

COMBATting THE TRAFFICKING OF MIGRANTS IN THE CONTEXT OF GLOBALIZATION

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Abstract

Poverty, armed conflicts, human rights violations, the desire to have a better life are among the current causes of migration. In this context, the trafficking of migrants has also increased.

Preventing and combatting the trafficking of migrants, protecting the rights of trafficked persons, the cooperation between states for this purpose, are objectives assumed by international documents and by Romania as well. By referring to the national legislation, we will show that the Romanian legislator regulates, within the content of the Criminal Code, the trafficking of migrants. Its analysis highlights, among other things, the fulfillment of the assumed obligations, as well.

Key Words: *migrants, the trafficking of migrants, cross-border criminality, prevention, combatting.*

JEL Classification: [K37, K14]

1. Introduction

Migration and the trafficking of migrants are issues that our society is currently faced with. Be it legal or illegal, it leads to consequences that should remain in the attention of all competent authorities, national or international. As we can see in the European Pact on Immigration and Asylum¹, *international migration is a reality that will persist as long as there are differentials of wealth and development between the various regions of the world. It can be an opportunity, because it is a factor of human and economic exchange, and also enables people to achieve what they aspire to. It can contribute decisively to the economic growth of the European Union and of those Member States which need migrants because of the state of their labor markets or of their demography. Not least, it provides resources for the migrants and their home countries, and thus contributes to their development. The hypothesis of zero immigration is both unrealistic and dangerous.*

According to the Dictionary of Diplomacy, by “migration,” we are to understand *the movement of population, carried out within the same country or from one country to another, due to economic or social factors, including political circumstances* (Bărbulescu, P.; Cloșcă, I.; ș.a., 1979, p. 564).

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¹ The European Pact on Immigration and Asylum, adopted on October 15th and 16th, 2008, <https://register.consilium.europa.eu/doc/srv?l=RO&f=ST%2013440%202008%20INIT>, accessed on 20.05.2019.

Among the causes for migration are: poverty, armed conflicts, human rights violations, etc., causes that we can find in the very reasoning of decisions delivered by Romanian courts of justice. Thus, in one case brought before the Tribunal of Arad, it was shown that “For the duration of the investigation, it was determined that the two persons found hidden within the vehicle were foreign citizens of Syrian origin – who have become suspects of committing the offence of attempting to illegally cross the border – who, after leaving Syrian soil, due to the problems caused by war and being motivated to reach Germany, where their family resides, successively and illegally crossed the borders of Turkey and Bulgaria. They were subsequently taken by the defendants S.I and T.D, who transported them across Bulgarian and Romanian soil, illegally crossing the Bulgaria-Romania border, while hidden in the trunk of the vehicle, and attempting to exit the country in the same way through the Nădlac border checkpoint, where they were detected.”²

2. Conceptual delimitations

Migration has two components, namely: emigration and immigration. Emigration is defined as the action of a person or several persons to leave their homeland and take up residence in another country³, while immigration means the traveling of a person or group of persons from one country to another country and taking up residence in this latter country.⁴

Legal migration, which is accepted by the states of the world, has its beneficial effects, contributing to the stability of the labor market of the states where the immigrants take up residence, as they are offered positions that those states’ citizens have not filled or have no desire to fill. At the same time, as the specialized literature shows, the states from which the populations move also have the possibility to collect the taxes for the earnings of their own workers abroad and to quantify that income in order to establish it in a fair way in relation to the budget deficit. (Frangulea, n.d.) (Miftode, n.d.) (Șerbănică, 2016) (Moarcăș, 2004)

However, the effects of citizens leaving the territory of their country cannot be ignored. For example, it has been shown that the departure of a multitude of persons for the purpose of working abroad has created severe demographic gaps in certain areas, as there are, for example, entire villages in Eastern and South-Eastern Europe where only elderly people are left, as a result of the active population leaving to work abroad (Frangulea, fără an) (Cojocar, fără an).

