

SEX TRAFFICKING AND COMMERCIAL SEXUAL EXPLOITATION OF CHILDREN WITHIN THE CONTEXT OF GLOBALISATION

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Abstract: *The issue of sex trafficking and of commercial sexual exploitation of children is not a new one, it represents a serious concern at international level, considering the enhancement of this phenomenon. The development of information and communication technologies, and the evolution of the Internet, contribute to the growth of illegal activities involving children, including such offences as prostitution, child trafficking, sexual exploitation by means of technologies of information and communications, pornography and sexual tourism. In this field, states must constantly strive to update the domestic legislation and to reconfigure the legal framework which must be adapted to the social reality.*

Key words: *Sex trafficking; children; prevention; treatment, social reality; legal framework.*

1. Introduction

The threat of commercial sexual exploitation of children targets the very structure of the society, and this problem brings forth intensive discussions and concerns at international level. The focus is generally on children trafficking, as a main form of their commercial sexual exploitation, but there are many such practices, such as practicing prostitution, sexual exploitation by means of technology of information and communications (TIC) or sexual tourism with children. Such manifestations represent serious violations of children`s rights, in the context of the provisions included in the Convention of the United Nations in 1989 on the Rights of the Child and in the Charter of Fundamental Rights of the European Union, that protect the child against all forms of sexual exploitation and sexual abuse. Also, the *Optional Protocol of 2000 of the United Nations at the Convention on the Rights of the Child regarding sale of children, child prostitution and child pornography* and, especially, the *Convention of the European Council for the Protection of Children against Sexual Exploitation and Sexual Abuse* (The

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Lanzarote Convention, Spain, 2007) represent important steps in the process of strengthening international cooperation in this matter.

The Convention on the Rights of the Child provides the right to protection against any form of sexual exploitation and of sexual violence, including against their involvement in activities of prostitution and pornography. Pursuant to art. 34 of the Convention, such manifestations as the following are considered:

- incitement or coercion of children to illegal sexual activities;
- exploitation of children for the purpose of prostitution or other illegal sexual practices;
- exploitation of children for the purpose of production of pornographic performances or materials.

Therefore, in the terms of the Convention on the Rights of the Child, sexual exploitation includes the use of children in commercial sexual exploitation and in video and audio materials containing sexual abuse on children, prostitution, sexual slavery, sexual exploitation in the context of travel and tourism, child trafficking and sale of children for sexual purposes, and forced marriages.

The Convention of the European Council on the Protection of Children against Sexual Exploitation and Abuse represented a red flag regarding the worrying proportions of the cases of sexual exploitation and sexual abuse committed against children, especially by the more and more extensive use of the technology of information and communications (TIC). The desideratum of the Convention is to ensure a better collaboration at international level, by creating a uniform law-making framework. In this regard, the Convention explains the notions of “child”, “victim”, as well as the phrase “sexual exploitation and sexual abuse”:

- “child” shall mean any person under the age of 18 years;
- “victim” shall mean any child subject to sexual exploitation or sexual abuse.
- “sexual exploitation and sexual abuse of children” shall include the behaviour as referred to in Articles 18 to 23 of this Convention.

The States must adapt and update their legislative framework at national level, in accordance to articles 18-23, including the following behaviours:

- sexual abuse (art. 18);
- offences concerning child prostitution (art. 19);
- offences concerning child pornography (art. 20);
- offences concerning the participation of a child in pornographic performances (art. 21);
- corruption of children (art. 22);
- solicitation of children for sexual purposes (art. 23).

2. Sexual trafficking – form of commercial sexual exploitation of children

The First World Congress against Sexual Exploitation of Children for Commercial Purposes was held in Stockholm in 1996, approaching this issue expressly, following the great number of such practices. Each child has the right to full protection against all forms of sexual exploitation and sexual abuse, the commercial sexual exploitation of

children being a serious violation of the rights of the children. *The Declaration from the First World Congress Against Commercial Sexual Exploitation of Children* defined commercial sexual exploitation as being the sexual abuse (committed) by the adult and the payment, in money or in any kind, of the child or of a third person or third persons. The child is treated both as a sexual object and as a commercial one. Thus, the sexual exploitation of children is a form of coercion and violence against children and is equal to forced labour, and also a contemporary form of slavery (The First World Congress against Commercial Sexual Exploitation of Children, Stockholm, 2007).

Most often, commercial sexual exploitation is associated to child trafficking, this one being explicitly defined within the *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nation Convention against Transnational Organised Crime*. With special regard to children trafficking, it means "recruitment, transportation, transfer, harbouring or reception of a child for the purpose of exploitation" (art. 3, Palermo Protocol UN, 2000). In this case, in order to be established as sexual trafficking in children, the consent is irrelevant, from the perspective of the natural incapacity of the minor child to consent or to anticipate the consequences of such acts. The problem of the age of consent occurs closely related to the index of vulnerability: the lower the age of consent is, the higher the vulnerability of children towards their commercial sexual exploitation. Therefore, as compared to the trafficking of an adult, in case of a child whose age is less than 18, there is no need to prove force, fraud or coercion, in order to establish the sexual trafficking in children. Consequently, children are considered victims even when they engage voluntarily in illegal activities. More than that, with regard to them, the notion of trafficking should no longer be strictly related to the physical movement from a location to another. Physical sexual exploitation can take place in one location, the virtual space allowing the trafficking of victims in several locations simultaneously.

