Good practices booklet for the prevention of child trafficking

Recommendations for Romanian public notaries issuing affidavits for the exit of the minors out of the country
# Contents

Introduction..................................................................................................................8

Background..................................................................................................................10

   Starting with definitions.........................................................................................11
   Child.......................................................................................................................11
   Children on the move.............................................................................................11
   Children at risk.......................................................................................................12
   Accompanied children..........................................................................................12
   Unaccompanied children......................................................................................12
   Separated Children...............................................................................................13
   Child trafficking.....................................................................................................13
   Child smuggling.....................................................................................................14
   Protection and National Referral Mechanisms....................................................14

Human trafficking in Romania....................................................................................15

   Legal and institutional framework.........................................................................15

Analysis of Key Actors..............................................................................................18

Victims of human trafficking....................................................................................21

   Data from Romania...............................................................................................21
   Data from UK.........................................................................................................26

Steps of trafficking.....................................................................................................29

Exit procedures of minors.........................................................................................36

   Necessary documents for a child to exit the country.........................................37
   Historical perspective of the affidavit..................................................................39

      Comparative perspective on the affidavit.........................................................40

   What the affidavit contains.................................................................................43
   At the notary office...............................................................................................46
   The affidavit at the border...................................................................................50
   When the child is denied exit.............................................................................50
When the child passes the check.................................53
Data management.......................................................54
Perception on the affidavit...........................................56
  Foreign officials.......................................................56
  Public notaries.......................................................56
  Border officials.....................................................56
Affidavits in court cases.........................................57
Analysis of the affidavits...........................................60
Limitations of the affidavit.......................................63
Possible adverse consequences.............................64
Recommendations....................................................66
Risks and vulnerabilities of children.......................69
  Why are children being trafficked?.........................69
  Impact of child trafficking on victims.....................71
Children rights.......................................................72
  Children rights to be protected...............................72
Child trafficking- What can you do?.........................74
  Recommended practices at the public notary offices...75
    When issuing the affidavit.......................................75
    In your office....................................................77
    In your community.............................................78
    At national level...............................................78
    At European/ international level..........................78
  Did you know?......................................................79
    Our advice - proposal..........................................79
Acknowledgments..................................................81
Bibliography..........................................................82
QR codes.............................................................84
Title: Good practices booklet for the prevention of child trafficking
Recommendations for Romanian public notaries issuing affidavits for the exit of the minors out of the country

Project title: ICARUS: Improving Coordination and Accountability towards Romanian Unaccompanied minors’ Safety

Project acronym: ICARUS

Project number: HOME/2012/ISEC/AG/THB/4000003898

Authors: Cristinel Buzatu (Lead researcher), Raluca Iclena- nu (Project Manager Terre des hommes)

Quantitative data analyst: Claudia Câmpeanu

Printing house: PIM

Publishing date: September 2015

Disclaimer: This publication reflects the views only of the author(s), and the Commission cannot be held responsible for any use which may be made of the information contained therein.

Co-funded by the Prevention of and Fight against Crime Programme of the European Union.
Abbreviations

ANPDCA - National Authority for the Protection of Child Rights and Adoption (Autoritatea Naţională pentru Protecţia Drepturilor Copilului şi Adopţie)
ANITP – National Agency against Trafficking in Persons (Agenţia Naţională Împotriva Traficului de Persoane)
CCC- Community Advisory Board (at local level formed of community leaders) (Consiliile Comunitare Consultative)
DCCO – Direction for Fighting against Organised Crime (Direcţia de Combatere a Criminalităţii Organizate)
DIICOT- Directorate for Investigating Organized Crime and Terrorism (Direcţia de Investigare a Infracţiunilor de Criminalitate Organizată)
DGASPC – General Direction for Social Assistance and Child Protection (Direcţia Generală de Asistenţă Socială şi Protecţie a Copilului)
EU – European Union (Uniunea Europeană)
FOI – Freedom of Information request, formulated pursuant to Law 544/2001
HG – Governmental Decision (Hotărâre de Guvern)
IGPF – General Inspectorate of Border Police (Inspectoratul General al Poliţiei de Frontieră)
NGO – Non-Governmental Organisation (Organizaţie Nегuvernamentală)
OUG – Governmental Emergency Order (Ordonanţă de Urgenţă a Guvernului)
PN- Public notary
THB- Trafficking in Human Beings
UK – United Kingdom
Introduction

This good practice booklet was developed by Terre des hommes Elvetia Foundation within the ICARUS project (Improving Coordination and Accountability towards Romanian Unaccompanied minor’s Safety) co-financed by the European Commission under the Prevention and Fight against Crime Programme of the Home Affairs General Directorate.

The project itself has three defined and time-bound objectives: (i) Improve knowledge base of trafficking of vulnerable groups involved in child begging and other forms of labour exploitation; (ii) Improve victim assistance and identification among practitioners who come into contact with victims or potential victims of THB; and (iii) Prevent child trafficking from Romania, particularly in the context of the notary declaration issued by public notaries in trafficking prone counties.

The aim of the best practice booklet is to share knowledge on child trafficking in Romania and the UK with a focus on the exit procedures of minors and role of involved parties. It wants to raise awareness on the necessary practices to be taken for the safeguarding of children, thus lowering the number of Romanian children that are being trafficked externally.

It incorporates information that was gathered during and as a result of the activities developed within the project, such as a research study on the exit procedures of minors from Romania; trainings with child care professionals, public notaries and law enforcement representatives from Romania and UK; visits to public notaries; trainings with CCC members.

The recommendations contained in this best practice booklet aim at increasing public notaries awareness of
children (minors) exiting Romania accompanied by their parents or third party and their role in the prevention of child trafficking.

The main rationale for the ICARUS partnership is that public notaries are in direct contact with persons vulnerable to trafficking on a daily basis, particularly in rural areas. The Notary has the confidence of families, maintains confidentiality and where possible provides legal education to his or her clients. Being a highly respected liberal professional, but also the provider of a public interest services, the Notary Public is in a unique position to take part in prevention efforts.

The present booklet contains information about human trafficking in Romania, exit procedures of Romanian children, risks and vulnerabilities of children and recommended actions to be taken for the protection of children migrating.
Background

Eurostat data (2013) categorized Romania in 2011 as the second highest level of population at risk of poverty and social exclusion in Europe (41%).

In 2011, almost 33% of the Romanian children and youth aged 15 to 19 years were at risk of poverty, two thirds (2/3) more than the proportion of children and youth aged 15 to 19 years of the European Union (27 countries) who continued to suffer from poverty, despite EU and national efforts (Eurostat, 2011).

More and more children are being exposed to complex vulnerabilities and multiple risks leading to addictions, violence, school drop-out, homelessness and life in the street, becoming victims of exploitation, trafficking, and or getting involved in situations that place them in conflict with the law.

In search for a better life, children leave their home countries together with their families or joining their other family members abroad. In several cases, children are taken by adults for their exploitation, an activity known as child trafficking being in fact a form of child abuse.

---

2 As described in the “Children on the move in Romania: Situational Analysis” developed by Terre des hommes within the MARIO project in 2014.
Starting with definitions

The following definitions are giving to the terms used within this booklet in order to have a common understanding of their meaning.

**Child**

As defined by the United Nations Convention on the Rights of the Child, a child is any human being below the age of 18 years unless under the law applicable to the child, majority is attained earlier.

According to the Romanian Law no. 272/2014 regarding the protection of children rights, a child is considered the person who has not attained the age of 18 and has not acquired full legal capacity under the law.

**Children on the move**

Children on the move covers all children who migrate from their country of origin to and within the territory of a European country in search of survival, security, improved standards of living, education, economic opportunities, protection from exploitation and abuse, family reunification, or a combination of these factors. They may travel with their family, or independently, or with non-family members. They may be seeking asylum, victims of trafficking, or undocumented migrants. The status of children on the move may differ at various stages on their journey and they may encounter many differing situations of vulnerability. \(^3\)

---

\(^3\) This definition was drawn from background paper of European Forum on the Rights of the Child (2012) (see http://ec.europa.eu/justice/fundamental-rights/files/background_cps_children_on_the_move_en.pdf ) and endorsed by the European Network of Ombudsmen for Children (ENOC)
**Children at risk**

Children at risk are those vulnerable that generally lack protection, care and/or basic needs are not satisfied. As a result, they are unable to emotionally and physically develop, making them vulnerable to trafficking either by family members, or trafficking networks.


The “children at risk” among other groups also include vulnerable groups linked to children on the move phenomenon (i.e. children left behind by migrant parents, children victims of trafficking and child labour, children in the street, asylum seekers, etc.).

**Accompanied children**

They are persons below the age of 18 accompanied by one of their parents or by their legal/customary primary care giver.

**Unaccompanied children**

Unaccompanied children, also known as Unaccompanied Minors or UAMs, are those separated from both parents and other relatives or responsible adults, who are not being cared for by an adult, by law or custom.

Children who are abandoned after they have entered the territory of a Member State – which can happen, for example, in the short time between their plane landing and their arrival at the airport immigration desk – are also defined as Unaccompanied Children.

They should be fully protected as long as they are not taken into the care of an adult by law or custom.
Separated Children

Separated children are those separated from one or both parents, or from their previous legal or customary primary care-giver, but not necessarily from other relatives. These may, therefore, include children accompanied by other adult family members (for example, an uncle or a grandparent).

Child trafficking

Trafficking in Human Beings (THB) is defined as the recruitment, transportation, transfer, harbouring or reception of persons – in this case, children – including the exchange or transfer of control over those children, for the purpose of exploitation\(^4\).

Under Romanian law (law no 678/2001 regarding prevention and combating trafficking in persons, Article 2) "exploitation of a person" means: a) performing forced labour or services, in violation of the legal requirements on labour conditions, pay, health and security; b) keeping such persons in a state of slavery or using other ways to deprive a person of his/her freedom or to force the person into submission; c) compelling a person to engage in prostitution, begging, in pornographic performances for the production and distribution of pornographic material, or in other forms of sexual exploitation; d) removal of organs, tissues or cells of human origin in violation of legal provisions; e) engaging in other such activities that violate fundamental human rights and liberties.

Child trafficking is not happening only as a result of migration, but it can happen also internally for the same purposes mentioned above.

---

\(^4\) Directive 2011/36/EU of the European Parliament and of the Council (5 April 2011) on preventing and combating trafficking in human beings and protecting its victims (Art. 2 par 1). Article 2 par 2 defines the purposes of exploitation, that include – “as minimum – the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs”.
Child smuggling

Child smuggling is the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the irregular entry of a child into a State Party of which the child is not a national or a permanent resident\(^5\).