On the other hand, immigrants usually arrive from less developed countries, seeking to find a better life, but they do not always have identity documents in their possession or have identity documents which are not valid, they do not know the language of the state that they are taking up residence in, and they are not easily

² Penal Sentence no. 231 of June 18, 2015 of the Tribunal of Arad, available at: <http://rolii.ro/hotarari/588607d2e49009883400476c>.

³ DEX, p. 267.

⁴ DEX, p. 385.

accepted by the citizens of said state, which leads to conflicts that may endanger the life and safety of the migrants.⁵

In strict reference to illegal migration, the doctrine notes that Eastern Europe has been found to represent an attractive space to migrants from various Asian countries and, as of late, African ones as well, for dangerous persons, criminals wanted by the Interpol, who are part of terrorist groups, criminal organizations or are involved in the phenomenon of cross-border criminality.

Illegal migration is the alternative chosen by persons who cannot use the legal means to leave their country. (Frangulea, fără an) The trafficking of migrants falls into this category.

The trafficking of migrants represents, as the previously referenced author states, one of the most acute manifestations of cross-border criminality resulting in visible consequences for the victims of trafficking, along with long-term secondary effects that are difficult to assess.⁶

3. Aspects concerning the prevention and combating of the trafficking of migrants in international documents

Given the high level of social danger that the trafficking of migrants presents, the states of the world have been preoccupied with finding the most efficient measures for the prevention and combating of such acts, with a series of documents bearing an international scope being written to this end.

We should remark that the trafficking of migrants is highly connected to trans-national organized crime, which has led to the adoption of the Protocol of November 15, 2000 against the Trafficking of Migrants by Land, Sea and Air,

⁵ To this end, the EU Schengen Catalogue. External borders control. Return and readmission states the following: "Third-country nationals enter the territories of the Member States illegally crossing either land, sea or air borders. They often use counterfeit documents or are assisted by illegal migration facilitators. However, there is another category of third-country nationals who enter the Schengen area legally using valid visas or through visa-free border traffic and then extend their stay illegally or change their purpose without the knowledge of and permission of the respective authorities. The third category of illegal migrants is made up of those third-country nationals who apply for refugee status in a Schengen country and who subsequently remain there illegally even though their applications have been finally rejected by the national competent authorities." The catalogue is available at: <http://www.schengen.mai.gov.ro/English/Documente/utile/catutil/Updated%20EU%20Schengen%20Catalogue.pdf>, accessed on 07.10.2019.

⁶ It can threaten the social and economic stability of the states and even their peace and security by disturbing the demographic, ethnic and cultural equilibrium through the incapacitation of social protection or public healthcare mechanisms, through exceeding the capacity for absorption of the legal labor market and, implicitly, through throwing into disarray the balance of powers between the structures meant to protect legality and public order, and the part of the population that participates in criminal activity. See S. Frangulea, Fenomenul migrației și traficul de persoane, <http://www.arduph.ro/domenii/refugiati-persoane-disparute-2/fenomenul-migratiei-si-traficul-de-persoane/>.

supplementing the United Nations Convention against Transnational Organized Crime.⁷

Its very preamble shows the states that are parties to the Protocol manifesting their preoccupation in what concerns the considerable growth in activities carried out by organized criminal groups focused on the trafficking of migrants and other related criminal activities which greatly harm said states.

The object of the abovementioned Protocol is, according to art. 2, the prevention and combatting of the trafficking of migrants, as well as the promotion of cooperation for this purpose among the states that are parties to the Protocol, while also protecting the rights of migrants who are trafficked. Its provisions apply when the trafficking of migrants and the crimes indicated in art. 6 of the Protocol are trans-national in nature and an organized criminal group is committing them, and they are in place in order to protect the rights of the persons who represented the object of these crimes.

In the sense of art. 3 letter a of the Protocol, the expression “trafficking of migrants” means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident. The expression “illegal entry” means “crossing borders without complying with the necessary requirements for legal entry into the receiving State” (art. 3 letter a of the Protocol).