Obviously, not all trafficked children are trafficked for the purpose of commercial sexual exploitation, a phenomenon that involves the existence of a transaction (The Second World Congress against Commercial Sexual Exploitation of Children, Yokohama, 2001). The commercial element can include any form of compensation, financial or of another type, the economic, social and cultural factors being the ones to exacerbate the vulnerability of children to commercial sexual exploitation (poverty, economic disparities, structural social and economic inequalities, dysfunctional families, lack of education, migration, discrimination, armed conflicts etc.).

The Convention no. 182 of the International Labour Organisation (ILO) approaches the most serious form of child labour, including sexual exploitation of children, and offers important guidelines to protect children against all forms of exploitation, including the sexual exploitation that could take place in the context of child labour. The practical reality shows that trafficking in persons is a modern form of slavery, which includes forced labour and services, and also sexual trafficking, thus generating organised crime. In legislation, there is no comprehensive definition of this phenomenon, in the specialised literature, the commercial sexual exploitation being defined as a profit generating activity, whose result is to increase the patrimonial asset of the offender, consisting in using the victim, by coercion, in prostitution, in pornography or in other

sexual activities (Brânză, Stati, 2015, p. 482-483). So, what distinguishes sexual exploitation from commercial sexual exploitation is the final purpose of the latter, respectively to obtain material, patrimonial or financial benefit following the exploitation (Larii, Pohilă, 2019, p. 133).

Thus, a series of distinct practices represent forms of commercial sexual exploitation:

- buying and sale of children for the purpose of prostitution;
- sexual abuse against children, related to paedophilia;
- production of images containing abuses against children and other forms of pornography involving children;
- sexual tourism with children;
- pornographic performances with children;
- forced marriage of children etc.

Most often, children are involved in acts of multiple victimization, which seriously and irretrievably affect their physical and mental wellbeing (Miller-Perrin, Wurtele, 2017, p. 124). The sexual abuse and sexual exploitation of children may take many factual modalities, both offline, by practicing sexual activities with a child or luring the child to participate in acts of child prostitution, and online, by marketing pornographic images on the internet (Tolbaru, 2022, p. 349).

The uncontrollable expansion of the phenomenon of commercial sexual exploitation of children created new dimensions in the area of criminality, especially regarding sexual trafficking in children. Any form of engagement of a child into a sexual act, in exchange for something valuable, represents a serious form of human trafficking, and the commercial sexual exploitation and sexual trafficking in minors represent forms of abuse against the child.

As a corollary of the above mentioned, we emphasize that sexual trafficking in children should be approached as a complex phenomenon, which includes multiple forms of sexual exploitation that perpetuate and determine one another.

3. Online Commercial Sexual Exploitation of Children. Internet traps

The expansion of the internet and the use of mobile devices, to a greater extent, give offenders the necessary circumstances to illegally use the technology with the purpose of contacting, luring and abusing children (Europol, 2018, pp. 30-31). Thus, the internet serves as a means of communication between aggressors. The materials are shared by means of such channel, the offenders having access more easily to children and, at the same time, being more difficult to detect. Offering an advantage in exchange of any illegal practice from the child, represents a form of manipulation.

Most often, victims are recruited by means of social networks, the traffickers taking advantage of the anonymity of online spaces to contact the victims. Either physically, or by means of digital platforms, the offenders continue to exploit the vulnerability of children in order to place them in inappropriate situations or to ask sexual favours, to make them work long hours or to be exposed to dangers, in exchange for certain advantages.

The online commercial sexual exploitation refers to situations of sexual abuse, which involves the use of digital technologies, of the Internet and of technologies of communication in this regard, in exchange for a reward for the sexual activities in which the child is involved. The abuses committed by aggressors in real life are caught in photos and in video materials, and then broadcasted on the internet. They use, in this purpose, web cameras, mobile phones, social media platforms or other types of online platforms in order to force or blackmail children into taking part in inappropriate and illegal sexual acts.

