transitioned into a key component of the efforts to combat CSEC. The main programme for child and youth participation in Romania is the Children's Council 'SPUNE!' or 'Say!' which is an initiative of the DGPC. 'SPUNE!' or 'Say!' is a forum which provides children and youth the opportunity to discuss issues and express their views as part of the ongoing development of children's rights in Romania. ANITP also organises a number of campaigns involving not only child victims but teachers and parents as well. There are also some school-based projects such as the 'Pupil's Lawyer' which

not only educates students on their rights and responsibilities under the CRC, *law 272/2004*, and the *European Convention on Human Rights*, but also attempts to create an environment that will promote and respect them. However, studies suggest that many students are unaware of these opportunities.

There has been limited success in getting children and youth participation taken into consideration when addressing child protection issues. For example, the *Pupil's Council Alternative Report* to the Committee on the Rights of the Child was attached as an appendix to the country report rather than considered as an independent report by itself.

National plan of action

- Allocate resources for the immediate implementation of all facets of the current *National Strategy for the Promotion and Protection of Children's Rights* and its corresponding Operational Plan
- Emphasise and facilitate child participation in the National Strategy in accordance with the Rio Declaration and Call for Action

Coordination and cooperation

- Enhance regional coordination to address all forms of CSEC
- Strengthen mechanisms to implement all legislation relevant to the CRC
- Work to systematically integrate the current data collection systems and encourage complementary databases to ensure accurate statistics and prevent the overlap or oversight of information

Prevention

- Initiate research into the root causes of CSEC to ensure the scope and contours of the problem are traced and can inform an adequate policy response
- Government should support and conduct additional awareness raising campaigns to educate the population on CSEC and create a culture of monitoring and reporting suspected incidents
- Adopt and implement policies to ensure that education on child trafficking and CSEC prevention is made compulsory and that teachers are trained on the issue

Protection

- Provide training for judges on the use and application of the CRC in order to encourage the direct utilisation of the CRC and the OPSC in courts
- All laws should ensure that all children under the age of 18 receive

equal protection, irrespective of their relationship with the offender prior to the offence

- Mere possession of child pornography, located on a computer or elsewhere, should be criminalised
- Establish adequate measures to ensure that child victims of CSEC are not prosecuted for prostitution
- Include provisions to specifically address children in the most vulnerable groups in the *National Strategy for the Promotion and Protection of Children's Rights* and the *National Plan of Action against Child Trafficking*

Recovery and reintegration

- Further develop current support services to cater to all victims of CSEC
- Ensure that all victims of CSEC receive systematic medical, psychological, social, and legal assistance in all centres
- Define a strategy and institutionalise a training programme for staff of specialised centres dealing with CSEC cases
- Provide training for law enforcement bodies on the use of the legal framework addressing all forms of CSEC and ensure this training programme is institutionalised within law enforcement units

Child and youth participation

- Establish processes and structures to institutionalise meaningful child and youth participation in developing policies and programmes that affect them
- Establish participatory policies and practices in all settings/institutions involving children
- Support child participation initiatives, including child-led organisations, within all stages of prevention and protection programmes

Endnotes

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