Child smuggling shall not be confused with child trafficking. Child smuggling represents the movement of a child across border and child trafficking has as purpose the exploitation of the child in the country of destination.

Protection and National Referral Mechanisms

A National Referral Mechanism (NRM) is the system and mechanism that allows a country to address its obligation to protect and promote the human rights of victims of trafficking and other vulnerable persons, via a coordinated response, often with the specialized assistance of civil society and NGOs. There are procedural differences between the NRMs of Member States, but they all have one goal in common: the efficient referral of vulnerable persons to the best and most appropriate support service available.

In Romania, the Order no. 335 of 29 October 2007 is establishing the national mechanism for identification and referral of victims of human trafficking. This gives a set of criteria to identify potential victims of human trafficking, indications on how to deal with possible victims and what to do once a victim has been identified.

Human trafficking in Romania

Legal and institutional framework

Romania has set up a complex legal and institutional framework with the purpose of fighting and preventing human trafficking. It is all described in the National Strategy against Human Trafficking for 2012-2016, together with an analysis of the main obstacles and goals.

Some of the key national legal documents are:

• Law 678/2001 on preventing and fighting human trafficking – this is the key legal document outlining the main activities in fighting and preventing human trafficking, including protection offered to the victim. This law used to sanction child trafficking in article 13, but since February 2014, this article is replaced by article 211 of the Criminal Code.

• Law 248/2005 on freedom of movement for Romanian citizens - this law establishes the conditions under which Romanians, including minors, can travel abroad. This law prescribes the affidavit, which a child needs when exiting the country if not accompanied by both parents (art. 30).

• Criminal Code – the criminal code is in force from February 2014 and it now largely replaces Law 678/2001 which used to be the main legal document sanctioning human trafficking. The criminal code sanctions: human trafficking (art. 210), child trafficking (art. 211), forced labour (art. 212), pandering (art. 213), exploitation of begging (art. 214), using children for begging (art. 215), using services provided by a person who is exploited (art. 216).

• Decision no. 1142/2012 approving the National
Starting with...

Analysis of Key Actors
Victims of human trafficking


- Order no. 335 of 29 October 2007 establishing the national mechanism for identification and referral of victims of human trafficking. This gives a set of criteria to identify potential victims of human trafficking, indications on how to deal with possible victims and what to do once a victim has been identified.

- Law no. 272/2004 on protecting and promoting children’s rights is the general law on children’s rights, providing the general framework in this matter. It also describes the main authorities responsible with protecting children’s rights and their main areas of competence.


- Law no. 508/2004 on the establishment, organization and functioning of DIICOT within the Public Ministry.

- Law no. 211/2004 on the protection of victims of crime.

- Law no. 300/2006 ratifying the Council of Europe Convention on Action against Trafficking in Human Beings.

Some of the key international legal norms with relevance to human trafficking are:
• EU directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims.

• Council of Europe Convention on Action against Trafficking in Human Beings


Analysis of Key Actors

Some of the key actors involved in the fight against human trafficking:

- **The National Agency against Human Trafficking** (ANITP) www.anitp.mai.gov.ro – it is entrusted with coordinating, evaluating and monitoring at national level the manner in which anti-trafficking policies are implemented.

Through its Regional Centres (RC) (15 in number) they operationally coordinate the participation of victims in judicial proceedings, where appropriate, but especially collaborating locally / regionally, with all providers of social services that victims need. For that, it directly participates in the repatriation / takeover of victims, doing the victim needs assessment, identifying service providers, keeping permanent contact with them, within the process of assisting victims, monitoring the situation of each victim, including after the closure of the assistance.

- **Border police** – it plays an essential role in preventing illegal border crossing of children and identifying possible victims of human trafficking. They are responsible for checking that the children have valid identifications documents, the affidavit and other formal requirements (as for example custody papers in case one of the parents has sole custody of the child or death certificate in case one of the parents is deceased).

- **The Directorate for Investigating Organized Crime and Terrorism** (DIICOT) - It is a specialized body of prosecutors which is part of the Public Ministry. Responsible for most cases of human trafficking in the CRI (international letters rogatory) has regional directorates spread throughout the country.
The National Authority for the Protection of Children’s Rights and Adoption (ANPDCA) – through its specialized units, they are involved in repatriating victims of trafficking and providing support, they are also called upon when a child is found unaccompanied at the border.

General Direction for Social Assistance and Child Protection (DGASPC) - has a double subordination: it is in the subordination of the Ministry of Labour and Social Protection and the County Council. This institution is responsible with fostering decisions. It also manages the child protection structures at county level.

Public Service for Social Assistance (SPAS) is present in every city in Romania (there are nearly 3000 across the territory). They are decentralized services subordinated to local councils whose primary mission is to monitor individuals and families receiving social assistance. Their role is to distribute the social benefits (allowances for families), to verify whether the conditions are met (for the minimum guaranteed income and additional allowance for school aid) and support the persons who have special social difficulties. Depending on the importance of the city, SPAS developed skills in child protection.

Community Advisory Boards (CCC) are structures composed of representatives of local businessmen, priests, teachers, doctors, local counsellors and police
officers, and other community representatives. The role of the CCC is to solve concrete cases and also meet the general needs of the community. They should be present in every village.

Figure 2. Decision makers for child protection and fighting against child trafficking
Victims of human trafficking

Data from Romania

Figure 3. Infographic on the number of children trafficked from Romania

Figures compiled by ANITP show that out of 896 of victims identified in 2013:

- 77% were women;
- 48% were children;
- 66% were sexually exploited (75% of children were sexually exploited), 24% labour exploitation and 6% were subjected to other forms of exploitations including begging and criminal activity;
- 54% were recruited by a relative or a friend;
- 94% were recruited directly, without intermediaries;
- 62% were trafficked internationally;
- 74% of the convicted traffickers were men.
Some of the most common destinations of trafficking victims identified in 2013 were: Greece (120 victims), Germany (95), Italy (78), Spain (77), Turkey (39), UK (36), Austria (24), Portugal (22), France (17) and Netherlands (17).

These figures show that most victims of human trafficking are women who are sexually exploited. This data also shows that almost half of human trafficking victims were children when initially trafficked. The most vulnerable minors are girls, more vulnerable even than the adult population: 96% of the children trafficked in 2013 were girls.

This data also shows that most traffickers know the victim, they are either relatives or friends of the family, which may make it easier for them to get the trust of the victim and of his/her family and convince them to provide an affidavit.

The ANITP study also shows the patterns in respect to human trafficking from 2008 to 2014, as illustrated by the following chart:

**Figure 4. Human trafficking trends from 2007 to 2014**

In this chart the identified victims are those victims identified in a given year (of which some may have been trafficked in previous years) while the trafficking victims figure shows the number of victims trafficked and identified in the same year.
The trend suggests a slight decrease in frequency of human trafficking cases, but numbers are still higher than figures registered before the economic crisis of 2008.

Also, if analysing the annual report of ANITP from 2007 to 2012, a worrying trend emerges in terms of child trafficking, as illustrated in the charts below.

These two charts above indicate that there has been a rise in child trafficking cases from 2007 to 2012, both in terms of number of identified children who are victims of human trafficking but also in terms of the percentage of child trafficking victims from the total number of human trafficking victims.

The data published by ANITP is not always comparable from one year to the next due to different reporting formats, so it is difficult to assert clear trends, though several reports point to the fact that a larger percentage of the minors are trafficked internally rather than externally.
Whilst it seems that the number of child trafficking victims is growing, at the same time, the percentage of child trafficking victims who are trafficked externally seems to be decreasing, as indicated in the chart below.

Figure 7. Percentage of external trafficking 2007-2012

This data would indicate that external child trafficking is decreasing. Nonetheless, generally speaking it would be expected that external trafficking of children is lower than internal, because external trafficking presents additional complications and risks for the traffickers and also because in practice it seems that internal trafficking is followed by external trafficking – meaning that before victims are trafficked externally they are first exploited internally so that the trafficker can consolidate his control over the victim, by the end of this process and by the time the victim is trafficked externally he/she may already have turned 18.
According to the data held by ANITP counties in the central part of the country, and Moldova border counties are among the main sources of trafficking, as shown in the map below:

Figure 8. Destination countries in 2013

Figure 9. Number of trafficked victims by counties

---

6 Source: www.anitp.mai.gov.ro
7 Source: www.anitp.mai.gov.ro
Data from UK

The National Society for the Prevention of Cruelty to Children\(^8\) (NSPCC) is an NGO which works closely with children at risk in the United Kingdom, it runs a hotline for children at risk and even a Child Trafficking Advice Centre (CTAC). CTAC became a partner in the ICARUS project in the second part of the project.

They are contacted regularly to investigate suspicions of children who may be at risk. When they consider that a child may be a victim of human trafficking they refer the child into the National Referral Mechanism (NRM), the UK process for identifying and supporting victims of trafficking.

They keep records of all children which they refer through the NRM. Their records show that:

- In 2011: 22 Romanian children were referred through the NRM, of which 9 boys, 13 girls. All without either parent. 17 with concerns for trafficking for benefit fraud, 3 for criminal activity, 1 for domestic servitude, 1 for sexual exploitation;

- 2012: 20 Romanian children were referred through the NRM, of which 4 boys, 16 girls, 13 without either parent, 4 with at least 1 parent. 1 unknown. 5 with concerns for trafficking for benefit fraud, 4 for criminal activity, 3 for domestic servitude, 2 for labour and 5 for sexual exploitation;

- 2013: 19 Romanian children were referred to the NRM, of which 5 boys, 14 girls. 13 not with a parent, 3 with a parent, 3 not sure. 3 with concerns for sexual exploitation, 9 for criminal exploitation, 4 illegal adoption, 1 labour.

This would indicate that around 70% of referred children are girls, almost 80% are unaccompanied by any parent and 50% are believed to be used for benefit fraud. These

\(^8\) http://www.nspcc.org.uk/
are the children who are most vulnerable and at risk of being victims of trafficking.

A children's services practitioner with the NSPCC Child Trafficking Advice Centre, also added that from her NGO's experience, in terms of numbers of child trafficking victims, Romanian children make a large percentage and are the third largest group after Vietnam and Nigeria. One of the main safeguarding issues is that the children are living in unregulated informal fostering arrangements, for example with an ‘aunt’ or ‘uncle’ that is not related by blood and the children are left unchecked and vulnerable to abuse and neglect.
Analysis of Key Actors

Victims of...

