

# The Crime of Human Trafficking and Crimes Related To It. New Legislative Approaches

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**Abstract:** Human trafficking not only remains a recurring problem in society, but is also gradually increasing due to technological advances and, last but not least, the continued impoverishment of part of the population in various countries (particularly those that are less economically stable or less developed). Because the social values affected by this serious form of crime are important (often, the victims of human trafficking are children, young people, and women who are often subjected to coercion), a robust response from society is needed to combat trafficking. It is also worth considering that these crimes involve others, such as drug trafficking, slavery, pimping, money laundering, violent crimes, and corruption. Criminological considerations will be presented sequentially, from the perspective of the legal rationale for adopting a new European legislative act that aims to regulate this type of crime (and related crimes) in a uniform manner. The theme of the study is the new features of the directive and how to respond to the phenomenon of the globalization of crime.

**Keywords:** human trafficking, minors, criminal law, standardization

## Introduction

Globalization manifests itself not only in the economic and social sectors, but also in the area of crime, particularly serious crime, such that Professor Zaffaroni's assertion that "globalization has definitively buried the old paradigm of etiological simplism" is fully demonstrated (Zaffaroni 2003, pp. 96-98, apud. Stănoiu, 2025, *The global risk society and serious crime*, p. 208). Although beneficial to humanity, economic and social progress, and inclusion, the phenomenon also manifests itself in the world of crime, which profits from globalization: hence the need to develop new forms of response, new legal barriers to protect individuals (as subjects of legal relations and, equally, as recipients of criminal law). On the other hand, these new barriers do not mean that crimes will no longer be committed. In particular, crimes that generate huge sums of money (such as economic fraud, human trafficking, trafficking in women and children, drug trafficking, etc.) continue to be committed in increasingly sophisticated ways, and the consequences for the victims are devastating. Currently, the trafficking in human beings phenomenon, as for drug trafficking, arms trafficking, corruption, tax evasion, represents one of the most extended ways of displaying criminality, that, in a very short time span, recorded unimaginable and unacceptable proportions for the society we live in (Buzatu, 2018, p. 223).

A telling example is the judgment delivered by the ECtHR in the case of *Rantsev v. Cyprus and the Russian Federation* (European Court of Human Rights, 2010). Essentially, O. Rantseva arrived in Cyprus on March 5, 2001; previously, the owner of a cabaret in L. had applied for an "artist" visa and a work permit for her to employ her in this capacity in his cabaret, and she was issued a temporary residence permit marked "visitor"; She was accommodated in an apartment with other young women who worked at X.A.'s cabaret, subsequently obtaining a work permit valid for work as an artist in X.A.'s cabaret, managed by his brother, M.A., and thus began working on March 16, 2001.

On March 19, 2001, the young women living with O. Rantseva informed M.A. that she had left the apartment, taking all her belongings with her, and that she had said a few words in Russian, saying that she was tired and wanted to return to Russia. On the same day, M.A. informed the immigration authorities in L. that O. Rantseva had left her job and temporary

residence; he subsequently stated that he wished to replace her and requested her arrest and expulsion from Cyprus. A few days later, a cabaret artist saw O. Rantseva in a nightclub in L. and informed M.A., who called the police and requested that she be arrested. At the police station, he wrote a short statement describing the circumstances of O. Rantseva's arrival in Cyprus, her work in the cabaret, and her disappearance on March 19, 2001; he then took O. Rantseva from the police station, along with her passport and other documents, which he presented to the police. He took Rantseva to the home of M.P., an employee of the cabaret, in a multi-level apartment, leaving her in a room on the top floor. At around 6.30 a.m., Rantseva was found dead in the street where the apartment was located, with her handbag over her shoulder (excerpt from the cited decision, paras. 15-25).

The European Court noted that according to the report prepared ex officio by the Cypriot Ombudsman on the entry and work regime for foreign women as artists in entertainment venues in Cyprus (dated November 24, 2003), there were certain problems relating to young women who came to this country to work as 'artists': "83 (...) the word 'artist' has become synonymous with 'prostitute' in Cyprus. He explains that since the mid-1970s, thousands of young women have entered Cyprus legally to work as artists, but in fact have been employed as prostitutes in numerous cabarets throughout the country. (...) 84. According to the same report, the development of prostitution in Cyprus has been fueled since the 1990s by women coming mainly from the former Soviet Union. During the same period, some progress was noted in the implementation of these measures and the policy adopted. However, there has been no improvement in the sexual exploitation and trafficking of women, who have been subjected to a regime of modern slavery (...) 85 (...) In most cases, these women know that they will be forced into prostitution. At the same time, they do not know under what conditions they will do so. In some cases, they believe that when they arrive in Greece, they will work as waitresses or dancers and will simply have to encourage customers to order drinks. They are ultimately forced, physically and psychologically, to do the job for which they were actually hired (...) Foreign women who do not give in to this pressure are forced by their employers to report to the Aliens and Immigration Service to declare, on false grounds, that they wish to terminate their contract and leave Cyprus (...) Employers can thus quickly replace them with other performers (...) From the moment they arrive in the Republic of Cyprus until their departure, foreign performers are under the constant supervision and guard of their employers. Once they have finished work, they cannot go wherever they please. There have even been complaints that some have been locked in their accommodation. Furthermore, their passports and other personal documents remain in the possession of their employers or artistic agents. Those who refuse to comply are punished with violence or the imposition of fees, usually deducted from their wages or paid for sexual services. Of course, these amounts are included in the contracts they sign" (excerpt from the cited decision, paras. 83-85).

