

LAW No. 678 of 21 November 2001  
on the prevention and fighting against the trafficking in persons  
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EXPERT

It must be specified that the only text which shall produce legal effects is the text in the Romanian language.

The text was updated by the legislative software LEX EXPERT on the basis of the modifying statutory instruments, published in the Official Gazette of Romania, Part I, until 13 October 2005:

- the Government Emergency Ordinance No. 143/2002, approved by the Law No. 45/2003;
- the Law No. 39/2003;
- the Government Emergency Ordinance No. 79/2005, approved with amendments by the Law No. 287/2005;
- the Law No. 287/2005.

## CHAPTER I

### General provisions

#### ART. 1

This law regulates the prevention and fighting against trafficking in persons, as well as the protection and assistance granted to the victims of such trafficking, which represents a violation of the rights of the individual and it is prejudicial to the dignity and integrity of such individual.

#### ART. 2

Within this law, the further terms and expressions have the following meanings:

1. trafficking in persons is represented by the deeds provided in Article 12 and 13;
2. exploitation of an individual shall mean:
  - a) the forced work or provision of services or in violation of the legal rules on the working conditions, remuneration, health and security;
  - b) slavery or other similar procedures of deprivation of liberty or servitude;
  - c) forced practice of prostitution, pornographic representations or other forms of sexual exploitation;
  - d) removal of organs;
  - e) other similar activities whereby the rights and fundamental freedoms of the individual are violated.

## CHAPTER II

### Prevention of trafficking in persons

#### ART. 3

For an efficient fight against the trafficking in persons the public authorities and institutions provided in this chapter, the non-government organisations and other representatives of the civil society shall carry out either separately or in co-operation, as applicable, an unceasing activity of prevention of trafficking in persons, in particular in women and children.

#### ART. 4

The Ministry of External Affairs, the Ministry of Labour and Social Solidarity, the Ministry of Public Administration, the Ministry of Education and Research, the Ministry of Health and Family, the National Authority for Child Protection and Adoption, the Ministry of the Interior, the Ministry of Justice, as well as other government bodies with powers in fighting against trafficking in persons shall take all necessary

measures to elaborate and implement in their fields of activity the National Action Plan concerning the fight against trafficking in persons.

#### ART. 5

(1) The Ministry of External Affairs shall draw up a list with the states with a high potential as regards the trafficking in persons, which shall be communicated, upon request, to the institutions concerned.

(2) The Ministry of External Affairs and the Ministry of the Interior shall adopt the necessary measures, pursuant to the Law No. 123/2001\*) on the status of aliens in Romania, to prevent the access on the Romanian territory of the foreign citizens on which there are serious indications that might be involved in trafficking of persons, for the purpose of this law.

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\*) The Law No. 123/2001 was repealed. See the Government Emergency Ordinance No. 194/2002.

#### ART. 6

(1) The Ministry of Labour and Social Solidarity, through its specialised structures at central and territorial level, shall elaborate and implement special measures for integration on the labour market of the persons with high level of risk as regards their trafficking, mostly for the women in the disadvantaged zones and for the persons marginalised by the society.

(2) For the persons with high level of risk as regards their trafficking, the National Employment Agency develops programmes of information on the labour market and rights of employees, vocational training programmes, as well as programmes of information of economic operators, to hire them with priority.

(3) The Ministry of Labour and Social Solidarity together with the Ministry of Public Finances shall study the opportunity of elaborating certain measures for stimulating the economic operators who hire both persons with high level of risk as regards their trafficking and victims of trafficking who have graduated from vocational training courses, making proposals for this purpose.

#### ART. 7

The Ministry of Public Administration shall make and spread documentation materials about the risks to which the persons who are potential victims of trafficking in persons might be exposed.

#### ART. 8

The Ministry of Education and Research shall carry out, with the support of the other ministries involved and in collaboration with the non-government organisations active in this field, educational programmes for parents and children, mostly for the persons with high level of risk to become victims, in view of preventing trafficking in persons.