Steps of trafficking
Exit procedures of minors

Figure 10. EU Referrals in the UK from May 2013 to June 2015. Country of Origin

Figure 11. EU Referrals in the UK from May 2013 to June 2015. Age Breakdown

Source of the graphics: NSPCC
Steps of trafficking

Trafficking is a process that has the following steps: recruitment, transportation, transfer, harbouring or receipt of persons (by means of threat, violence or other forms of coercion, abduction, fraud or deception, abuse of authority or taking advantage of the person's inability to defend or to express their will, or by offering, giving or receiving of payments or benefits to achieve the consent of a person having control over another person), for the purpose of exploiting people.\(^{10}\)

![Diagram of trafficking steps](image)

**Figure 12. The steps of trafficking**

**Recruitment**

It is done by a recruiter who can be independent or a specialized talent agency or work placement abroad. Most of the time recruiters are men. There are several cases in which a family member or a relative is recruiting and transporting the victim, especially in the case of children. Recruiters are often persons well known to the victims, relatives or friends which are considered to have a suc-

\(^{10}\) Article 12 of Law 678/2001 on preventing and combating trafficking in persons, as amended
Victims of...

Steps of trafficking

Exit procedures of minors
Necessary documents for a child to exit the country

cessful lives. The recruiters attract the victims by offering them an easy and well paid job.

The trafficker

The recruiter of the victim can have one or more of the following characteristics:\n
- **Age between 20 and 45 years.**
  Most recruiters / traffickers are between the above mentioned ages as their life experiences and social-cultural values have determined their orientation towards crimes;

- **A good physical and tidy appearance**
  Recruiters / traffickers are more likely to show their abundance through a nice appearance, convincing others that they would know how money can be easily gained.

- **An average educational level.**
  Most recruiters / traffickers graduated from high school or vocational schools, but life experience have contributed substantially to "educate" the necessary skills.

- **With a history of domestic abuse.**
  Psychological researches confirm the theory that the perpetrator was, in turn a victim (of physical abuse and / or family emotional childhood, low self-esteem etc.)

- **Emotionally Intelligent**
  The recruiters / traffickers master very well the manipulation techniques, suggests empathy towards the victim. As actors, he/she often changes his/her behaviour depending on the victim’s needs and aspirations.

- **Very well organized**
  Traffickers follow a predetermined plan with accurate data and routes, unforeseen events being most often anticipated or controlled by using manipulation technique.

---

such as forcing the victim. Everything that he/she is doing is fast, the offer needs to be accepted quickly.

- **Can be imprecise**

His/her promises do not contain clear information about the proposed offer and travel conditions, accommodation or financial income.

Based on the preliminary findings of ANITP on the victims from 2014, most of them were recruited by an acquaintance or a friend (47%), or directly without intermediaries at the promise of a job abroad (44% of all identified victims).

In the specific case of minors, a specific type of recruitment often used is the “Lover boy” method.

![Figure 13. Relationship with the recruiter](http://www.anitp.mai.gov.ro/wp-content/uploads/analiza-a-victimelor-2014-3.pdf)

“**Lover boy**” is a good-looking, kind man that starts to date a young woman and even gets to know her family. After she’s fallen for him, the man suggests that the two of them go abroad to work, convincing because jobs in Romania are scarce. Once across the border, the man sells the young woman into prostitution.

---

Victims of...
Steps of trafficking
Exit procedures of minors
Necessary documents for a child to exit the country

32

ICARUS - Good practices booklet

Figure 14. Ways of recruitment

There are many ways of recruiting victims, most of the common ones are (as seen in the chart above – ANITP report on 2014): in person, through internet, through newspaper ads, through a talent agency, work placement, but also kidnapping.

Figure 15. Reasons for recruitment

According to the ANITP report of 2014, the main reasons for recruitment are jobs abroad; jobs inside the country; prostitution; begging; marriage of convenience and others.
Official statistics provided by the Ministry of Justice with respect to convicted human traffickers for the years 2011-2013, help develop a clearer picture on how many people are brought to justice for human trafficking and also about the profile of these people.

The data shows that from 2011 to 2013 there were 1017 convicted traffickers. Of these, a total of 581 were convicted for child trafficking. Most convicted child traffickers were men (74%) and the large majority of them (95%) were adults. Also, in over 60% of convicted child trafficking cases, the court established that the traffickers did not act alone, but in pairs of two or more.

If comparing the data of convicted traffickers with the data on general prison population one could see that the profile of the trafficker is somewhat different from the general profile of prisoners, particularly when looking at the large number of women involved in human trafficking. In general only 5% of convicted criminals are women but in human trafficking women make up for 26% of traffickers. Also if in general only 1% of convicted criminals are children, we have 5% of traffickers who are children. This may be explained in part by the fact that traffickers sometimes turn victims into traffickers or use women and children to gain the trust of the victim.

**Transportation**

Transportation involves moving the victim by traffickers, from the place of origin to the destination, where the exploitation will take place. At this stage, victims are not aware of their situation.

Transportation can be done internally from one city to another, or externally from one country to another.

Crossing the border to the destination country is organized by traffickers and may be done legally (in this case the victim has legal documents and legal conditions are met crossing the border, and transport is usually done through travel agencies or by a hired car) or illegally (the...
Victims of...

Steps of trafficking

Exit procedures of minors

Necessary documents for a child to exit the country

A victim does not possess legal documents and legal conditions are not met at the border crossing, where the traffickers will use false documents or seeking the help of smugglers in order to cross the border.

Often traffickers will produce false documents for victims and will accompany them during transportation phase to ensure they reach the destination. The routes and means of transport depend on the circumstances of the traffickers: economically, socially, and geographically or of transit. Victims are transported by train, by ferry, by car, by plane, by boat or simply on foot to reach the destination country.¹³

Forms of exploitation

Sexual exploitation

- Prostitution
- Videocall
- Massages

Forced labour

- Exploitative labour: nail bars, restaurants, factories.
- Domestic servitude

Other forms of exploitation

- Removal of organs
- Criminal activity (cannabis cultivation, pickpocketing, transporting drugs)
- Begging

Steps of trafficking

- Exit procedures of minors
- Necessary documents for a child to exit the country

Victims of...
Exit procedures of minors

Within the ICARUS project a study has been conducted to explore whether the affidavit\textsuperscript{14} plays a role in the fight against trafficking of Romanian children.

The study takes a closer look at the requirements for Romanian children who leave the country with a focus on the affidavit. This section places the affidavit within national legislation, it establishes its legal basis and its content. It also looks at how the affidavit is used and by whom. For a better understanding of the system the study also explores the various perceptions on the affidavit from main actors involved.

The study also encompasses a quantitative analysis of affidavits used in a border crossing and it brings together comparatives elements of how the affidavit is used in other European jurisdictions. In doing so, the research is therefore almost exclusively exploring the external dimensions of child trafficking and does not, or to a much lesser extent, cover aspects relating to internal child trafficking. The study provides some conclusions highlighting some of its limitations and potential adverse consequences and recommendations on how to improve the affidavit system.

\textsuperscript{14} The affidavit is a declaration of consent by the parents showing that they consent to the child travelling, to the state(s) of destination, and to the duration of the child’s trip with the identification data of the accompanying adult, purpose of the trip, itinerary. It is shown upon exiting Romania by the accompanying adult (parent or other)
Necessary documents for a child to exit the country

Romanian legislation imposes a number of restrictions on the exit of Romanian children from the country. The rules outlining these restrictions are found in Law no. 248/2005 on the free movement of Romanian citizens abroad.

The general rule is that children need to be accompanied by an adult (18 or older) when exiting the country and that they require official identification documents, which for children younger than 14 means having a passport and for children aged 14 to 18 can mean a passport or ID.

However, when children are not accompanied by both parents when exiting the country, there are a number of additional requirements, depending on the accompanying adult.

• The child is accompanied by one of the parents

A first scenario is when the child is accompanied by one of the parents. In such a situation the child can exit the country only if the accompanying parent produces an affidavit executed by the other parent showing that he/she consents to the child travelling, to the state(s) of destination, and to the duration of the child's trip (art. 30 (1) b).

There are a number of exceptions to this requirements, which relate to situations when the other parents is dead (art. 30 (1) b), or the accompanying parent can prove with a final court ruling that he/she has sole custody of the child (art. 30 (1) c).

---

15 Law no. 248/2005 on the status of the free movement of Romanian citizens abroad, art 2.2
The child is accompanied by a third party

The law imposes additional restrictions when the child is accompanied by a third party, defined as someone other than the parents. Besides the affidavit the third party must bear with him at the border crossing point a copy of his or her criminal record.\textsuperscript{16}

In summary, as illustrated in the table below, exit requirements depend on who is accompanying the child:

<table>
<thead>
<tr>
<th>Required documents</th>
<th>Children accompanied by both parents</th>
<th>Children accompanied by one parent</th>
<th>Children accompanied by a third party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Passport (if younger than 14) or ID</td>
<td>Passport (if younger than 14) or ID</td>
<td>Passport (if younger than 14) or ID</td>
<td></td>
</tr>
<tr>
<td>affidavit</td>
<td>affidavit with additional information</td>
<td>Criminal record</td>
<td></td>
</tr>
</tbody>
</table>

Table 1. Required documents for children accompanied

\textsuperscript{16} Implementing regulation of 26\textsuperscript{th} of January 2006, regarding Law no. 248/2005 on the status of the free movement of Romanian citizens abroad, at art. 24 (1) e
**Historical perspective of the affidavit**

In order to better understand the reasoning behind the affidavit and what it is intended for it is important to consider the arguments used to introduce it in Romanian legislation.

The affidavit was introduced in 2005. One of the key reasons behind this was to prevent child trafficking. This objective is stated in the recitals (expunere de motive) of Law no. 248/2005\(^{17}\), which specify that:

> [when drafting this law] special consideration was given to the conditions under which Romanian children can exercise their right to freedom of movement abroad, and to this end a series of obligations were imposed on the parents of the child and accompanying adult during the trip abroad, with the purpose of providing effective safeguards of the rights of the parents and of the child and to prevent and fight international child trafficking [emphasis added].

The anti-trafficking purpose of the affidavit was also confirmed by a border official whom the research team interviewed. In the interview he explained that he was part of the discussion held when the law was being drafted and one of the key arguments raised was the need to fight and prevent child trafficking, particularly in the context of loosening border controls.

However, to date there is little evidence to establish whether or not the affidavit was useful in preventing human trafficking and in identifying traffickers, or if in fact it hinders the free movement of children, whilst providing no real safeguard against child trafficking.

---

The affidavit is not a Romanian invention. Other countries have similar systems in place meant to protect children.