Following this decision, European legislation has undergone continuous development, as has crime in this area, both in terms of quantity and in terms of the people subjected to trafficking, with recent years showing an appetite for children and vulnerable people.

### **Relevant international provisions**

Among the most important international instruments combating trafficking in human beings is the Council of Europe Convention on Action against Trafficking in Human Beings Council of Europe (2005), which has been ratified or acceded to by 48 states. The Explanatory Report to the Convention states that: "Trafficking in human beings, because it traps its victims, is the modern form of the global slave trade. Human beings are considered as goods to be bought and sold, forced to work, in most cases in the sex industry, but also, for example, in the agricultural sector or in workshops, clandestine or not, for very low wages or even for no wages at all. Most of the identified victims of trafficking are women, but there are also male victims. Among others, many

victims are young people, sometimes children. All are desperately seeking a means of subsistence, only to see their lives ultimately ruined by exploitation and greed. To be effective, the strategy to combat trafficking in human beings must be based on a multidisciplinary approach involving preventive measures, the protection of victims' human rights, and the prosecution of traffickers, while ensuring that the relevant legislation of the states is harmonized and applied uniformly and effectively" (Council of Europe, 2005b). Also of particular importance are the 2000 UN Convention against Transnational Organized Crime (United Nations, 2004) and the Additional Protocol to Combat Trafficking in Persons of November 15, 2000 (United Nations, 2000). These are the reasons why the criminal policy of states is adopting increasingly firm measures, so that the rules provide the efficiency and effectiveness necessary for a robust response commensurate with the damage to protected social values.

At the European level, Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, which replaced Council Framework Decision 2002/629/JHA, is only part of the global action against trafficking in human beings. This directive was in turn amended by Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims (European Union, 2024).

The rationale for the legislative amendment was determined by an exponential increase in human trafficking (including children, adolescents, and women), so that it was considered that the previous legislation was no longer able to achieve its purpose and that a reform was needed, both of the concept of trafficking in human beings and exploitation of vulnerable persons (Kadar 2023, p. 81), and of the establishment of objective and subjective typicality, as well as of the penalty regime for offences at Union level. One of the main effects of the new directive is not only the harmonization of substantive law, but also an important step towards the creation of European criminal law.

### **The innovative approach of Directive (EU) 2024/1712 of the European Parliament and of the Council of June 13, 2024, amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims**

From the perspective of *ratio legis*, not only criminological considerations such as poverty, conflict, inequality, gender-based violence, lack of viable employment opportunities or social support, humanitarian crises, statelessness, and discrimination, but also the serious violation of fundamental rights that such acts entail (recitals 1-2 of the directive), as well as the devastating effects on victims. Therefore, preventing and combating this widespread cross-border phenomenon requires not only a recalibration of concepts, but also a holistic approach, integrating the response effort on multiple levels. To this end, the Commission has developed the "EU Strategy on Combating Trafficking in Human Beings 2021-2025", which sets out a response based on a multidisciplinary and comprehensive approach, ranging from the prevention of trafficking in human beings and the protection of victims to criminal investigation, prosecution, adjudication, and the conviction of traffickers.

The Strategy envisages a series of actions that require (for their implementation) the deep, intense, and strong involvement of civil society organizations, but also of the community. In addition, the Strategy has identified a number of shortcomings in society's response from the perspective of substantive criminal law; therefore, there is a need to reconfigure the legal framework relating to human trafficking offences, including when committed in the interests of legal persons, the data collection system, cooperation and coordination at Union and national level, national systems for the early detection and identification of victims of trafficking in human beings, and specialized assistance and support for victims (Recital 5 of the Directive).

**New aspects of Directive (EU) 2024/1712 of the European Parliament and of the Council of June 13, 2024, amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims**

As already mentioned, the amending directive has reconceptualized trafficking in human beings, in particular the meaning of the term “exploitation” as defined in Article 2 of the 2011 directive, in the sense that new categories and forms of exploitation have been included in order to eliminate different interpretations. Thus, crimes related to human trafficking committed for purposes other than sexual or labor exploitation now include: exploitation of surrogacy, forced marriage, or illegal adoption, but only insofar as they meet the objective and subjective characteristics of trafficking in human beings, including the criterion of means. In the case of trafficking in human beings for the purpose of exploitation of surrogate motherhood, this refers to situations where perpetrators coerce women into becoming surrogate mothers or mislead them into doing so.

These changes cannot affect the definitions of marriage, adoption, forced marriage, and illegal adoption, nor the definitions of related offenses other than trafficking, where these are provided for in domestic or international law. Nor can these provisions affect national rules on surrogacy, including criminal and family law, as provided for in the national law of Member States. Children placed in residential and closed institutions are clearly particularly vulnerable and may easily become victims of trafficking, especially when they are placed in those institutions, during their stay there, but also afterwards.

