

POLICY PAPER

Communicating in Fighting the Trafficking of Human Beings

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Some introductory considerations

There are some specific fields, where the professional public communicators, educators and the specialized journalists are crucial. Their coordinate accurate, constant and predictable interventions shape the public values, ideas and attitudes. In a close continuity, they are the forces that mobilize, or demobilize the public. More than these, their coordinate actions model the basis of the public sphere and of the public culture.

The following analysis devoted to explore their political omissions in the fighting THB process in Romania, as it results in the non-sending to the public a detailed analysis on the GRETA Report on Romania, issued in May, 2012.

It, also, advocates a new strategic approach on the combating THB, based on public participation, urged by the professional public communicators, educators and the specialized journalists.

The method used is: a large documentation on the institutions involved in fighting THB and on the searching for detailed analysis on the Romania's efforts defaults and accomplishments in the process as they result from the GRETA report confronted with the country realities view by the insiders.

1. Romania's progress in adopting the laws in fighting THB assessed in the First European Reports in applying the Warsaw Convention in Fighting Trafficking in Human Beings

In 2012, 31 of May, the Group of the Experts on Action against Trafficking ..., GRETA (in Human Beings) Progress Report¹, - called hereafter GRETA on Romania - issued their first round report on Romania's efforts in fighting THB and international cooperation was with such a purpose.

The media readings and understandings of the GRETA's *Report...*, in Romania, ignored, partially, the diplomatic code of an academic report, and they quoted self-flatteringly the encouraging words, which introduced the analyses and prepared the recommendations.

A technical analysis is – for such a reason – necessary and useful in improving the preparation of Romanian public to be a partner in the efforts of the professional institutions in fighting THB, and in the nearest perspective to eradicate such a plague in the country.

1.1. General Evaluations on Romania Progress in the GRETA's Report and the ways of reading them

The structure of GRETA's Report² is: a *main corpus*, and in two Annexes – one for the *Recommendations*³ and the other, for the *Sources of the Report*⁴.

The main corpus is following the structure of the *Warsaw's Convention*⁵. It takes theme by theme, the field, and it reminds the provision in the *Convention* – the articles' substance - and assesses aspects as:

- Is the theme transposed in the Romanian Legislation,
- Is any transposition of a *Convention's articles* clear or not;
- is the each article's content compatible with the *Convention'* provision related to it and in what degree;
- is it used in the Romanian judicial practice;
- is it known by the victims.

¹See http://www.coe.int/t/dghl/monitoring/trafficking/default_en.asp

²Secretariat of the *Council of Europe Convention on Action against Trafficking in Human Beings* (GRETA and Committee of the Parties), DG I - Directorate General of Human Rights and Rule of Law
2012 - Council of Europe –GRETA - **Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania**, <http://www.coe.int/trafficking>

³Appendix I: *List of GRETA's proposals* .<http://www.coe.int/trafficking>

⁴Appendix II: *List of public bodies and intergovernmental and non-governmental organisations with which GRETA held consultations* <http://www.coe.int/trafficking>

⁵*Warsaw's Convention*- <http://conventions.coe.int/Treaty/en/Treaties/Html/197.htm>

Finally the *GRETA' Report ...* recommends improvements. With such an approach, it is to see that, the Report is, mainly, technical, and it is not political, it is not judgmental.

The key of reading must be similar, technical, non-judgmental. It does not prize, does not blame. It just reports facts on what Romania *did*, on *what we have to do* in order to fulfill the standards as much as possible.

The language of the *Report ...* is academically styled. It does not pointed in the first line the deficits of the activity carried out. However, it let them being clearly underlined, in the second half of the paragraph. They key word in introduction of the specific deficits is: „*however*”, or similar. “*But*” is the second key word in underling the non-conformity with the standards. In a correct interpretation of the results of the GRETA's analysis of the state of art in Romania fighting THB, the *Recommendations' list* is also to be taking into account. It is the list of our unaccomplished duties, the duties assumed by our state signing⁶, and ratifying the *Convention*.

The single type of words that are to be in media attention and in public awareness come after the “*however*”, “*nevertheless*”, “*but*” ... The Romanian media must learn to be critical to the Romanian Politicians. It is, at least, because the politicians forget the necessary budgeting, institutions' building and the needed highly trained human resources, in order, requested to implement the new standards assumed, in the process of signing and ratifying a new international convention. (The politicians sign documents without a preliminary complex regard to the entire picture of the Romanian society and without a preliminary public release on the budgeting sources, without of the public's culture assessment and separately by the real political agenda. After our politicians signed a binding international document they, largely, ignore the follows up. They do not ask independent Reports on the implementation's stage.)