**Comparative perspective on the affidavit**

For a comparative analysis on the affidavit, this study looks at policies adopted by other EU countries. For this purpose information was gathered through desk research and inquiries sent to officials and partners of Terre des hommes in France, Hungary, Bulgaria and Spain. Semi structured interviews by phone were also conducted with officials in some countries.

The analysis reveals that across the EU various countries have taken different approaches to the way they regulate the movement of children, and particularly with respect to parental consent regarding international travelling. In the absence of clear EU polices on the matter, the national policies take diverging approaches, with some taking a more similar approach to that of Romania while others impose no similar system to that of the affidavit. The various approaches consist in:

1. **France imposes no affidavit** - Virtually a French minor, without condition of age, can travel alone to any country provided that nobody opposed their exit from the French territory.\(^{18}\) Before 1990, French children did require a specific authorization to travel abroad with a simple I.D.\(^{19}\) The authorization was not required if the minor was in possession of a passport, but in order to obtain a passport the approval of both parents was required.

2. **Spain only requires an affidavit for travel outside Schengen** - Spanish children who wish to travel abroad, outside of Schengen, must have proof of parental

\(^{18}\) Circulaire n° INTD1237286C defines the conditions of exit of French minors from the French territory and the measures that can be adopted to prevent an exit by different authorities (prefecture, judge for minors, judge for family affairs). Available in french at : [http://circulaires.legifrance.gouv.fr/pdf/2012/11/cir_36117.pdf](http://circulaires.legifrance.gouv.fr/pdf/2012/11/cir_36117.pdf)

\(^{19}\) Circulaire du 11 mai 1990 relative au franchissement des frontières-nationales par les mineurs de nationalité française
consent for such travel. The consent is given on a special form, downloadable on the website of the Spanish police\textsuperscript{20} (Guardia Civil) and it must be filled in and legalized by the Guardia Civil. Both parents must be present with their Passport or I.D. as well as the “family record book”.\textsuperscript{21} If only one of the parents exercises parental responsibility (i.e. the other parent was deprived of parental responsibility or is deceased or missing) the latter must present him/herself at the local Guardia Civil Office or Police commissariat of their place of residence. The form must indicate the personal data of the parents and it must bear both their signatures.

3. **Hungary requires an affidavit only when the child is establishing residence abroad** - The consent of both parents is required for the child’s residence abroad for any extended period of time\textsuperscript{22} for the purpose of studies or work. The consent form is not needed for travelling abroad, but the Hungarian Consular Services still recommended to have it. It is recommended that the declaration be in Hungarian as well as in the language of the destination country, and potentially transit countries. The declaration needs to contain the: personal data of the minor, the accompanying person and the parents (name, date and place of birth),- identification number of the minor’s travel document, the purpose and place of staying abroad; name and contact details of the visited person or institute. The declaration doesn’t need a certification by a public notary.\textsuperscript{23}

\textsuperscript{20} https://www.guardiacivil.es/documentos/pdfs/autorizacion_menor_extranjero/formulario_autorizacion_salida_menores_extranjero_V2.pdf
\textsuperscript{21} Libro de familia
\textsuperscript{22} Which is not detailed but must be understood for the purpose of this study as going well beyond three months
\textsuperscript{23} Phone Interview with the Consular Service in Budapest, 17th of April 2014
4. **Bulgaria requires an affidavit** – Bulgaria has a system which is very similar to that of Romania. There are two types of affidavits, both available on the website of the Ministry of Foreign Affairs.\(^{24}\)

If the child is leaving with a **third party** the declaration should reflect the consent of both parents, and it should include personal identification number of the third party and the number and the expiry date of his passport. If the child leaves the country with just **one parent** that he needs a declaration of consent from the other parent, unless the child lives with one of his parents abroad and this is noted in their Bulgarian identity documents or have an official residence document issued by the respective country.

Also, children who are Bulgarian citizens and possess another citizenship can leave the country with a valid Bulgarian passport or identity card and a valid passport or identity card of the other country. In that case a declaration of consent from the absent parent / parents will be not required.

All of the countries analysed require that a child has valid ID documents when travelling abroad and none of them ask for an affidavit when the child travels abroad with both parents. The differences appear when a child leaves the country with only one parent (unless that parent can prove he has sole custody of the child) or with a third party.

Bulgaria and Romania have set up very similar systems in respect to the affidavit. This might be explained by the fact that they are both non-Schengen countries and have similar socio-economic standards. However, the two approaches do provide some differences, in particular in relation to minors who live abroad and/or have double citizenship. In interviews with Romanian border police it came out that in practice there are increasing numbers of Romanian children who live abroad, with one or both parents and who at times even have double citizenship and these situations would require special provisions. The

current legislation is meant to make sure that parents are aware of when their children are leaving the country, but this sort of protection seems futile for children who habitually live outside the country and are just visitors in Romania. In this sense Romanian legislation could take the Bulgarian example and provide for exemptions from the general rule for these cases.

Finally, since Romania may enter the Schengen area it may eventually have to put the affidavit requirement to an end for intra-Schengen migration and only impose the affidavit for travel outside of the Schengen area, in line with the Spanish model, since there are practically no more border controls within the Schengen area.

**What the affidavit contains**

The affidavit should contain (art. 30 (1) c):

- the parent/s consent for the child taking that trip,
- the state(s) of destination
- the duration of the trip
- the identification data of the accompanying adult

This affidavit also needs to contain information on (art. 30 (4)):

- the purpose of the trip;
- the itinerary to the state of destination;
- an indication of whether the child is to remain in the state of destination, in which case mention shall be made of the person to whom the child will be entrusted, or whether he/she is to return with an escort. In this case, the escort’s identification data shall be stated, if he/she is a different person from the one with whom the child leaves Romania.

The law indicates that when the child is travelling with one of his/her parents the affidavit only needs to contain the other parent’s written consent to the child travelling to the state(s) of destination and to the duration of the child’s
trip (art. 30 (1) b). However, in practice it seems that only one type of affidavit is used, for both when the child travels with a parent and with a third party.

The affidavit lacks a series of elements which may help make it a more useful instrument, such as:

- Date of return – the affidavit provides no information as to when the child should return. It requires the duration of the trip, but without recording the moment when the child exits the country no one can check the duration of the trip. The date of return may be useful to signal potentially risky situations.
- Picture – it may also be useful to attach a picture on the affidavit. This could further help to identify the child for whom it is issued. However, this would be of limited added value because the affidavit is supposed to accompany official IDs which bear the picture of the child.
- Language- The affidavit is only made in Romanian. For wider use it may be useful to make the forms bilingual.
Declaratie privind acordul parintilor pentru iesirea din tara a minorului
insotit de o alta persoana fizica majora

Noi (cu), si (numele intreg al parintilor / parintelui / reprezentantului legal, suntem (sunt) (calitatea persoanei / persoanelor care da / dau declarata) ai / al

Numele intreg al minorului:
Data nasterii (ZZ/LL/AA):
Locul nasterii:
Numar pasaport:
Data eliberarii pasaportului (ZZ/LL/AA):
suntem de acord ca (numele complet al copilului), sa calatoreasca cu:

Numele complet al persoanei insotitoare:
Numar pasaport:
Data eliberarii pasaportului (ZZ/LL/AA):
Locul eliberarii pasaportului:

Impreuna calatoresc in (numele tarii de destinatie), in perioada (perioada calatoriei: data plecarii si data sosirii), pentru (se precizeaza scopul deplasarii) pe ruta (se precizeaza statele tranzitate pana la statul de destinatie).

In aceasta perioada, (numele complet al copilului) va locui cu (numele persoanei la care copilul va locui in tara de destinatie) la urmatoarea adresa:

2 Totodata, mentionam faptul ca minorul urmeaza/nu urmeaza a ramane pe teritoriu: (se precizeaza statul / teritoriu caruia urmeaza a ramane minorul), fiind inocentiat (numele complet al persoanei cu care i-a fost inocentiat minorul), locuind la urmatoarea adresa: (se precizeaza, in detaliu, adresa la care urmeaza a locui minorul)

3 La inapoierea in tara, minorul va fi insotit de:

Numele complet al persoanei insotitoare:
Numar pasaport:
Data eliberarii pasaportului (ZZ/LL/AA):
Locul eliberarii pasaportului:

Semnatura: ___________________________ Data: ____________
(Numele intreg si semnatura parintilor / parintelui / reprezentant legal)

1 Insotitorul imputernicit de parinti sau, dupa caz, de reprezentantul legal, va prezenta cu ocazia controlului la frontiera si certificatul de cazier judiciar si, dupa caz, documente din care sa rezulte calitatea de persoana desemnata din cadrul unei societati comerciale autorizate, in conditiile legii si desfara activitati de transport international de persoane.

2 Se completeaza in situatia in care minorul urmeaza a ramane pe teritoriul statului de destinatie.

3 Se completeaza in situatia in care minorul va reveni in tara insotit de o alta persoana decat cea cu care a trecut in Romania.

Figure 16. Sample of an affidavit

Affidavit sample available on the website of the border police, at:
At the notary office

The affidavit is made before the public notary who certifies that it is authentic. The number of affidavits issued yearly is around a quarter of a million. Between 01/01/2010-30/06/2011 a total number of 346951 affidavits, pursuant to Law no. 248/2005, were authenticated by public notaries in Romania, as shown in the table below:

<table>
<thead>
<tr>
<th>Camera Notarilor Publici</th>
<th>Număr Birouri Notariale</th>
<th>Număr total de declarații pe propria răspundere</th>
<th>Defalcarea numărului total de declarații pe propria răspundere, pe grupe de vârstă</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>între 16 și 18 ani</td>
<td>între 14 și 16 ani</td>
</tr>
<tr>
<td>Alba Iulia</td>
<td>109</td>
<td>21238</td>
<td>6521</td>
</tr>
<tr>
<td>Bacău</td>
<td>83</td>
<td>20161</td>
<td>6033</td>
</tr>
<tr>
<td>Brașov</td>
<td>75</td>
<td>17174</td>
<td>4614</td>
</tr>
<tr>
<td>București</td>
<td>370</td>
<td>53805</td>
<td>11975</td>
</tr>
<tr>
<td>Constanța</td>
<td>99</td>
<td>13861</td>
<td>3642</td>
</tr>
<tr>
<td>Cluj</td>
<td>115</td>
<td>37932</td>
<td>10592</td>
</tr>
<tr>
<td>Craiova</td>
<td>104</td>
<td>22654</td>
<td>7256</td>
</tr>
<tr>
<td>Iași</td>
<td>64</td>
<td>13060</td>
<td>3893</td>
</tr>
<tr>
<td>Galați</td>
<td>81</td>
<td>20259</td>
<td>5855</td>
</tr>
<tr>
<td>Oradea</td>
<td>48</td>
<td>12899</td>
<td>3182</td>
</tr>
</tbody>
</table>