#### ART. 9

(1) The Ministry of the Interior, through its specialised structures, with the support of other ministries, shall create and keep updated the database on the phenomenon of the trafficking in persons, shall periodically monitor and evaluate this phenomenon, taking into consideration both the traffickers and the trafficking victims, as well as the legal entities involved in the activity of trafficking in persons.

(2) The publication of statistical information and of evaluation reports shall be made half-yearly by the General Police Inspectorate, with the advisory opinion of the minister of the interior.

#### ART. 10

The Ministry of Justice and the Public Ministry, considering their own data, shall make periodical studies for the purpose of identifying the causes that determine and the conditions that favour the trafficking in persons.

#### ART. 11

In order to prevent the trafficking in persons the non-government organisations shall co-operate with the ministries concerned and shall organise information campaigns on the phenomenon of trafficking in persons and the risk to which its victims are exposed.

### CHAPTER III

#### Offences

## SECTION 1

### Offences concerning trafficking in persons

#### ART. 12

(1) The recruitment, transportation, transfer, accommodation and receipt of a person, by threats, violence and other forms of constraint, kidnapping, fraud or deceit, misuse of power or taking advantage of the impossibility of such person to defend himself or to express his will, or by offering, giving, accepting or receiving money or other benefits to obtain the consent of the persons having authority on other person, for the purposes of exploitation of this person, shall be deemed an offence of trafficking in persons and shall be punished with imprisonment from 3 to 12 years and prohibition of certain rights.

(2) The trafficking in persons committed in one of the following circumstances:

- a) by two or more persons together;
- b) when the victim suffered a serious injury of the bodily integrity or of health;
- c) by a public officer while exercising his job duties

shall be deemed an offence and shall be punished by imprisonment from 5 to 15 years and prohibition of certain rights.

(3) If the deed resulted in the death or suicide of the victim, the punishment shall be imprisonment from 15 years and 25 years and prohibition and certain rights.

#### ART. 13

(1) The recruitment, transportation, transfer, housing and receipt of a minor for the purpose of exploitation of such minor shall be regarded as an offence of trafficking in minors and shall be punished with imprisonment from 5 to 15 years and prohibition of certain rights.

(2) If the deed provided in paragraph (1) is committed by using threats, violence and other forms of constraint, kidnapping, fraud or deceit, misuse of power or taking advantage of the impossibility of such minor to defend himself or to express his will, or by offering, giving, accepting or receiving money or other benefits to obtain the consent of the person having authority on the minor, the punishment shall be imprisonment from 7 years to 18 years and prohibition of certain rights.

(3) If the deeds provided in paragraph (1) and (2) are committed under the terms provided in Article 12 (2), the punishment shall be imprisonment from 7 years to 18 years and prohibition of certain rights, in the case provided in paragraph (1), and imprisonment from 10 years and 20 years and prohibition of certain rights, in the case provided in paragraph (2).

(4) If the deeds provided in this article resulted in death or suicide of the victim, the punishment shall be imprisonment from 15 years and 25 years and prohibition and certain rights.

#### ART. 14 \*\*\* Repealed

#### ART. 15

(1) Any attempt to commit the offences provided in Article 12 - 14 shall be punished.

(2) Organising the committing of offences provided in this chapter shall be an infraction and shall be punished the same as the organised offence.

#### ART. 16

The consent of the person, who is a victim of trafficking, shall not remove the criminal liability of the offender.

## SECTION 2

### Offences related to trafficking in persons

#### ART. 17

(1) The deed of determining or allowing, knowingly, either directly or by an agent, the entry or stay on the territory of the country of a person who is not a Romanian citizen, subject to trafficking in persons for the purpose of this law:

- a) using against this person fraudulent means, violence and threats or any other form of constraint; or

b) abusing by the special condition of such person, owing to its illegal status or to the precarious nature of the entry into or stay in the country, or owing to pregnancy or infirmity or mental or physical deficiency, shall be an offence and shall be sanctioned with the punishment provided for the offence of trafficking in persons.

(2) If the deed provided in paragraph (1) is committed repeatedly, special maximum punishment shall be increased by 2 years.