Art. 6 par. 1 of the Protocol establishes the obligation of each state party to adopt such legislative and other measures as may be necessary to establish as criminal offences, when committed intentionally and in order to obtain, directly or indirectly, a financial or other material benefit:

- (a) The trafficking of migrants;
- (b) When committed for the purpose of enabling the trafficking of migrants:
 - (i) Producing a fraudulent travel or identity document;
 - (ii) Procuring, providing or possessing such a document;
- (c) Enabling a person who is not a national or a permanent resident to remain in the State concerned without complying with the necessary requirements for legally remaining in the State by the means mentioned in subparagraph (b) of this paragraph or any other illegal means. At the same time, each state party must adopt legislative measures and any other measures as may be necessary to establish as criminal offences the attempt, participation as an accomplice, and organization to commit one of the abovementioned offences or direction of other persons to commit it.

⁷ Ratified, Law no. 565/2002 for the ratification of Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, adopted in New York, on November 15, 2000, published in the Official Gazette no. 813/2002.

The states parties are also obligated to adopt legislative measures and any other measures as may be necessary to establish as aggravating circumstances to the offences the endangering or the likeliness of endangering the lives or safety of the migrants concerns, as well as the inhuman or degrading treatment, including exploitation, of such migrants.

In what concerns the trafficking of migrants by sea, the states parties are to collaborate to the fullest extent possible to prevent and suppress the trafficking of migrants by sea, in accordance with the international law of the sea (art. 7 of the Protocol). As an example, we will note here the provisions of art. 8 par. 1, according to which *A State Party that has reasonable grounds to suspect that a vessel that is flying its flag or claiming its registry, that is without nationality or that, though flying a foreign flag or refusing to show a flag, is in reality of the nationality of the State Party concerned is engaged in the trafficking of migrants by sea may request the assistance of other States Parties in suppressing the use of the vessel for that purpose. The States Parties so requested shall render such assistance to the extent possible within their means.*

Art. 18 of the Protocol also regulates the return of trafficked migrants, as each State Party agrees to facilitate and accept, without undue or unreasonable delay, the return of a person who has been the object of conduct set forth in article 6 of this Protocol and who is its national or who has the right of permanent residence in its territory at the time of return.

In this context, we shall focus on the importance of the dispositions of art. 5, according to which *Migrants shall not become liable to criminal prosecution under this Protocol for the fact of having been the object of migrant trafficking.*

In what concerns the provisions of the protocol, to the extent that they enter the scope of Part III, Title IV of the Treaty establishing the European Community, it was concluded on behalf of the European Community as well, by Decision 2006/617/EC of July 24, 2006 on the conclusion, on behalf of the European Community, of the Protocol Against the Trafficking of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime concerning the provisions of the Protocol, in so far as the provisions of the Protocol fall within the scope of Part III, Title IV of the Treaty establishing the European Community.

Finding a solution for the issue of illegal immigration of third-country nationals has been, as we can see in the contents of the EU Schengen Catalogue. External borders control. Return and readmission⁸, one of the main principles of common policy in the domain of migration. The objective of this document is to compile the experience of Member States concerning return and readmission, and to describe the best practices in this sense. It will contribute, in this way, to the

⁸ The EU Schengen Catalogue. External borders control. Return and readmission, p. 6, available at:

<http://www.schengen.mai.gov.ro/English/Documente/utile/catutil/Updated%20EU%20Schengen%20Catalogue.pdf>, accessed on 20.05.2019.

unification of procedures concerning the organization of the return of illegal migrants and an increase in efficiency in what concerns the returns.