26 Iris Alex, Entrusted Children, Terre des Hommes, 2013 - Centralized statistics at the level of the National Union of Public Notaries in Romania based on statistics communicated by the Chambers of Public Notaries. The statistical data was submitted to the Romanian Ministry of Justice.
Table 3. Number of affidavits issued between 01/01/2010-30/06/2011 in Romania

<table>
<thead>
<tr>
<th>Location</th>
<th>Count</th>
<th>Date 1</th>
<th>Date 2</th>
<th>Date 3</th>
<th>Date 4</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pitești</td>
<td>78</td>
<td>14341</td>
<td>4092</td>
<td>2914</td>
<td>7335</td>
</tr>
<tr>
<td>Ploiești</td>
<td>93</td>
<td>20451</td>
<td>5790</td>
<td>3703</td>
<td>10958</td>
</tr>
<tr>
<td>Suceava</td>
<td>56</td>
<td>18447</td>
<td>5781</td>
<td>3679</td>
<td>8987</td>
</tr>
<tr>
<td>Târgu Mureș</td>
<td>76</td>
<td>23305</td>
<td>6878</td>
<td>5448</td>
<td>10979</td>
</tr>
<tr>
<td>Timișoara</td>
<td>137</td>
<td>37364</td>
<td>10241</td>
<td>7212</td>
<td>19911</td>
</tr>
<tr>
<td>Total</td>
<td>1588</td>
<td>346951</td>
<td>96345</td>
<td>66609</td>
<td>183997</td>
</tr>
</tbody>
</table>

Unsurprisingly most affidavits are issued in Bucharest, which is by far the largest city in Romania. Also, the second most number of affidavits issued are from Timisoara which is one of the largest Romanian cities and at the same time one of the wealthiest, and which is located near an international border.

Also, it seems that the number of affidavits issued for children under 14 is similar to the number of affidavits issued for children older than 14. The only difference seems to be between children who are between 14 and 16 and those who are between 16 and 18, almost twice more affidavits being issued for the latter.

As for the procedure of how this document is issued, the parents are those who ask for the affidavit to be issued. They are the ones going to the public notary office. The third party or even the child do not need to go to the public notary office and in practice, according to public notaries, they rarely do. Because of this the public notary does not get to see the third party and most of the time has no direct contact with him/her\textsuperscript{27}. Consequently there is little the public notary could do to provide information or identify possible victims of human trafficking when issuing the affidavit.

\textsuperscript{27} As one public notary stated in an interview held on the 7th of May 2014
form the accompanying adult of his obligations towards the child. For example the third party accompanying adult is responsible (art. 32 (1)) during the trip to: a) guard over the juvenile; b) not abandon the juvenile; c) to not hand the juvenile over to another person except for the parents or a person designated by the parents, or a competent state authority; d) to observe the route and destination spelled out in the affidavit, except for the case when the parents provide their consent for changes in the route or destination; e) to alert the competent authorities in case the juveniles is gone missing during the trip; f) to alert the nearest Romanian embassy consular office in regard to any objective circumstance that can lead to him/her changing the route destination of the trip, as spelled out in the affidavit; g) in case he/she was supposed to hand the juvenile over to someone else in the country of destination and this is no longer possible, to alert the component authorities or to return with the juvenile in Romania.

Another important aspect of the issuing process is its cost. To obtain an affidavit costs at least 20RON – for two copies.\textsuperscript{28} However, an online survey of prices to obtain an affidavit at various public notaries would show that most public notaries would charge somewhere between 30-50 RON for this service. If considering that in a given year there would be roughly 231 300\textsuperscript{29} affidavits issued, one would estimate that each year between 4.6 and 11.5 million RON are being spend on affidavits – which is roughly somewhere between 1 to 2.5 million Euro.

Besides the public notary fees to obtain the affidavit, parents may also need to cover transport costs to the closest public notary, which could be significant especially for parents living in remote and/or rural areas with no public notary nearby.

\textsuperscript{28} According the rules on prices for the activity of public notaries, of 2011, at point 19 Annex 1

\textsuperscript{29} This figure was obtained by taking the total number of affidavit issued between 01/01/2010-30/06/2011 (in a year and a half) 346951 and dividing it by 3 and then multiplying it by 2.
Consequently, the issuing process of affidavits could be expensive and provides little child protection guarantees. At the same time it provides no exceptions. In an interview with border police it came out that they cannot accept the exit of the child even if both parents come at the border and offer to make an affidavit proving that they agree for the child to travel with just one of them or with a third party. Even in this case the parents need to go at a public notary and obtain an affidavit.
The affidavit at the border

The border police will first of all check if the child and accompanying adult have all the required documents.

**When the child is denied exit**

The border guards will deny exit if the child and accompanying adult don’t have all the required documents. Also, border guards can deny exit if the accompanying adult or child have restrictions for exiting the country or for re-entering the country (art 31(1)) or if the accompanying adult has committed one of the following crimes, for which he was not yet legally rehabilitated: manslaughter, sex offences, trafficking and exploitation of vulnerable people, illegal deprivation of liberty, drug trafficking crimes, trafficking of human tissues or organs, acts of terrorism.

Border guards will also not allow the child to pass if he or she is 14 or older and refuses to exit the country (at 31 (2) f). This is an odd requirement and would suggest that if a child is younger than 14 and says he does not want to leave the country the border guards will still allow him or her to leave. In practice it seems though that if the child says he does not want to leave the country the border police will stop the child and accompanying adult/s and investigate whether there is anything illegal in that particular situation (possible trafficking situations).

When the border guards will deny exit to the child and if he/she is not accompanied by at least one of his/her parents, the border guards shall notify them immediately, requesting them to come and retrieve the minor as soon as possible. If it is not possible to notify the child’s parents, the border police shall inform at once the Child Rights Protection Authority, which shall start the procedure applicable to unaccompanied minors, under the law.
To give an example of how many times this procedure is applied, between 2011-2013, the Arad Child Protection authority was asked by the border guards to intervene at the border to pick up a child in 372 cases (236 -2011, 73-2012, 63-2013). In most of these cases the child had no ID or a false one, or they didn’t have an affidavit.\(^{30}\)

As for the reasons for which a child is denied exit, there is no centralized data on this but according to an official response from the border police, it seems that the most common reasons are that they either did not have an affidavit or the accompanying adult does not have a copy of his/her criminal record.\(^{31}\)

Also, a series of public statements issued by the Border Police do provide useful information in developing a general idea on how many Romanian children travel abroad and how many of them are denied exit. For example in 2012 over 137,500 Romanian children travelled abroad and at the same time 4,884 (approximately 4%) were turned back at the border in the same year, mostly because of lack of the affidavit or because the accompanying adult had no copy of his/her criminal record.\(^{32}\) This figure seems to have been consistent the next year as well, as in the first 5 months of 2013, approximately 40,000 Romanian children travelled abroad and again, approximately 4% (1,578) were not allowed to leave the country for the same reasons.\(^{33}\)

---

\(^{30}\) According to an official response form the Arad child protection authority, from 1st of April 2014

\(^{31}\) According to an official response form the Central Border Police office, from 15st of April 2014


\(^{33}\) Ibid
Press-releases of the IGPR from 2007\textsuperscript{34} and 2008\textsuperscript{35} provide further insight into travel patterns of Romanian children. For example in 2007 of the 13,000 children who were denied exit in the first 9 months, almost 60\% did not have an affidavit, and in almost 20\% of the cases the accompanying adult did not have a copy of his/her criminal record. In 2008 the figures changed slightly: of the 2571 Romanian children who were turned back at the border in the first 4 month, a little over 50\% did not have an affidavit and again almost 20\% of the adults did not have a copy of their criminal record.

In both years, of the children who were denied exit, almost half of these cases happened at the border crossings with Hungary and approximately 12\% happened at airport checkpoints.

These figures clearly indicate that some of the most common reason for which children are not allowed to leave the country is because they lack an affidavit. The next most common reason is that the accompanying adult has no copy of his/her criminal record. Also, they indicate that this situation may be the result of a general lack of awareness in respect to legal requirements for exiting the country with a Romanian child.

From interviews with the border police it seems that in practice a lot of times they have to deny exit to Romanian children who actually are living abroad and just came to Romania to visit their grandparents and are not aware of the affidavit requirements, as they were not asked for it when entering the country. Also, the border police indicated that many times they had to deny exit to children accompanied by their grandmothers because the grandmother does not have a criminal record on her, and they

\textsuperscript{34} Official press-released issued by IGPR on 09.10.2007, available at: http://www.politiadefrontiera.ro/comunicat.php?id_com=184 (last visited on 8th of May 2014)

have to deny exit even though technically the border police have the capacity to check the criminal record of people travelling abroad but they don’t have a legal mandate to do so for such purposes. Another odd practical situation is when both parents come at the border but just one is exiting the country and the other one is there just to inform the border police that he gives his consent for the child to travel abroad. Even in such situation the border police have to deny exit and ask for an affidavit issued by a public notary.

All of these practical anomalies reflect a number of problems created by the current system and a much too strict application of this system. In practice it seems there are a lot of absurd situations which the border police have to deal with because of a lack of coherent legislation.

**When the child passes the check**

If the child and accompanying adult have all of the required document the border police will allow them exit. They will also be allowed exit in exceptional cases when:

- The child needs to exit the country in order to receive medical treatment which is not available in Romania. He can be allowed to exit the country even without an affidavit, but the accompanying adult needs to produce evidence that the child is being taken abroad for such treatment (art. 30 (3) a)
- The child is attending courses or official competitions- in this case it is sufficient to have the consent of just one parent but proof must be given in regards to the child attending the given courses or competition (art. 30 (3) b)
Data management

When allowing exit the border guards will make and keep a copy of all the justifying documents including the affidavit and the criminal record. These documents are archived for 5 years.

They keep copies of the affidavit and of the relevant documents, but they do not interpret them, they only keep them as potential evidence for any disputes over the manner in which someone crossed the border. Also, the border police does not keep track of the children who leave the country. When Romania entered the EU, it applied Regulation (EC) No 562/2006 of the European Parliament and of the Council, and it stopped keeping data on the free movement of EU citizens, including of Romanian citizens. According to border officials, because of this regulation, there is currently no centralized data system regarding the movement of Romanian children abroad, and once the child leaves the country there is no state institutions able to track his/her whereabouts.