The growth and refinement of the methods used to commit (or facilitate the commission of) these crimes through information and communication technologies cannot be overlooked. Practice has shown that traffickers frequently use the internet, apps, and social media platforms to recruit, promote, or exploit victims, to exercise control over them, and to organize their transport or accommodation, among other things. The internet and social media platforms are also used to distribute material associated with exploitation and, at the same time, hinder the timely detection of the crime and the identification of victims and perpetrators. Consequently, in order to combat this method of committing crimes, investigating and prosecuting authorities need to improve both their digital capabilities and related skills and keep pace with technological developments so that prevention and enforcement efforts are effective.

Last but not least, Member States are invited to consider and implement preventive measures, in particular those aimed at discouraging demand, to address the abuse of online services for the purpose of trafficking in human beings. In this regard, the directive provides that the dissemination, through information and communication technologies, of images or video or similar material of a sexual nature involving victims of trafficking in human beings should be considered an aggravating circumstance.

In certain cases, trafficking in human beings is carried out for the benefit of legal persons: it is therefore necessary to strengthen the criminal law response of Member States and to ensure that there is a dissuasive penalty, so that the penalty regime for legal persons is clarified, unified and aligned with other Union criminal law instruments. Therefore, a conviction established by a final judgment for child labor or other forms of human trafficking constitutes a ground for exclusion from participation in a public procurement procedure or a concession award procedure under Directives 2014/23/EU of 26 February 2014 on the award of concession contracts (European Union, 2014a, p. 1), Directive 2014/24/EU of the European Parliament and of the Council of 26 February 2014 on public procurement and repealing Directive 2004/18/EC (European Union, 2014b, p. 65), and Directive 2014/25/EU of the European Parliament and of the Council of 26 February 2014 on procurement by entities operating in the water, energy, transport and postal services sectors and repealing Directive 2004/17/EC (European Union, 2014c, p. 243).

However, Member States have the option of including, among the criminal sanctions or other measures that may be imposed on legal persons, the exclusion of such legal persons

from tender procedures or from concessions, in order to cover also purchases and concessions below the thresholds set out in the aforementioned Directives, in order to deter legal persons from participating in and benefiting from the commission of human trafficking offenses, taking into account that legal persons frequently benefit from the proceeds of crime. Consequently, the amending directive lays down minimum rules on the freezing and confiscation of the instruments and proceeds of crime in criminal matters, which will apply to any active subject, whether a natural or legal person.

It is important to note that victims of human trafficking are often forced to commit certain crimes as a direct consequence of being trafficked: they may benefit from the possibility of non-prosecution and non-application of penalties, according to the amended directive. It should be noted that the directive pays particular attention to the protection, assistance, and support of victims, requiring one or more referral mechanisms to be established by law and administrative acts (with the force of law) in the Member States. The establishment of formal referral mechanisms and the designation of a national focal point for cross-border referral of victims are essential measures for strengthening cross-border cooperation. Such a referral mechanism should be a transparent, accessible, and harmonized framework that facilitates early detection and identification, the provision of assistance and support to victims of trafficking in human beings, as well as facilitating their referral to competent national organizations and bodies, identifying the competent authorities, civil society organizations, and other participating stakeholders, and establishing their respective responsibilities, including procedures and lines of communication (recital 15 of the Directive). The forms, institutions, and referral mechanisms are left to the discretion of the Member States and may take the form of a set of procedures, guidelines, protocols, or established cooperation agreements. The referral mechanism should apply to all victims and all forms of trafficking in human beings, taking into account the vulnerability of each individual victim. Member States are encouraged to establish a single referral mechanism where the organisation of public administration allows for this. The focal point should serve as a contact point for cross-border referral of victims in relations between the authorities or institutions responsible for cross-border support to victims in different Member States, and not as a contact point for the victims themselves. Focal points may be based on existing governance mechanisms or structures and do not need to replace national complaint mechanisms or hotlines (recital 15 of the Directive).

## **Conclusions**

Certainly, this topic, due to its intrinsic complexity, cross-border nature and intersection with numerous related offenses such as migrant smuggling, money laundering, economic fraud, cybercrime, cannot be exhausted in a single study.

Regardless of how this directive is transposed, it is important to note that the deadline for implementation is July 15, 2026, and Member States are required to promptly inform the Commission of how they are applying its provisions. The legislative act aims to streamline actions to prevent and combat human trafficking, to effectively provide for and punish the exploitation of trafficked persons, in line with the new ways in which this type of crime and related crimes are committed. Last but not least, increased attention is paid to victims of crime, how to improve support mechanisms for them and respond to their specific needs, especially those of victims with disabilities or vulnerable victims.

Society has a duty to find new ways to prevent and combat this ever-expanding criminal phenomenon and, equally, to provide all possible material and moral support to victims of crime. Only by developing and applying uniform rules and a holistic approach, at least across EU Member States, can meaningful progress be made in eradicating one of the most serious forms of crime in modern society.

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