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Policy Brief #3

Human Trafficking Directive 2011/36/EU: Policy Failures and Victim Protection in Romania

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Background

Trafficking in human beings is a transnational issue which violates human rights and exploits individuals for financial gain. Its four primary forms are: sexual exploitation, forced labour or services, organ removal and slavery. Recent data indicates a 41% increase in human trafficking in the EU between 2021 and 2022, with 82% of victims being trafficked for labour or sexual exploitation. To combat the growing issue, the EU adopted Directive 2011/36/EU to set legal standards for preventing human trafficking and protecting victims across member states. The Directive was revised in 2022, enlarging its scope and proposing stronger sanctions. Despite this, the implementation of the directive significantly fails across member states. Romania illustrates the gap between the Directive's aims and its practical impact, as data shows it has the highest human trafficking rates in Eastern Europe, with 86000 victims. This policy brief evaluates the Directive's effectiveness through the case of Romania, ultimately identifying thee core failures: victim identification, perpetrator focus and secondary victimisation.

Findings

- Human trafficking in Romania disproportionately affects women, children, and ethnic minorities, with sexual exploitation being the primary reason for trafficking. Women make up more than 95% of victims exploited for this purpose; and in 2020, nearly half of identified victims were children.
- Victim identification remains extremely inadequate. Romanian authorities failed to carry out appropriate screenings for asylum seekers and migrants due to a shortage of funding for investigations. This represents a failure to implement Articles 6 and 8 of the Directive 2011/36/EU.
- Discourse labelling victims of sexual exploitation as 'prostitutes' is often used by Romanian authorities and embedded in public narratives. Under law 678/2001, individuals are only victims of human trafficking if they participate in exploitation unwillingly. However, labelling victims as 'prostitutes' undermines this as it implies consent and strips victims of legal recognition.
- Romanian authorities are complicit in human trafficking, as numerous cases of children being exploited from government-run placement centres have been found; a critical failure of Article 32 of Law 678/2001 which sets out rules for victim protection in government-run centres. Further to this, authorities have issued reduced conviction sentences to perpetrators.
- Both the EU's Directive and Romanian legislation place extensive focus on the perpetrators of human trafficking, while victim protection remains largely unaddressed. The 2022 revision of Directive 2011/36/EU focused on extending sentences and financial sanctions for traffickers, without establishing minimum standards for victim support. Romania's law 678/2001 dedicates a total of 8 chapters to combating traffickers and only one to victim protection.
- Discourse from government institutions such as the Directorate for Investigating Organised Crime and Terrorism (DIICOT) further reinforces the imbalance. In proceedings related to high-profile trafficking cases, such as the widely publicised Andrew Tate case, DIICOT placed emphasis on physical violence, omitting human trafficking offences and further marginalising the experiences of victims.

- Secondary victimisation is a systematic problem in Romania, as court proceedings heavily rely on in-person victim testimonies without adequate safety measures. Victims are often exposed to harassment by defence lawyers and re-traumatisation.
- Psychological support for victims of human trafficking in Romania is extremely limited. The government funds only a single counselling session per victim and provides no trauma training for authorities. Victims are thus left with no adequate access to mental health support, increasing the potential risk of secondary victimisation.
- Romania's critical geographic position as a border state between Eastern and Western Europe further increases its exposure to transnational trafficking networks. Lack of infrastructure and staffing shortages limit the delivery of adequate prevention and victim support services. Moreover, disparities between anti-human trafficking policy implementation persist across EU member states which undermine a cohesive EU-wide response.

Policy recommendations

- **Second revision of Directive 2011/36/EU** in order to establish a minimum standard of victim support that all EU member states are legally required to provide
- **Tighter rules for early-stage identification of victims**. Correct identification of victims is paramount when combating human trafficking, thus there should be an inclusion of a minimum standard of screening for every individual to ensure there will be no discrimination irrespective of gender, age and ethnicity.
- **Formal inclusion of NGO funding and resources in the victim support framework**. NGO investment should be directed towards education programmes for authorities as well as medical and psychological care and support for victims.
- **Full enforcement of perpetrators' sentences** under Articles 210 and 211 of the Romanian Criminal Code. The use of suspended conviction and plea bargaining should only be used in exceptional cases, thus ensuring the majority of traffickers face the entirety of their sentence.
- **Mandatory trauma ad sensitivity training for all authorities** working with human trafficking victims to reduce the risk of secondary victimisation.

Further engagement/more information

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More information on the research can be found at:
https://www.euractiv.com/short_news/romania-urged-to-do-more-against-human-traffickers/
https://home-affairs.ec.europa.eu/policies/internal-security/organised-crime/together-against-trafficking-human-beings/eu-countries/romania_en#:~:text=Victims%20trafficked%20and%20exploited%20abroad

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