After the child leaves the country no one really tracks his whereabouts or checks his affidavit, not even when re-entering the country. Also, while abroad the affidavit bears little relevance for the child. He does not need to produce it, as it is only meant for the Romanian border police. Unless the child registers in the country of destination at the Romanian embassy or at the local public authorities, there is no institution overseeing his stay and checking that he is under the supervision of the adult indicated in the affidavit. In the UK, a child victim of trafficking would usually only be registered if he is trafficked for so called benefit fraud – when the traffickers want to obtain social benefits on behalf of the child.

---

36 Implementing regulation of 26th of January 2006, regarding Law no. 248/2005 on the status of the free movement of Romanian citizens abroad, at art. 25

37 According to an official response form the Central Border Police office, from Arad child protection authority, from 15st of April 2014
No one even checks if the child returned in the country when stated on the affidavit. At the border control upon returning the child doesn’t even need to produce an affidavit. He can actually present him/herself even without an ID and the border police will have to let him in the country but will have to establish by other means whether or not the person is Romanian.\textsuperscript{38}

These are serious limitations to the affidavit system. There is no practical means to track that the child reaches the country of destination, with the accompanying adult or that he returns to Romania as intended and spelled out in the affidavit.

\textsuperscript{38} Law no. 248/2005 on the status of the free movement of Romanian citizens abroad, at art. 29
Perception on the affidavit

Foreign officials

During a focus group with UK child protection officials and NGO representatives, participants stated that they rarely came across an affidavit in their work with Romanian children who are victims of human trafficking. They could only recollect one case in which they came across an affidavit. In that particular case a Romanian girl was forced into prostitution. She left the country with her aunt who provided an affidavit written in Romanian which stated that the child could leave the country with the aunt. However, the UK authorities were confused as to the scope of application of the affidavit and took it as providing evidence of custody arrangements.

Public notaries

As deduced from interviews with public notaries, they approach the affidavit as a means to assist the minor and assure his/her freedom of movement; in these situations, they see themselves as providing a service, rather than enforcing the law or preventing a crime. The connection with child trafficking prevention is not one that first comes to their mind.

Border officials

The border officials recognize the importance of the affidavit and see it as an important tool in preventing child trafficking. The affidavit also provides a guarantee that the child is travelling abroad with his/her parent’s consent. They also stated that keeping a copy of the affidavit is useful for them because, in cases of disputes over the circumstances the child left the country, they can prove that they did have the parent’s consent and that the border police followed procedure.
Affidavits in court cases

Within the scope of this study we looked at the convicted cases of human trafficking in the counties of Arad, Dolj, Ialomița and in Bucharest (Ilfov) from 2011 to 2013. This was done through FOI request sent to the tribunal that is competent to hear human trafficking cases in each county. All of the tribunals answered the request but not all of them provided full information.

The most complete response was received from the Dolj tribunal, which registered 7 convicted cases of child trafficking between 2011-2013, of which 3 were related to external trafficking. In these cases, two victims had a valid affidavit from their parents while the third one had fake documents, when leaving the country.\(^{39}\)

These cases indicate that the affidavit system does not offer sufficient guarantees. One significant loophole identified is that the traffickers could either obtain a valid affidavit from the victim’s families or forge the documents, and manage to cross the border unhindered.

The Arad tribunal registered 8 convicted cases of child trafficking between 2011-2013, of which 3 were relating to external trafficking, and in all 3 cases the children left the country with one of the traffickers and had no affidavit.\(^{40}\) This may suggest that the border checking were deficient in these cases.

The Ialomița tribunal registered 16 convicted cases of child trafficking between 2011-2013, of which 2 were relating to external trafficking. In one of these cases the child left the country with her mother, who was not the trafficker - from the case-file it was not clear whether she had an affidavit or not.\(^{41}\)

---

\(^{39}\) According to an official response form the Dolj tribunal from 10th of April 2014

\(^{40}\) According to an official response form the Arad tribunal from 24th of March 2014, and follow-up responses from 5th of May 2014.

\(^{41}\) According to an official response form the Bucharest tribunal from 2nd of April 2014
The Bucharest tribunal registered 20 convicted cases of human trafficking (including human trafficking and child trafficking) between 2011-2013.\footnote{According to an official response form the Bucharest tribunal from 2nd of April 2014}

In order to get further insight the research team carried out case-file research in the Bucharest tribunal archives and looked at 18 trafficking cases, of which only 4 were relating to international child trafficking.

In one of the cases the victims were a whole family from Țăndărei which was trafficked abroad for begging purposes and for which there was no need for an affidavit as the two parents were traveling with the children.

In another case, several adults and three children were trafficked to Spain for begging purposes. Two of the children were trafficked with their families and one minor was trafficked along with her boyfriend. All victims were transported to Spain by specially hired buses, all passing through the same border crossing point, Vârșad. From the information provided in the case file, the third minor, age 15, crossed the border with her passport. The initial border crossing took place in 2002, before the affidavit requirement was introduced.

In the other two cases the victims were girls who were trafficked abroad for sexual exploitation purposes. Interestingly enough in both cases they left the country through the same crossing point, Turnu. In one of the cases the girls were trafficked in 2003, when there was no need for an affidavit. In the other case the traffickers managed to cross the border without an affidavit, although it was necessary to have one. The case is described below.
Case study example:

A 17 year old girl who ran away from an orphanage was promised a job as a waitress in Germany by a stranger. The stranger was part of a trafficking network and he arranged for the victim to be transported to Germany by car while he said he would leave by plane. He managed to get ahold of her ID by stealing it from her mother’s house but did not obtain an affidavit. The traffickers initially tried to cross the border in Nădlac but were refused exit because they did not have an affidavit. From the case-file it was clear that the border guards at Nădlac advised the traffickers to try to cross the border at Turnu. This is what they did and they managed to leave the country with a child without an affidavit. From the case-file it also appears that they bribed the Hungarian border officials in order to cross the border. The victim was eventually forced into prostitution in Germany and only managed to escape after a year. It is unknown if any action was taken against the border police officials who facilitated the trafficking process.

What these cases prove is that there are a series of ways in which the affidavit system can be bypassed. One way is by forging documents, or even misleading the family into obtaining the required documents, including the affidavit. Also, it seems that at times traffickers manage to cross the borders without proper documentation. This raises the large issue of corruption and intersectionality of various forms of criminal activity which most of the times comes into play in human trafficking cases. These needs to be taken into account when considering any anti-trafficking policies.
Analysis of the affidavits

As part of the study, the research team analyzed several hundred affidavits. The samples were from 2010, 2011 and 2012 and they were all collected from Otopeni International Airport. This was an exploratory endeavor with an aim to:

- **Get a picture of the diversity of formats in which the affidavits are issued.** Although guidelines exist for the elements that need to be present in the affidavit the Notaries have some freedom in adding other elements, as well as modifying the actual form of the affidavit. We were interested if notaries (or the legal guardians) included elements that would be useful in protecting and tracking the minor while travelling, such as more details on who will be accompanying the minor, the relationship to the minor, the countries the minors are travelling to, the address in the country of destination, the person accompanying the minor on the way back.

- **Get a picture of the diversity of the unaccompanied minors travelling abroad as well as their situations.**

In order to do so, the research team collaborated with the Romanian Border Police, the Otopeni Airport Crossing Point (Henri Coanda Airport). Border Police employees photocopied and anonymized 596 affidavits, the first 100 affidavits in each archival volume, selected from three years (2010, 2011, 2012) to cover both vacation time and non-vacation time travel. The selection was not randomized, because of limitations to the archival system used by the Border Police.

Although the law seems very clear on how an affidavit should be phrased and what it contains in practice it seems that the format and content of an affidavit varies greatly.

The quantitative analysis shows that most of the affidavits did not contain all of the required information from the law but still they were accepted as valid at the bor-
der crossing. This was also confirmed in interviews with border police who said that even if some of the elements from an affidavit are missing they will still accept the border crossing if the affidavit clearly indicates parental consent for international travel of the child, which is the essential element of this document. However this differs from agent to agent and some may insist on all of the elements being present in the affidavit.

This practice raises the question of why all of the elements enlisted in the law are there if in practice it seems some of them could be missing from the affidavit and still the document would be accepted when crossing the border. This requires a critical analysis of all of the elements form the affidavit which would look at which of them is important in fighting and preventing human trafficking, which of them is useful and could actually be used, by whom and how. In this respect there is greater need for better communication between the lawmakers and those who actually use the affidavit in practice (i.e. border police).

Also, there is no unified form for an affidavit. Each notary phrases the affidavit as it sees fit by following the legal requirements and directives it receives but, besides the content, the format also varies widely. This could leave room of maneuver for forgery.

Another aspect is that there is no expiry date on the affidavit and the same one could be used multiple times to cross the border which deprives a bit the affidavit of its coercive character (all the more when it can be used multiple times and at multiple border crossing points).

These aspects reveal a series of weaknesses of the affidavit itself and show how there is no uniform understanding of how this document should look like and what it should contain, despite the fact that the law seems clear on this. These inconsistencies suggest that this instrument is not really perceived as being an essential tool in preventing human trafficking and it is mostly seen as a formality and as a tool to prevent international child abduction of chil-
dren by one of the parents.

The requirements around the affidavits phrasing and content generate uncertainty and the practice on how they are issued, and used at the border crossing is inconsistent. This could be indicative of the need of an assessment of the affidavits content and phrasing and more training for those specialists issuing and using it.
Limitations of the affidavit

There are a number of limitations of the affidavit, which came out in this study. It is these limitations that affect its ability to reach its full potential as a tool in fighting and preventing human trafficking.

One limitation is in respect to its content. The affidavit does not contain information on when the child is to return to the country. It also does not have a picture of the child, which could help identify him or her. Moreover, the affidavit is only in Romanian which makes it a less useful tool in destination countries. It may be more useful to have a bilingual form, in which questions are written in Romanian and English.

Another limitation refers to the way it is issued. The moment when an affidavit is issued could be a critical juncture in which prevention of child trafficking cases could occur. However, the public notaries who issue it do not have any training nor a mandate to intervene at this stage. They just discuss with the parents of the child and seek their consent for the child to leave the country. Legally they are not required to see the child, or the accompanying adult.

Also, one of the main limitations of the affidavit is in the way it is used. It is basically only checked at the border when leaving the country, but then it is not used when arriving in a foreign country or even when returning to Romania. The information from the affidavit, particularly information over where the child is going and with whom, could be useful for example when identifying unaccompanied children abroad or when trying to find a child. However, as it came out from correspondence with the involved actors, this information is not collected, not interpreted and there is no one checking if the child actually arrived at the stated place of destination or if he/she re-
turned on time. Also this information is not centralized, it is not registered in any electronic database which could make it easily traceable, but it is merely kept in the archives of border police and public notaries.