Therefore, technology proves at the same time its capacity to generate criminality, determining offenders to improve themselves and to adapt to new forms of exploitation, to become more cunning in illegal operations, thus creating new opportunities (ECPACT, 2020, p. 32):

- involving the child in the production of materials with sexual content – access, possess, produce, distribute images or videos which display the sexual abuse of a child;
- recruiting children online for sexual purposes (“grooming”) – practice by which the sexual aggressors build a relationship and an emotional connection with the children and earn their trust in order to be able to manipulate, exploit and abuse them;
- live broadcasting (“livestreaming”) of the sexual abuse on children and other related behaviours – engaging the child into a real or explicitly simulated sexual behaviour, by means of which their sexual organs are displayed and their livestreaming is carried out by means of technologies of information and communications;
- sexual blackmail – production or use of sexual related images and/or videos, representing a child, for sexual and financial purposes, or for other personal gains;
- unwanted exposure of the child to sexualised content or encouraging the child to engage in sexualised behaviours.

At present, the commercial sexual exploitation online, involving the dissemination of the acts of sexual abuse on the internet, represents a higher concern at world level. An alarming escalation in child sexual abuse online is revealed by Global Threat Assessment 2023. The fourth Global Threat Assessment Report provides critical insights into the threats children face online in 2023 (Weprotect Global Alliance, 2023, p. 1-13):

- WeProtect Global Alliance’s latest report shows an 87% increase in reported child sexual abuse material;
- Conversations with children on social gaming platforms can escalate into high-risk grooming situations within 19 seconds;
- Artificial intelligence (AI) is now being used to generate child sexual abuse material.

Thus, demand and offer with regard to the production and consumption of sexual trafficking and of images representing sexual abuse of children, combined with the clandestine character of such offences, determined an increase in the profitability of the commercial sexual exploitation of children (Carpinteri, Bang, Klimley et al., 2018, p. 150). The use of digital technologies reinforced the ability of offenders to commit human trafficking for different forms of exploitation, the new technologies being used by traffickers during each stage of sexual exploitation, from recruiting the victims and the advertising related to it, to their blackmailing and their movements. It is thus created an

enhanced anonymity and difficulties for the law enforcement authorities regarding their detection (European Parliament resolution, 2021).

4. Commercial Sexual Exploitation of Children in the Context of Travel and Tourism

Sexual tourism is a form of manifestation of commercial sexual exploitation, the issue of sexual tourism existing at the level of all states. The development of tourism and the new technologies facilitated this type of criminality, offering the offenders access to children. The exploitation of the tourism industry to the maximum creates opportunities for itinerant (mobile) offenders, their target being underdeveloped or developing countries and countries with a weak legal system (Ferrao, 2020, p. 8). There is proof that offenders travel to third countries in order to benefit from more lenient legislative frameworks or from a reduced capacity to ensure compliance with the law, and to commit abuses without fearing the law enforcement authorities (EU Strategy 2020-2025, p. 9).

Sexual tourism with children can be defined as that form of commercial sexual exploitation committed by persons who travel from a country to another, or from a place to another, in order to engage into a commercial sexual act with a child.

Globally, the international organisations initiated significant efforts to approach this issue, drawing attention to it through the World Congresses against Commercial Sexual Exploitation, held in Stockholm and Yokohama. Although they obtained significant results, afterwards, not all states applied the assumed commitments in practice. Also, the tourism industry paid attention to this issue by adopting a Global Code of Ethics for Tourism, which presently offers a frame of reference for the responsible and sustainable development of tourism.

At the European Union level, the phenomenon is regulated by Directive 2011/92/EU on combating sexual abuse of children, sexual exploitation of children and child pornography, providing at point 9 of the Preamble that “child sex tourism should be understood as the sexual exploitation of children by a person or persons who travel from their usual environment to a destination abroad where they have sexual contact with children”. Thus, pursuant to Directive 2011/93/EU of 13 December 2011, sexual tourism with children is an offence on the territory of the entire European Union; at the same time, article 21 of the Directive provides adopting national measures to prevent or prohibit the organisation of travel for the purpose of committing this type of offences.

Few states, though, inserted into their national legislation provisions regarding sexual tourism. From what we can see, there is a concern of the lawmaker to regulate the criminal manifestations related to sexual tourism, usually at the level of the state where the phenomenon is already spread. Thus, a higher awareness on behalf of the States is imposed, regarding these manifestations which are real prerequisites of sexual exploitation and abuse, and therefore they should insert specific provisions regarding such practices into the criminal national legislation, starting from the basic contents of the injurious deeds (Copeţchi, 2022, p. 27).

5. Conclusions

On account of their vulnerable status, the proportion of children falling prey to such forms of exploitation reaches worrying levels, and these experiences have a major impact on their physical, physiological, spiritual, moral and social development. The negative impact of such forms of sexual exploitation of children needs the raised awareness of the civil society and a tight co-operation between all interested parties, such as NGOs, police and law enforcement agencies, and also social and medical services. Also, the protection of children should be assumed as a global responsibility in any corner of the world, as the efforts of international and European NGOs are not enough, in the context in which they are not supported by measures of criminal justice. That is why the problem of commercial sexual exploitation is extremely complex and should be addressed by involving all law enforcement authorities in close collaboration with the main actors from the non-governmental sector.

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