Thus, it is shown that the enlargement of the Schengen area creates a situation in which the burden of combatting illegal migration is placed upon those countries which maintain external Schengen borders, which implies that the foundations for effectively combatting illegal migration in such a large area without internal border controls should rest on solidarity, mutual trust and effective cooperation between the respective authorities of the Member States.⁹ At the same time, in order to maintain the credibility of the common policy in the domain of migration, more efficient measures should be taken against the category of illegal migrants in order to permanently return them to their countries of origin or residence.¹⁰

The document by the European Commission entitled Communication for the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Communication on migration¹¹ shows that migration-related issues have a significant political impact in the EU. The vulnerability of certain sections of the external borders of the EU represent a very clear example, as measures need to be taken to stop a large amount of illegal migrants from entering EU territory, many of whom are exploited by unscrupulous criminal networks.

When referring to the prevention of illegal immigration, the Commission's Communication shows, in section 2.4, that a precondition for a credible policy in the domain of migration and mobility is to firmly and efficiently address illegal migration. A low probability of return for illegal migrants who do not require international protection represents a pull factor and undermines public trust in national and European authorities.

The European Pact on Immigration and Asylum, adopted by the European Council in October 2008, proposes to the Member States five commitments relating to migration: the organization of legal migration; the fight against illegal migration; the consolidation of external borders; the construction of an EU asylum system; and the creation of a partnership at a global scale concerning migration and development.

⁹ *Idem*, p. 44.

¹⁰ In accordance with the information in the Catalogue, one of the priorities of common policies in the domain of migration is the respect for fundamental rights and the principle of non-refoulement, with an emphasis on respecting the rule regarding the higher priority given to voluntary returns, especially those supported by various programs that are specially conceived for this purpose, over removals which should be carried out as a last resort. See the EU Schengen Catalogue. External borders control. Return and readmission, *op. cit.*, p. 45.

¹¹ The European Commission, Brussels, 4.5.2011.

4. Aspects concerning the prevention and combating of the trafficking of migrants in Romania

At a national level, the issues surrounding the trafficking of migrants are a focal point among all competent authorities, as well as the legislative framework, which covers the abovementioned aspects.¹²

As we can see in the 2018-2020 National Strategy for the Integrated Management of the Romanian State Border¹³, Romania is faced with a varied range of criminality here, given its geo-strategic position at the junction between the East and the West, as well as Romania's status as a full member state of the North Atlantic Treaty Organization and the European Union, and among the main criminal phenomena occurring at the Romanian state border is illegal migration.

Three main migration routes towards Western Europe pass through Romania, respectively¹⁴:

1. the Eastern route (Central Asia / Africa – Russia / Ukraine – The Republic of Moldova)

2. the Eastern-Mediterranean route (Central Asia – Syria – Turkey / Greece – Bulgaria, maritime Turkey – Romania)

3. the Western Balkans route (Central Asia / Northern Africa – Turkey – Greece – North Macedonia / Albania – Kosovo – Serbia).

The same document highlights that migration manifests in diverse forms, such as: crossing the state border illegally and evading the border checkpoint through the use of false or forged documents / visas or concealment within means of transportation.

The main objective of the Strategy is the development of the concept of integrated management at the state border level, with the objective of improving the ability to ensure a high level of security at the external border of the EU, as well as to adopt and implement the common policies in the domain. Among the specific objectives to fulfill, we have the consolidation of the means to prevent and combat illegal migration and trans-border criminality.

The 2015-2020 National Public Order and Safety Strategy¹⁵ indicates that the first of the seven current threats identified by EUROPOL that the member states

¹² Some of the documents that focus on migration which are notable: OUG (Government Emergency Ordinance) 105/2001 on the Romanian state border, published in the Official Gazette no. 352/2001; Law no. 122/2006 on asylum in Romania, updated, published in the Official Gazette no. 428/2006.

¹³ Decision no. 486/2018 published in the Official Gazette 612/2018, in force starting July 17, 2018, <https://www.politiadefrontiera.ro/files/docu/1539258237125-hg4862018strategiaaprobata.pdf>, accessed on 15.05.2019.

¹⁴ The 2018-2020 National Strategy for the Integrated Management of the Romanian State Border.