It seems that the whole affidavit system relies too much on the public notaries that being one of the main checks which could detect trafficking cases. The other check put in place is at the border crossing but border police are most given a formal role, them being bound by checking that all formalities are in place and having to deny exit to children even when the trip is shown by all means to be with a legitimate purpose. Also, child protection officials are not included in this system.

Moreover, from discussions with the border police it came out the affidavit could soon be obsolete, because when entering the Schengen space, there would be no more border controls and consequently there wouldn't be anyone checking it.

**Possible adverse consequences**

One aspect that has come out is that the affidavit does impose some **limitations on freedom of movement**. This study has shown that, for example in 2012 of the 137500 Romanian children travelling abroad, approximately 4% were turned back at the border. For this 4% the affidavit acted as a limitation to the freedom of movement, and as it came out in interviews with the border police, many times they have to stop what seems a legitimate vacation trip because of the lack of this administrative requirement. Also, from the interview with the border police it came out that it is particularly problematic in the situation of Romanian children who live abroad, because they can enter the country to visit family members, without needing an affidavit but when trying to return they are stopped at the border, because when exiting Romania they do need to present one.

However, from the interviews with practitioners it seems
that this inconvenience is justified by the need to prevent human trafficking. If looking at the figures, in 2012 approximately 48 children were identified as being victims of external trafficking. This means that in 2012 of the Romanian children travelling abroad 0.3% were identified as victims of human trafficking. It is impossible to estimate how many of possible child victims were among the 4% who were turned back at the border, how many of them had all the papers in order but still were trafficked or how many more could have been trafficked were it not for this affidavit requirement. What is certain is that a large number of genuine travellers (i.e. neither trafficked nor traffickers) were returned home as they did not have proper documents.

Another way the affidavit could place a burden on the freedom of movement is through its costs. To obtain an affidavit costs at least 20RON – for two copies. However, an online survey of prices to obtain an affidavit at various public notaries would show that most public notaries would charge somewhere between 30-50 RON for this service. If considering that in a given year there would be roughly 231,300 affidavits issued, one would estimate that each year between 4.6 and 11.5 million RON are being spend on affidavits – which is roughly somewhere between 1 to 2.5 million Euro. These costs could impose a significant impediment on the right to freedom of movement of Romanian children and their families.

Another aspect to be considered, is that the affidavit may create some sense of false legitimacy. This study has col-

---

43 According to official data of ANITP in 2012, a total of 370 children were identified as victims of human trafficking and the ratio of international trafficking was 13%, which leads to a total of 48 external child trafficking victims – statistics available at http://anitp.mai.gov.ro/ro/docs/studii/Rap%20anual%202012%20final.pdf (last visited on the 11th of May 2014)

44 According the rules on prices for the activity of public notaries, of 2011, at point 19 Annex 1

45 This figure was obtained by taking the total number of affidavit issued between 01/01/2010-30/06/2011 (in a year and a half) 346951 and dividing it by 3 and then multiplying it by 2.
lected cases in which traffickers had arranged for genuine affidavits to be issued by genuine notaries who did not require to see the “accompanying adult” nor the child. All that was required was to convince the parents that this was in their best interest to appear in front of the Notary and to pay 50 RON, the equivalent of 11 EUR. The affidavits were produced at the border and no-one asked any question. The process in this case is akin to child laundering in the sense that it results in child trafficking using formal paper procedures. The appearance of formality benefits the trafficker, other actors of the trafficking chain who benefit from the process. Also it reinforces the state officials’ assurance that the crossing is legal and deprives them of a clue they may have picked if the crossing was not legalized. Also the affidavit may be misconstrued as providing evidence of custody arrangements in the destination countries. This was seen in the focus group organized in the UK where British officials raised this issue and pointed that this document could be misleading.

The current system creates uncertainty. The quantitative analysis showed that in practice there is a lot of uncertainty on how the affidavit should look like and what it should contain, as seen in the lack of uniformity between the affidavits analysed. This creates potential for fraud, as well as abuse. In practice it seems that most affidavits do not contain all of the required legal data but they are still considered valid, this discrepancy between the law and the practice could affect the laws credibility and relevance for real life situations.

**Recommendations**

The study shows that one of the stated objectives of this procedure (counter-trafficking) has not been met during the period under review. A better system needs to be put in place if we are to significantly reduce the number of minors who are trafficked each year.

First of all, the role of the public notaries needs to be re-considered or expended – currently they have no clear
child protection mandate or training and their capacity to prevent human trafficking is limited. Also, when issuing the affidavit they have no contact with either the child or the accompanying adult, which limits their capacity to detect possible trafficking cases, should they wish to do so. As an alternative to the role the public notaries are currently playing, it may be better to place the onus of prevention on trained child protection professionals at county level.

One option could be that restrictions to travel with an affidavit be lifted for all travellers, in exchange for registration online prior to travel (“on-line check in” type of procedure). An example in this regard could be the ESTA system put in place by the United States to enter its territory for those who do not need a visa.\textsuperscript{46} The new system should ensure the possibility to register at DGASPC or local social services (SPAS) for travellers who do not have access to the internet.

Secondly, the paper based-approach to the affidavit provides further limitations that need to be carefully addressed. The affidavit is currently used only when exiting the country and the information from the affidavit is not easily accessible because: (a) it is only in Romanian, (b) it is not stored electronically- the paper is just stored in border police archives and if it is not on the child in countries of transit of destination it is hard to retrieve it (c) it has no picture of the child which would help identify him/her. It would be better if the parents registered their names and the child’s name on a central website and brought a paper copy with them when they travelled.

Furthermore, any anti-trafficking measure needs to take into account the enhanced freedom of movement within the EU and needs to have an EU component, because the possibility of Romanian officials to fight trafficking in children in other EU countries are limited. In this sense it is important that Romanian anti-trafficking agents and child

\textsuperscript{46} More information on this system is available at: https://esta.cbp.dhs.gov/esta/ (last visited on the 24th of November 2014)
protection officials work together and have a functional institutional framework to do so.

As a result of the study on the affidavit, it is proposed that a digital system should be put into place for different involved parties to have access to information on the affidavit with a focus on:

(i) Personal data on “accompanying adults” (third person, neither the father or mother) is digitalized, safely stored for future reference and cross-checked against police files in trafficking-prone counties
(ii) Children who have not returned as per the set date are flagged to the National Authority for the Protection of Child Rights and Adoption (Autoritatea Națională pentru Protecția Drepturilor Copilului și Adopție)
(iii) The cases a child is denied exit on the basis of a possible trafficking, are centralized (transmitted electronically from border crossings to ANITP)
Children are vulnerable to the demands and expectations of those who have authority over them. They are not able to defend themselves and they are not aware of laws that protect them, thus not able to negotiate a fair treatment for themselves.

**Why are children being trafficked?**

There are several reasons for the trafficking of children. The main incentive for the traffickers is money, received as a result of the exploitation of children.

In its report on Romania’s progress concerning anti-trafficking initiatives, the European Commission mentions that Romanian children are mainly trafficked into begging and petty theft networks and indicated that Romanian children from Roma communities appear to fall victim to these rings of exploitation disproportionately.
There are also several risk factors that work against children’s right to freedom such as:

- **Socio-economical risks**: poverty and extreme poverty, few opportunities of earning a decent living - unemployment, poorly paid unskilled labor; the demand for cheap labor for the West; high levels of cyclical migration (seasonal work); lack of opportunities for girls and children from minority groups; lack of an effective child protection system;

- **Community based risks**: lack of material, human, institutional and educational resources (insufficient or untrained professionals on this issue); lack of infrastructure; cultural norms in certain communities where juveniles are expected to grow up earlier (early marriage, child labor, etc.); The environmental impact of sexual relations determing a negative and distorted attitude; lack of proper and consistent local services and the absence of adequate coordination at national level; lack of information about migration.

- **Family risks**: low socio-educational level (including illiteracy); lack of identity papers; family structure - single parent family, disorganized family; parents working abroad (migration); lack of parental involvement in children's lives;

- **Individual risks**: low education levels, school absenteeism, school dropout; lack of skills of self-protection and self-determination; desire for personal autonomy and financial independence; willingness to overcome condition (poverty, marginalization); desire to escape from an abusive environment; lack of perspective (future plans, strategies of life).

Children more likely to fall victims to trafficking are those that find themselves in difficult circumstances such as:

- Children taking drugs or alcohol;
- Children with political refugee status;
- Children belonging to minority groups;
- Children who are disadvantaged by cultural norms (eg. early marriage);
• Children involved in crimes of theft and begging;
• Children who are already selling themselves for sex within their own communities;
• Children already involved in trafficking;
• Institutionalized children.

Some children are coerced, but most are trapped in subversive ways. For example, children may be promised education or ‘respectable’ work in restaurants or as domestic servants, or parents may be persuaded that their children will have a better life elsewhere.

**Impact of child trafficking on victims**

A child involved in trafficking or exploitation is a victim. He/she is not responsible for what happened.

Impact of abuse, trafficking and exploitation on children is very strong and can affect them on different levels:

Psychologically, including:

• Feelings of shame, guilt and loss of self-esteem
• A sense of betrayal and lack of confidence
• Nightmares, insomnia, loss of hope and depression
• Abuse of drugs.

Physically:

• Physical violence, including beatings and rape by pimps, traffickers and/or clients
• Sexual Transmitted Diseases contracted, children have limited freedom in negotiating a sexual act, in addition to not having access to education about safe sex and sexually transmitted diseases, including HIV/AIDS.
Socially:

- The rejection by her/his own family
- The lack of social and educational skills to socialize with other children.\(^{47}\)

**Children rights**

Children have different categories of rights:

- **Protection rights**, which refers to protection from all forms of physical or emotional abuse, and against all forms of exploitation.
- **Development rights**, which refers to the availability and accessibility to all basic services such as education and health care services.
- **Participation rights**, that relate to the child's right to be involved in decisions affecting him.