Related to *GRETA Report ...* the Romanian Press, reported to the public – probably according with the Press releases done by the NAPT - news as: *Romania praised by the GRETA for its activity in fighting THB*. It is politically useful to have an excellent European evaluation in such a prestigious document.

In the electoral campaign, the incumbents - of the evaluated period, 2008-2010 - could misused the new, and could claim their exclusive appreciation in Europe. This is not correct, and not coherent with the fact that the National Agency Fighting

⁶Romania signed *Warsaw Convention* at May, 16, 2005, and ratifyed it through the *Law 300 . 11o.7.2006*, and published in „*Monitorul Oficial*”, 622, July, 2006.

THB (ANITP), was erased as an autonomous body, just in the mention period. That is, because, the budgeting of the NGOs for the victims' protection was completely cut.

Such an interpretation is – from a communicational point of view - a political manipulation - unfaithful to public. It uses your own judgmental (appraisal) press release (on a fact), and, it take it back, as a praise done by a transnational institutions. (In Romania, according with the public perceptions, international institutions are supposed to be completely unbiased, and universally true. It is not developed any critical thinking toward such types of documents. It the time to train the journalists to do it.)

Within a special Program designed to train journalists in such sensitive subjects as investigating, or reporting the THB cases, or simply educating people to self-defense against THB the new trends will appear, for the general benefices. In the context of increasing the THB risks, the reports on THB – irrespectively of their source, will be read and interpreted, more appropriately. The ordinary public will be secured, more carefully, and more appropriately alerted against threatens. That is why, it seems entirely consistent to consider a fourth pillar in fighting THB: the specialized press.

1.2 The 2012 - CoE GRETA REPORT PROPOSALS concerning the improvement of the legal framework and accelerating international cooperation in Romania

Looking to the frequency of the expressions as the "however" in the *Report ...*, it is to understand that, in the present stage, Romania has to recover 40 delays in implementing *Warsaw Convention*.

Looking to the key expression "nevertheless" or similar, it is to see where we have to be prepared to step up in the next level of the EU *Directive 36/2011*⁷.

That does not means that Romania has not progressed immensely, and the officials did not perform in their offices. Not at all! The *Report...* welcomes repeatedly (13 times) the fact that Romania progressed in fighting THB under the NAPT coordination. It just underlines that there is still much to be done, and the NAPT needs to be an autonomous Agency in fighting THB.

The proposals are⁸ optional, but they are connected with the existing non-conformities of our domestic legislation with the international conventions, which we signed, without any objection or reserve.

⁷http://europa.eu/legislation_summaries/justice_freedom_security/fight_against_trafficking_in_human_beings/jl0058_en.htm

⁸ Council of Europe issued Recommendations, but their transforming in the national law, bind!.

The recommendations in *GRETA 's Report on Romania*, cover areas as:

- **legal and institutional framework's harmonization** with the *Warsaw's Convention*;
- **accommodation of the domestic policies in fighting THB's** with the *Warsaw's Convention* recommendations and with the policies of the CoE members states ones;
- **the strengthening of the international, transnational and regional cooperation**⁹.

2012- CoE GRETA REPORT on Romania's legal and institutional framework's harmonization with the *Warsaw's Convention*

According to the *Report*, in spite of complexity of the legislation, procedures and guide leading the Romanian authorities' actions in the field there is still a lot to be done in the field.

In the paragraph 46 and 47, it mentions that the Romania's main law in Trafficking of Human Beings (678/ 2001) is using the definition of THB similar in its core with the definition *Warsaw Convention*, (paragraph 50 of the Report).

The actions covered by the definition law are also similar with the *Palermo Protocol* (2000).

The same *Report* considers that the removal of the organ and tissues (incriminated in the Romanian law, according with the public agenda)¹⁰, introduced after the law's last revision, are supplementary to the current definitions of the forms of the exploitation. (paragraph 51 in the *Convention...*).

However, the victim definition could be amend and clarified in the secondary legislation.

Critically taken, the *Recommendations* concerning the amendments of the legal framework and the international cooperation had to accept, at least, in the following respects:

" ...Romanian authorities should adapt the relevant secondary legislation, including the provisions of the **National Identification and Referral Mechanism**, in

⁹ In a recent meeting (November, 15, 2013) in Warsaw the officials representing the frontline Poland Institutions fighting THB – the *Police Fighting the Organised Crime* and the *Border Guards* – listed Romania as the first partner in fulfilling the assignments.