¹⁵ Approved by HG (Government Decision) no. 779/2015 published in the Official Gazette no. 763/2015, <http://www.mai.gov.ro/documente/transparenta/SNOSP%202015-2020%20.pdf>, accessed on 15.05.2019.

should take into account when they formulate their lines of action in what concerns combatting organized criminality is illegal migration. This is followed by human trafficking, and counterfeit medical and pharmaceutical cargo and goods.

At the same time, Romania proves not to be a destination country for migration flows and, due to its high-performance surveillance system at the state border, has been used as a country of transit to a very small extent. However, the phenomenon of illegal migration manifests under various forms, the most frequent being the illegal crossing of the green borders between the border checkpoints, hiding in various means of transportation and the use of forged or counterfeit identity or travel documents by migrants, or of valid documents that belong to other holders.¹⁶

Among the specific objectives, we can also find Combatting illegal migration and developing an adequate return policy¹⁷, with the following lines of action: strengthening the administrative capacities of structures with attributions in the domain of combatting illegal migration; strengthening cooperation and the exchange of information between competent authorities in the domain of preventing and combatting illegal migration; sustaining the European Union's efforts to develop policies in the domain of return and readmission; strengthening the verification process of the legality of the stay of citizens from third countries on Romanian soil, and implementing the return and restrictive measures; and developing the cooperation with third countries that have migration-related potential.

There is interesting data to be found within the content of the 2018 MAI (Ministry of Internal Affairs) Report¹⁸, under section 2.2.6. The data in the report shows that, during 2018, illegal migration had reduced rates, as both the number of illegal crossings (-51.5%) and the number of cases of prevention of illegal entry (-68.8%) had significantly decreased in comparison to the same period of time in 2017. In relation to 2017, 2018 had seen a higher number of persons found with false / forged passports by 4.3% entering, and 72.3% exiting Romania. The increase by 309.3% of the number of persons found hidden in means of transportation when entering the country, and by 25% when exiting in comparison to 2017 is also notable.

At the same time, in order to prevent and combat the trafficking of migrants, the Romanian lawmaker has incriminated, starting 01.02.2014, the trafficking of migrants in art. 263 of the Criminal Code, having a standard form and an aggravated one, while also incriminating the attempt to traffic migrants.¹⁹

Thus, the standard form of the offence consists of:

¹⁶ Strategy, p. 7.

¹⁷ See Specific Objective 5.2 of HG no. 779/2015 for the approval of the 2015-2020 National Public Order and Safety Strategy.

¹⁸ Report on the activity carried out by MAI during 2018 and the main objectives for 2019, p. 6, available at: <http://www.mai.gov.ro/documente/evaluari/BILANT%20MAI%202018.pdf>, accessed on 20.05.2019.

¹⁹ Art. 263 of the Criminal Code finds a correspondence in art. 71 of OUG no. 105/2001.

(1) Recruitment, instructing, guiding, transporting, transferring or harboring individuals for the purposes of fraudulently crossing Romania's state border shall be punishable by no less than 2 and no more than 7 years of imprisonment.

The offence becomes aggravated (and the penalty is increased to 3 to 10 years in prison, along with a ban to exercise certain rights) when it is committed:

- a) in order to obtain material gain, directly or indirectly;
- b) using means that endanger the life, integrity or health of the migrant;
- c) by subjecting migrants to inhuman or degrading treatment.

Thus, according to the opinions expressed in the doctrine, the social value protected by incriminating the trafficking of migrants is the authority of the state that controls access to and from Romanian territory, an authority that is infringed upon by those who "support, in a broad sense, the persons who wish to commit the offence of fraudulently crossing the state border (Bogdan, et al., 2014)".

The offence can be committed by any person who is criminally liable and engages in one of the indicated actions for the purpose mentioned by the Romanian lawmaker.