**Children rights to be protected**

All children have the right to be:

<table>
<thead>
<tr>
<th>Safe</th>
<th>• Protected from any form of abuse, neglect or injury.</th>
</tr>
</thead>
</table>
| Healthy                      | • With the highest standards of physical and mental health possible.  
                               | • Having access to appropriate health care.                   
                               | • With the support in learning on how to make healthy and safe choices. |
| Fulfilled                    | • Being supported and guided in learning and developing their own skills. |
| Cared for                    | • Having a neat place to live in a family setting, receiving additional help if necessary.  
                               | • Where this is not possible, to have a framework of appropriate care. |

----

\(^{47}\) Response to child trafficking, Save the Children, Bucharest, 2004
**Children rights**

Child trafficking -
What can you do?
Recommended practices at the public notary offices

<table>
<thead>
<tr>
<th>Active</th>
<th>• Being able to take part in playful activities, recreation and sports.</th>
</tr>
</thead>
</table>
| Respected and responsible | • To be listened to and involved in decisions that affect them.  
• To have an active and responsible role.  
• To have confidence and self-esteem.  
• To be given appropriate guidance and supervision. |
| Included | • Being accepted as part of the community.  
• Help to overcome inequalities. |

**The child has the right**\(^{48}\) **to be protected against:**

- All forms of violence, abuse, mistreatment or neglect (art. 85);
- Illegal transfer abroad and non-refoulement (art. 99);
- Economical exploitation (art. 87);
- Sexual exploitation and sexual violence (art. 99);
- Illicit use of narcotic drugs and psychotropic substances (art. 88);
- Abduction and trafficking for any purpose or in any form (art. 99);
- Physical punishments or other humiliating or degrading treatment (art. 28 and 90);

As mentioned in article 85 of 272/2004, employees of public or private institutions which, by nature of their profession, come into contact with a child and they have suspicions about a possible case of abuse, neglect, exploitation and all forms of violence against children or ill-treatment are **obliged to notify the General Directorate of social assistance and child protection (DGASPC).**

\(^{48}\) As described in Law 272/2004
Child trafficking - What can you do?

Case study 1

Parents of Maria, a 17 years old young lady agree that her daughter will leave Romania to do seasonal work in Italy together with her new boyfriend, Andrei. They have been together for 1 month and have great plans to work abroad. Parents go to a public notary office for the affidavit in order to allow their daughter to leave with Andrei, 25 years old. They inform the notary staff that Maria's period of staying abroad will be 3 months.

How to help a child like Maria

- Check twice if the affidavit is complete with all required information
- Ask parents more information about the way of travel, purpose, date of coming back, accompanying adult and the relationship with the accompanying adult
- Advice parents on the need to be careful regarding child trafficking for prostitution, forced labour, begging
- Inform parents about the responsibilities of the accompanying person
- Inform parents on the child rights and legal labour conditions.
- Inform the third party on his/ her obligations (if present).
Case study 2

Parents of Cristina (9 years old) come to the notaries’ office for an affidavit to allow her to go with one of them to France for visiting their friends. They come from a rural community consisting mainly of Roma. They are going to stay in France for 2 weeks.

How to help a child like Cristina

- Check thoroughly the IDs of parents
- Check twice if the affidavit is complete with all required information
- Ask parents more information about the purpose, date of coming back and if they have already been to France or not
- Ask parents about the way of travel and if they already bought plane/train/bus tickets and their accommodation arrangements
- Ask parents if they have been to another notaries office for the same trip
- Advice parents on the need to be careful regarding child trafficking for forced labour, begging
Inform parents on the child rights and respecting the applicable laws of the other countries.

Recommended practices at the public notary offices

When issuing the affidavit

• Does the parent appear worried/anxious, nervous?
• Is the parent inconsistent in what he is saying?
• Is the parent not giving all required information?

If concerns arise, you can further ask them:

• Are you the parents/guardian/legal representative of the child?
• If not, where are they and who are you?
• What is the child’s destination and the purpose of the journey?
• Who organized it?
• Who paid for the journey?
• Do you have the flight tickets or other proof of travelling?
• Do you have any picture of your child with you? (usually, parents have pictures of their children stored in their mobile phones or wallets)
• Who is accompanying the child? Do you know the person well? What is the relationship of the adult with the child?

Public notaries and staff members should not make assumptions or use prejudice when observing persons. It is important not to discriminate, on the basis of cultural, religious, ethnic background, gender, nationality or other factors.

✔ In case of any suspicious, please follow our national safeguarding and child protection procedures and make a referral to your county DGASPC (check the phone numbers online) and ANITP or local police. You can use the **ANITP helpline**.

![HELPLINE](image)

✔ For any kind of support concerning children, please contact the **Child helpline**. Your call can be anonymous. The case will be also referred to DGASPC / ANITP / police for further enquiries.
Do not raise your trafficking concerns directly with the parent or carer if you suspect that they are also involved

Recommendations:

- It is recommended to issue the affidavit for a short period of time or just for one trip, limiting its use for multiple exists.
- If the same accompanying adult appears on many affidavits, it can be concerning.
- It is recommended to inform the authorities in case the same child comes and goes frequently. Some children are exploited for begging and they have a pattern of staying abroad 2-3 months and then come back to Romania for few months and leave again.
- In case of prostitution, forced labour, a victim is not aware of what will happen to him/her. It is recommended to inform parents of the dangers of going abroad without concrete and complete information on working conditions, labour contracts etc.

Public notaries and staff members should bear in mind not to limit children’s freedom of movement.

In your office

- Inform staff regarding the need to fill in the affidavit correctly and completely;
- Inform staff to check carefully the ID cards of the parents and third person (if the case);
- The contact details of the “must-call” services: 24/7 child support, and other emergency support should be visible;
- A comprehensive list, with contact details, of all the child protection services whether from national, regional or local authorities and NGOs should be present.
**In your community**

- In a rural community, you can get in contact with the CCC members and familiarize yourself with the situation of the children in the community;
- As a volunteer, you can take part in the CCC meetings to provide any legal advice and getting to know the situation of the children;
- Become more visible to community members by offering your legal support;
- In an urban community, get in contact with other public notaries within a range of 10 km – in case parents came from another notaries office you can ask them about this;
- Get in contact with SPAS within the city hall, get to know the mayor, social workers and ask them about children at risk and which are the children that are more exposed to abuse, possible internal trafficking which can possibly come to your office (from which communities, neighbourhoods etc);
- Become an active actor in the fight against child trafficking.

**At national level**

- Collaborate with border guards on the authenticity of the affidavits;
- Collaborate with social workers if the child on the affidavit is going under social enquiry;
- Collaborate with police if the parties on the affidavit are under investigation;
- Collaborate with prosecutors if the parties on the affidavits are involved in a court case.

**At European/ international level**

- Collaborate with authorities from other countries for the authenticity of the affidavit and possible other support.
- Get in contact with child care professionals and other professionals who work with children by registering
on the CHILD PROTECTION HUB (www.childhub.org)

**Did you know?**

- The affidavit being only in Romanian language, authorities from other countries might see it as giving parental rights
- The affidavit could be used for social benefit fraud in other countries
- In case the child is taken from the streets of another country, he/she is placed in a transit center, the accompanying adult can use the affidavit to take the child from the center even though the adult is the one who is exploiting him/her
- Many children do not have a civil status because their birth was never declared by the parents. Even though this situation is mainly due to the degradation of social conditions in Roma neighbourhoods, families who exploit their children abroad take advantage of the institutional weaknesses to prevent any identification of the children. In some cases, the families use the identity documents of another minor and cross the border with his alleged parents, in exchange of an amount of money.

**Our advice- proposal**

- To hang the **ICARUS poster** on child trafficking in your office for all customers and staff to be reminded of the issue of child trafficking
- To hand out to parents the leaflet about the accompanying adult’s responsibilities
- To use a **comprehensive affidavit**, stating the following: the parent/s consent for the child taking that trip, the state(s) of destination and itinerary to these states, the duration of the trip, the identification data of the accompanying adult, the purpose of the trip; an indication of whether the child is to remain in the state of destination, in which case mention shall be made of the person to whom the child will be entrusted, or whether he/she is to return with an escort. In this case, the escort’s identification data shall be stated, if he/she is a different person
What can you do?

Recommended

Protection of the rights of children should be the first priority of all laws and practices, fully respecting the principle of the best interests of the child.

from the one with whom the child leaves Romania.

- To have the “must-call” services at hand, to make visible the Child helpline and ANITP helpline to your staff and customers
- To have a list of contacts from DGASPC in your county or SPAS in your city
- To use the mobile application Stop trafic copii! / Stop child trafficking! available in Google Play Store and Apple Itunes, in case you have any suspicious case of child trafficking. The data received will be shared with ANITP for statistical reasons.
- To participate at trainings related to the prevention of human trafficking.
- To promote these recommended practices among your colleagues and build a network with them aiming at protecting and promoting children rights.

{All of the above can be found in digital print friendly format on the CD attached}
Acknowledgments

Contributing experts: Kirsten Theuns (Country Representative, Terre des Hommes, Romania), Joseph Aguettant (Country Representative Palestine, Terre des Hommes), Pierre Cazenave (Regional Child Rights Officer, Terre des Hommes, Hungary), Phd. Lecturer Emilia Sorescu (Faculty of Law and Social Sciences – University of Craiova), Mihaela Chiran (Chief of Case Management Service, Social Services Dolj County).

Special thanks for their assistance to: Adrian George Petrescu (Romanian National Agency against Trafficking in Persons), Ana Maria Tamas (Romania Agenţia Naţională împotriva traficului de persoane), Beth Hurley (National Society for the Prevention of Cruelty to Children, UK)

Supporting institutions: The National Agency against Trafficking in Persons (Agenţia Naţională împotriva Traficului de Persoane), the Romanian Border Police (Poliţiia de Frotieră Română).
Bibliography


3. Iris Alex - Entrusted Children study, 2013 Terre des Hommes


5. By-law no. INTD1237286C, of May 11, 1990 regarding the free movement of French children (Circulaire du 11 mai 1990 relative au franchissement des frontiers nationales par les mineurs de nationalité française, Circulaire n° INTD1237286C)


10. Answering to child trafficking, Save the children Romania, Speed Promotion, Bucharest, 2004
11. Law no. 272/2004 on protecting and promoting children’s rights republished in the Official Gazette, 1st Part, no. 159/ 05.03.2014 .
**QR codes** (scan it with your phone to go to the website easily):

- [QR Code](#) for [www.childhub.org](http://www.childhub.org)
- [QR Code](#) for [www.tdh.ch](http://www.tdh.ch)
- [QR Code](#) for [www.tdh.ro](http://www.tdh.ro)
- [QR Code](#) for [www.telefonulcopilului.ro](http://www.telefonulcopilului.ro)

**Download!**

- [QR Code](#) for [Apple ITunes](#)
- [QR Code](#) for [Android Play Store](#)
This good practice booklet was developed by Terre des hommes Elvetia Foundation within the ICARUS project (Improving Coordination and Accountability towards Romanian Unaccompanied minor’s Safety) co-financed by the European Commission under the Prevention and Fight against Crime Programme of the Home Affairs General Directorate.