#### ART. 18

(1) The deed of exposing, selling or spreading, renting, distributing, manufacturing or producing in any other way, of transmitting, offering, supplying or holding in view of spreading of objects, films, pictures, slides, emblems or other visual supports that represent sexual positions or acts of a pornographic nature presenting or involving minors under the age of 18, shall be the offence of infantile pornography and shall be punished with imprisonment from 3 to 10 years.

(2) By the same punishment it shall also be sanctioned the import or delivery of objects of the sort provided in paragraph (1) to a transport or distribution agent, with a view to being sold or distributed.

(3) \*\*\* Repealed

### SECTION 3

#### Special provisions

#### ART. 19

(1) The money, values or any other goods obtained as a result of committing the offences provided by this law or those which served for committing these offences, as well as the other goods provided in Article 118 of the Criminal Code shall be subject to special seizure, under the terms established by this Article.

(2) The means of transport that served for transporting the trafficked persons, as well as the buildings where such persons were accommodated shall also be considered goods that served for committing the offence, if they belong to the offenders.

#### ART. 20

(1) The person subject to trafficking in persons who committed, as a result of being exploited, the offence of prostitution or of begging, shall not be punished for these offences.

(2) The person who committed one of the offences provided by this law, and during the criminal prosecution denounces and facilitates the identification and calling to account the criminal liability of other persons who committed offences provided by this law shall benefit by the reduction to half of the limits of the punishment provided by the law.

### CHAPTER IV

#### Special provisions on the judicial procedure

#### ART. 21

The criminal prosecution for the infractions provided by this law shall be carried out mandatorily by a judge and shall be tried in first instance by the court.

#### ART. 22

In view of collecting the data necessary for the onset of the criminal prosecution undercover investigators may be used, under the law.

#### ART. 23

(1) When there are solid grounds or data that a person who is preparing to commit an infraction of the kind of those provided in this law or who committed such an offence uses telecommunication or IT systems, the criminal prosecution body may, after being authorised by the prosecutor, have access to these systems and to supervise them, for a definite term.

(2) The provisions of Article 91<sup>1</sup> - 91<sup>5</sup> of the Criminal Procedure Code shall apply accordingly.

#### ART. 24

(1) The sittings in causes concerning the offence of trafficking in persons provided in Article 13 and of infantile pornography provided in Article 18 shall not be open to the public.

(2) At the sittings carried out under the terms of paragraph (1) the parties, their representatives, the defence counsellors, as well as any other persons whose presence is deemed necessary by the court may be present.

(3) In the cases regarding the offences provided by this law, the minor who has not turned 14 shall be heard in the presence of one of the parents or of the legal guardian or of the person to whom the minor is entrusted for upbringing and education.

#### ART. 25

When judging the offences provided in Article 12 and 17, at the request of the injured party, the court may declare the sitting confidential.

### CHAPTER V

#### Protection and assistance of the victims of trafficking in persons

#### ART. 26

(1) The persons injured by the offences provided in this law, as well as other victims of such offences shall be granted special physical, legal and social assistance.

(2) The private life and identity of the victims of trafficking in persons shall be protected by the provisions of this law.

(3) The victims of the offences provided by this law shall be entitled to their physical, psychological and social rehabilitation.

(4) The minors who are victims of the offences provide by this law shall be granted special protection and assistance, depending on their age.

(5) The women who are victims of the offences provide by this law, as well as those subjected to a high level of risk to become victims of these offences shall be granted a special protection and social assistance.

#### ART. 27

The Ministry of the Interior shall ensure the physical protection of victims of the trafficking in persons during the trial on the territory of Romania, upon request.

#### ART. 28

The Romanian citizens who are on the territory of other countries and who are victims of the trafficking in persons shall be granted, upon request, assistance from the diplomatic missions and consular offices of Romania in these countries.

#### ART. 29

The Ministry of External Affairs, through the diplomatic missions and consular offices of Romania, shall release, if necessary, with a view to repatriation, the identity documents of the Romanian citizens who were victims of the trafficking in persons, within a reasonable time, without unjustified delay.