In order for the objective element of the offence to exist, the following conditions must be met:

- any of the actions expressly indicated by the lawmaker needs to be committed, respectively: recruitment, instructing, guiding, transporting, transferring or harboring an individual;
- any of these actions needs to be directed towards persons who fit the migrant profile;
- the action needs to be committed for the purpose of fraudulently crossing the Romanian state border.

We must mention that, if the purpose is not to fraudulently cross the state border, the offence is not the trafficking of migrants, but may fit, by case, the description of another offence. For example, if the purpose behind the indicated actions is the exploitation of the person, then the perpetrator can be charged with the offence of migrant trafficking regulated in art. 210 of the Romanian Criminal Code. We consider that the two offences can also be concurrently investigated when the conditions for their existence, provided for by the law, are fulfilled. (Dobrinioiu, et al., 2012)

Without going into any further details concerning the analysis of the offence of migrant trafficking, we will present and analyze the data provided by the Superior Council of the Magistracy, the object of the analyzed cases on trial after the entry into force of the new Criminal Code being the trafficking of migrants.²⁰

²⁰ According to Formal Letter no. 4/5260 of 18.03.2019.

Object: the trafficking of migrants (art. 263 NCC)

Year	Cases that have entered the trial phase	Cases where a judgment has been delivered
2014	40	19
2015	81	59
2016	61	76
2017	80	60
2018	66	91

We can see that 2015 saw the largest number of cases that have entered the trial phase, 81 files respectively, followed by 2017 with 80 cases, while 2014 saw the lowest number, with 40 cases.

Looking at the number of cases where a judgment has been delivered by the courts in comparison to those that have only entered the trial phase, we can see that, out of a total of 328 cases from 2014 to 2018, 305 have received a ruling, which is 92.98%. 2018 is the year with the most cases where a ruling was pronounced, with 91 cases respectively.

The data in the table below indicates that the most convictions for the offence of migrant trafficking occurred during 2018, 64 to be exact, followed by 2017 with 61. 2016 saw 37 convictions. There is no data available for 2014 and 2015.

Regarding the perpetrators, what is remarkable is that, for the most part, this offence is committed by men, as 152 of 162 convictions, meaning 93.82%, had male offenders. We can also see that there are no minors convicted for committing this offence.

These are, thus, the findings from the available data:

- in 2016, out of 37 convictions – 36 were given to male offenders
- in 2017, out of 61 convictions – 56 were given to male offenders
- in 2018, out of 64 convictions – 60 were given to male offenders.

The information provided does not show the existence of any legal persons convicted for this offence.

There is also interesting data to be found in what concerns the criminal priors of those convicted.

Thus: out of the 37 from 2016 – 32 had no priors; out of the 61 in 2017 – 60 had no priors; out of the 64 in 2018 – 64 had no priors.

The data in what concerns the individualization of the enforcement of the sentence reads as follows:

a. Detention:

- 2016 – 16 sentences out of 37 convictions, representing 43.24%
- 2017 – 25 sentences out of 61 convictions, representing 40.98%
- 2018 – 30 sentences out of 64 convictions, representing 46.87%

b. Sentences suspended:

- 2016 – 21 sentences out of 37 convictions, representing 56.75%
 - 2017 – 27 sentences out of 61 convictions, representing 44.26%
 - 2018 – 34 sentences out of 64 convictions, representing 53.12%
- c. Enforcement postponed: in 2017 – 2 cases out of 61 convictions
- d. Fines: in 2017 – in 7 cases out of 61 convictions.

Thus, by analyzing the data concerning the individualization, we can see that the courts preferred sentences for which the suspension of their enforcement was ordered. We believe that a correlation can be made between the lack of criminal priors of those convicted and the choice for suspended sentences.

