

LAW

on the Prevention and Combat of Trafficking in Human Beings

(...)

CHAPTER III

Violations

Section I

Trafficking in human beings violations

Art. 12 - (1) Whoever recruits, transports, transfers, harbors or receives a person, through the use of threats or violence or the use of other forms of coercion, through kidnapping, fraud or misrepresentation, abuse of power or by taking advantage of that person's inability to defend him-/herself or to express his/her will or by giving or receiving money or other benefits in order to obtain the agreement of a person who has control over another person with the intent of exploiting the latter, commits a criminal violation of this Law and shall be punished with 3 to 12 years imprisonment and denial of a number of rights.

(2) Whoever engages in trafficking in human beings under the following circumstances:

a) traffics two or more persons at the same time;

b) causes the victim to sustain serious bodily harm or serious health problems, shall be punished with 5 to 15 years imprisonment and denial of a number of rights.

(3) If the violation in this Article has resulted in the victim's death or suicide, the offender shall be punished by 15 to 25 years imprisonment and denial of a number of rights.

Art. 13 - (1) Whoever recruits, transports, transfers, harbors or receives a person aged between 15 and 18, with the intent of exploiting that person, commits the crime of trafficking in underage persons and shall be punished by 3 to 12 years imprisonment and denial of a number of rights.

(2) If the violation within paragraph (1) was committed against a person aged less than 15, the punishment shall be 5 to 15 years imprisonment and denial of a number of rights.

(3) If the violations within paragraphs (1) and (2) are committed with the use of threats or violence or of other forms of coercion, through kidnapping, fraud or misrepresentation, abuse of power or by taking advantage of that person's inability to defend him-/herself or to express his/her will or by giving or receiving money or other benefits in order to obtain the agreement of a person who has control over another person, the offender shall be punished with 5 to 15 years imprisonment and denial of a number of rights in the case of paragraph (1) and 7 to 18 years imprisonment and denial of a number of rights in the case of paragraph (2).

(4) For the violations within paragraphs (1), (2) and (3) that have been committed in the conditions of Art. 12 paragraph (2) punishment shall be 5 to 15 years imprisonment and denial of a number of rights in the case of paragraph (1), 5 to 17 years imprisonment and denial of a number of rights in the case of paragraph (2) and 5 to 18 years imprisonment and denial of a number of rights in the case of paragraph (3), thesis 1 and 7 to 20 years imprisonment and denial of a number of rights in the case of paragraph (3), thesis 2.

(5) If the violations in this Article have resulted in the victim's death or suicide, the offender shall be punished with 15 to 25 years imprisonment and denial of a number of rights, or life imprisonment.

Art. 14 – Whoever commits the violations within Articles 12 and 13 as a member of an organized group or has obtained or produced, for him/herself or for others, significant material proceeds out of the commission of those violations shall receive 3 additional years to the maximum specific term of imprisonment.

Art. 15 - (1) The attempt to commit the crimes within Articles 12-14 is also punishable.

(2) The act of organizing the commission of the crimes within this Chapter constitutes a crime and shall be punished like crimes committed in an organized manner.

Art. 16– Consent on the part of the trafficked person does not exonerate the offender from criminal liability.

Section II

Violations related to trafficking in human beings

Art. 17 - (1) Whoever causes or allows, knowingly, directly or through an intermediary, the entry or stay on the Romanian territory of a non-Romanian citizen who is being trafficked as defined by this law:

a) by the use of fraudulent means, violence or threats or other forms of coercion, or

b) by abusing the special state of the trafficked person, which results from that person's illegal or precarious situation of entry or stay in Romania or from pregnancy, a disease or disability or from a physical or mental challenge, commits a criminal offence and shall be punished for the crime of trafficking in human beings.

(2) Whoever commits the violations within paragraph 1 as a member of an organized group or repeatedly shall receive 2 additional years to the maximum specific term of imprisonment.

Art. 18 - (1) Whoever exhibits, sells or disseminates, rents, distributes, produces or possesses with intent to disseminate, objects, films, photographs, slides, logos or other visual material that display sexual conduct or postures with a pornographic character, and show or involve persons aged less than 18 or imports or delivers such objects to a carrier or distributor for the purpose of selling or simply distributing such objects commits the crime of child pornography and shall be punished by 2 to 7 years imprisonment.

(2) Whoever commits the violations within paragraph 1 as a member of an organized group shall be punished by 3 to 10 years imprisonment.

Section III

Special provisions

Art. 19. (1) Money, valuables or any other assets obtained from the commission of the criminal offences stipulated in this Law or that have been used to commit these criminal offences as well as other assets as listed in Article 118 of the Criminal Code are subject to special forfeiture within the conditions established by this Article.

(2) Vehicles used to transport trafficked persons as well as lodgings that were used to accommodate those persons shall also be regarded as property used to commit the crime if they belong to the criminal offenders.

Art. 20. The trafficked person who has committed the crime of prostitution, stipulated in Article 328 of the Criminal Code, shall have no liability for that crime if, before the start of the criminal investigation for the crime of trafficking in human beings, this person has come forward and reported the crime to the competent authorities or if, after the start of the criminal investigation or after the identification of the criminal offenders this person facilitates the arrest of those offenders.

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