#### ART. 30

(1) The Ministry of External Affairs shall ensure the spreading to the parties concerned, through the diplomatic missions and consular offices of Romania from abroad, of certain information materials on the rights of persons, victims of the trafficking in persons, according to the Romanian legislation and of the home state.

(2) The diplomatic missions and consular offices of Romania from abroad shall ensure the information of the foreign judicial bodies with regard to the Romanian regulations in this matter.

(3) The diplomatic missions and consular offices of Romania from abroad shall publish by their own electronic means information referring to the national legislation and the legislation of the foreign state in this field, as well as to the addresses of the centres of assistance and protection of the victims of the trafficking in persons or assimilated thereto.

(4) The heads of the diplomatic missions and consular offices of Romania from abroad shall appoint a diplomat within such structures as person in charge with the implementation of the methodology of

repatriation of the Romanian citizens who are victims of the trafficking in persons, for the purposes of this law.

(5) The methodology of repatriation of the Romanian citizens who are victims of the trafficking in persons shall be elaborated by the Ministry of External Affairs together with the Ministry of the Interior and the Ministry of Justice, within 60 days as of the adoption of this law.

#### ART. 31

The Ministry of the Interior shall ensure, through its specialised structures, to all Romanian cross-border units, specialised personnel trained to identify and take over the victims, with a view to directing them to the specialised institutions.

#### ART. 32

(1) The victims of the trafficking in persons may be accommodated, upon request, on a temporary basis, in centres of assistance and protection for victims of the trafficking in persons, established pursuant to this law, hereinafter called centres, and which are under the subordination of the county councils of Arad, Botoşani, Giurgiu, Iaşi, Ilfov, Mehedinţi, Satu Mare and Timiş.

(2) The period of accommodation shall be established by decision of the county standing delegation and it can not exceed 10 days.

(3) The period of accommodation may be extended, at the request of the judicial bodies, by maximum 3 months or, as applicable, for the duration of the criminal trial.

(4) The centres shall be arranged and endowed so as to offer decent conditions of accommodation and personal hygiene, food, psychological counselling and medical care.

#### ART. 33

The victims of the trafficking in persons, temporarily accommodated, shall be provided with information and counselling to benefit by the facilities provided by the law for the persons marginalised by the society, by the social workers within the local council apparatus.

#### ART. 34

(1) The regulation of organisation and functioning, as well as the organisational structure of the centres shall be approved by the minister of public administration, with the advisory opinion of the minister of the interior.

(2) The staff employed in these centres is remunerated according to the laws on the remuneration of the staff from budgetary units.

(3) The current and capital expenses of the centres shall be covered from the budgets of the county councils, provided in Article 32 (1).

#### ART. 35

(1) The county employment agencies of the counties where the centres are established and operating shall organise, if possible, short-term special programmes for the initiation and vocational training of the accommodated victims.

(2) Likewise, the agencies mentioned in paragraph (1) shall ensure, with priority, counselling and labour mediation services for the victims of the trafficking in persons for the purpose of finding a job.

#### ART. 36

The victims of the trafficking in persons who are Romanian citizens may be granted social homes, with priority, by the local councils of the town of residence.

#### ART. 37

Romania shall facilitate for the foreign citizens, victims of the trafficking in persons, the return to their home country without any delay unaccounted for and shall ensure safe transport to the Romanian state frontier, unless otherwise provided in bilateral agreements.

#### ART. 38

(1) The aliens who are victims of the trafficking in persons may be accommodated in specially arranged centres according to the Government Emergency Ordinance No. 194/2002 on the status of aliens in Romania, republished, as subsequently amended and supplemented, without the need of taking them into public custody. To this end, the administration of such centres shall arrange special spaces separately from those destined to the accommodation of the aliens taken into public custody.

(2) The aliens who are victims of the trafficking in persons and who apply for a form of protection in Romania may be accommodated in specially arranged spaces, according to the Government Ordinance No. 102/2000 on the status and regime of refugees in Romania, republished.