The intervals for the sentences carried out in detention are as follows:

- 1-3 years:
 - 6 convictions in 2016 out of the 16
 - 19 convictions in 2017 out of the 25
 - 7 convictions in 2018 out of the 30
- 3-5 years:
 - 8 convictions in 2016 out of the 16
 - 4 convictions in 2017 out of the 25
 - 22 convictions in 2018 out of the 30
- 5-10 years:
 - 1 conviction in 2016 out of the 16
 - 2 convictions in 2017 out of the 25
 - 1 conviction in 2018 out of the 30

There was even a 0 - 1 year conviction in 2016.

From the data that we have presented above, we can conclude that the most sentences out of the ones enforced and carried out in detention, respectively a total of 34, were between 3 and 5 years. This is followed by the 32 that were between 1 and 3 years.

Conclusions

Migration, under its various forms, can lead to effects that cannot be ignored, and, thus, a coordinated reaction is obligatory on the part of all competent national and international authorities.

The national and international documents presented in this paper focus on the intensification of international cooperation between the competent authorities, as well as the development of legal tools rooted in mutual recognition in order to facilitate criminal investigations and common operations, underlining that they must be the center of the activity of combatting the trafficking of migrants.

The trafficking of migrants represents, as we have seen, an internal problem, as well, given the data presented, and it is a problem that must be kept in mind by the authorities in our country when creating strategies for the prevention and combatting of cross-border organized criminality.

Of course, we cannot ignore the fact that the Romanian lawmaker incriminates the trafficking of migrants (art. 263 Criminal Code), and the national

strategies we have referred to place the trafficking of migrants in the center of their preoccupations, in accordance with their assumed obligations.

There are interesting conclusions to be drawn from the data provided by the National Council of the Magistracy. First of all, there is the fact that the courts of justice have manifested a preference for applying suspended sentences that are carried out under supervision. A good subject for debate would be if the courts of justice can play a more important role in combatting the trafficking of migrants by applying more discouraging sentences, of course, while respecting the general criteria for the individualization of the sentence.

In this context, the data concerning the lack of criminal priors of those convicted has also been of note, as it leads us to wonder what the causes might be that determined them to enter the field of criminality. We believe that, in Romania, the activity of prevention of migrant trafficking cannot be efficient without highlighting and analyzing these causes. As we have shown before, we believe that there can be a correlation between the lack of criminal priors of those convicted and the application of suspended sentences.

Bibliography

1. Bărbulescu, P.; Cloșcă, I.; ș.a., 1979. Dicționar Diplomatic. Bucharest: Politică.
2. Bogdan, S., Șerban, D. A. & Zlati, G., 2014. Noul Cod penal. Partea Specială. Perspectiva Clujeană. Bucharest: Universul Juridic.
3. Cojocaru, M., n.d. Efectele migrației. In: M. Cojocaru, et al. eds. Migrația și efectele ei în plan familial. s.l.:International Organization For Migration, pp. 33-44.
4. Dobrinoiu, V. et al., 2012. Noul Cod penal comentat. Partea specială, vol. II. Bucharest: Universul Juridic.
5. Frangulea, S., n.d. Fenomenul migrației și traficul de persoane. [Online] Available at: <http://www.arduph.ro/domenii/refugiati-persoane-disparute-2/fenomenul-migratiei-si-traficul-de-persoane/> [Accessed 07 10 2019].
6. Miftode, V., n.d. Migrația - Caracteristici ale fenomenului. In: M. Cojocaru, et al. eds. Migrația și efectele ei în plan familial. s.l.:International Organization for Migration, pp. 3-16.
7. Moarcăș, C. A., 2004. Migrația forței de muncă calificate: Tendințe contemporane, analiză și posibile opțiuni politice din perspectiva normelor internaționale ale muncii. Pandectele Române, Issue 6.
8. Șandectele Române, Issue 6.ția forței de muncă calificate:Impactul imigrației asupra pieței muncii. In: L. Lăzărescu, C. Șerbănică, R. Prisăcariu & S. Witec, eds. Impactul migrației pe piața muncii. Raport de cercetare calitativă. Bucharest: Asociația Română Pentru Promovarea Sănătății, pp. 75-81.