(3) The accommodation of the persons provided in paragraph (1) shall be approved by the head of the Authority for Aliens, upon the written request of the competent authorities.

(4) The victims of the trafficking in persons shall be informed in the accommodation places, in a language of their understanding, with regard to the judicial and administrative proceedings applied.

(5) The persons provided in paragraph (1) and (2) can benefit by the mental and psychological counselling, in a language of their understanding, as well as by medical care and social assistance.

(6) The medical care, the medicines and food of the persons provided in paragraph (1) shall be provided according to the legal rules applicable to aliens taken into custody.

#### ART. 39

For the aliens who are victims of the trafficking in persons who do not have any identity document or such ID was lost, stolen or destroyed, the Directorate of consular offices within the Ministry of External Affairs or the competent bodies of Ministry of Public Administration shall facilitate the release of a new passport or travelling title, as applicable.

#### ART. 39<sup>1</sup>

(1) The aliens about which there are serious indications that they are victims of the trafficking in human beings shall benefit by a recovery and reflection period of up to 90 days, to recover, to be released from the influence of the offenders and to make a decision knowingly regarding the co-operation with the competent authorities, time interval when the Authority for aliens shall grant, at the request of the prosecutor or of the court, the permission to stay on the Romanian territory. During the recovery and reflection period the aliens shall enjoy the rights provided in Article 38.

(2) During or upon the expiry of the reflection period, the aliens who were victims of trafficking in persons may be granted, upon request, a temporary stay permit, under the terms of Government Emergency Ordinance No. 194/2002, republished, as subsequently amended and supplemented.

#### ART. 40

In case victims of trafficking are brought in Romania by a transport company, being aware of the illegal nature, such transport company shall be obliged to ensure accommodation and maintenance for the period established by the Ministry of the Interior and to cover their transport to the Romanian frontiers, according to the law.

#### ART. 41

Likewise, the minors who accompany the victims of the trafficking in persons or who are themselves victims the provisions referring to minors of the Law No. 123/2001\*) shall apply accordingly.

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\*) The Law No. 123/2001 was repealed. See the Government Emergency Ordinance No. 194/2002.

#### ART. 42

The associations and foundations who make the proof of carrying on programmes of social work services for the victims of the trafficking in persons, such as: accommodation, mental, psychological and legal counselling, medical care, shall benefit by subsidies from the state budget or, as applicable, from the local budgets, under the law.

#### ART. 43

The victims of the offences provided in this law shall be entitled to receive information with regard to the applicable judicial and administrative procedures.

#### ART. 44

The persons provided in Article 43 shall be entitled to receive mandatory legal assistance to be able to exercise their rights within the criminal proceedings provided by the law, in all phases of the criminal trial, and to support their applications and civil claims against the persons who committed the offences provided by this law in which they are involved.

## CHAPTER VI

### International co-operation

#### ART. 45

This law institutes contact officers within the Ministry of the Interior, as well as contact magistrates at the level of the prosecutor's offices next to tribunals, who must ensure the mutual consultation with the contact officers or, as applicable, the contact magistrates acting in other states, for the purpose of coordination of their actions during the criminal prosecution.

#### ART. 46

In view of exchange of data and information with regard to the investigation and pursuit of the offences provided in this law a contact point shall be established within the Ministry of the Interior and the Prosecutor's Office next to the Supreme Court of Justice with similar institutions from other states.

#### ART. 47

(1) The international transport companies shall be bound to check, upon the release of the travelling document, whether the passengers have their identity documents required in the transit country or receiving country.

(2) The obligation provided in paragraph (1) shall also devolve on the driver of the international road means of transport upon the passengers' boarding, as well as on the personnel authorised to inspect the travelling documents.

## CHAPTER VII

### Final provisions

#### ART. 48

For the identification of the victims of the trafficking in persons the workers of the Ministry of the Interior may organise inspections to public or private institutions, as well as within the premises of the economic operators, regardless of the owner or holder, under the law.

#### ART. 49

Within 60 days as of the entry into force of this law it shall be adopted regulation of application of this law, by Government decision.

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