¹⁰ There are cases - often weekly - of people who are offering their own organs for sale in the inserted ads in classified sections of newspapers.

order to ensure that the legal definition of victim of THB, and its application in practice, are fully in line with the definition set out ... in the *Convention*.”¹¹

This is:

- a) to amend the legal framework as art 30¹², 31¹³, 32¹⁴;
- b) the authorities should ensure that all aggravating circumstances provided for in art. 24 of the *Convention*... are reflected in the domestic norms ;
- c) to ensure the non-punishment of victims of THB by reviewing, according with the art. 26 of the *Warsaw Convention*...;
- d) to improve specific *training* of the that law enforcement officials, prosecutors and judges working in THB. (They should be adequately trained on the criminal law provisions applicable to THB-related offence, notably on changes brought to them, such as the criminalization of the knowing use of service of victims of THB and the criminal responsibility of legal persons)¹⁵ ;to adequate the **investigation, prosecution and procedural law**, by prioritizing the identification of gaps in the investigation procedure and the presentation of cases in court, with a view to ensuring that THB-related offences are investigated and prosecuted effectively, leading to proportionate and dissuasive sanctions¹⁶;
- e) to review the system of confiscation of assets, in order to reinforce its effective implementation to THB-related offences¹⁷;
- f) to adopt, as soon as possible, the secondary legislation necessary for the enforcement of the new provision in the Anti-Trafficking Law extending physical protection to members of the NGOs assisting victims of THB;

2012 - CoE GRETA REPORT on Romania's GRETA on Accommodation of the Romania's domestic policies in fighting THB's

¹¹ 2012 - CoE – **GRETA Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Romania, Appendix 1. Appendix I: List of GRETA's proposals** .<http://www.coe.int/trafficking> art. 1.

¹² The art.30 of the *Appendix* to the *Convention*...states: "... Romanian authorities should review the legislation, with a view to establishing as criminal offences all acts related to travel or identity documents."

¹³ The art. 31 suggests "...measures to ensure that the liability of legal entities can be acted upon in practice."

¹⁴ The art. 32 proposes the "...review the criminal law provisions concerning THB, as well as, those establishing THB-related offences ... in order to make it more comprehensive.

¹⁵ 2012 - CoE –**GRETA Report ...** art. 33

¹⁶ CoE - **GRETA Report ...** art. 35

¹⁷ CoE - **GRETA Report ...** art. 36

It recommended to Romanian authorities to improve policies in the field in the directions as:

- a) to ensure a perspective defined by a **comprehensive approach and a strategic coordination**¹⁸;
- b) to prepare and adopt National Plans **to provide "sufficient human and financial resources, enabling it to accomplish its different tasks in the most efficient way"**¹⁹, to allocate and secure appropriate funds...²⁰
- c) to introduce, in addition to the governmental reports on the implementation of the national anti-trafficking strategies, **a periodic independent evaluation**²¹ as a tool for assessing the impact of these activities and for planning future policies...²²
- d) to design future multidisciplinary **training programs** with a view to improving the knowledge and skills of relevant professionals with a peculiar emphasis in overcoming entrenched negative attitudes and prejudices vis-à-vis of victims of trafficking, including those of Roma origin;²³
- e) to develop attitudes for proactive investigative work, **in preventing THB for the purpose of labor exploitation**²⁴;
- f) to pursue the efforts in improving the **collection of statistical data on compensation granted to victims of THB, the data collected on investigations, prosecutions and convictions.**²⁵
- g) to take **Measures to raise awareness of the general public on the THB;**
- h) to improve the social, economic conditions for groups vulnerable to THB;
- i) to detect cases of THB in the context of border control measures as well as to reinforce the security of identity, visa and travel documents to prevent and detect trafficking;

to provide the Border Police with all necessary human and financial resources to ensure that it can duly play its role in the identification and referral of victims of THB. In particular, they should envisage the appointment of specially trained

¹⁸CoE - **GRETA Report** ... art. 2, 3

¹⁹CoE -**GRETAReport** ... art.4

²⁰CoE -**GRETAReport** ... art. 5

²¹It is referring to the introduction of an Independent Observatory of the Fight in THB/ or a similar institution.

²²CoE -**GRETAReport** ... art. 6

²³CoE -**GRETAReport** ... art. 7 and 8

²⁴CoE - **GRETA Report** ... art. 9

²⁵CoE -**GRETAReport** ... art. 10

border police officers whose task would be to deal with THB cases and to identify victims and refer them to the adequate institutions²⁶...

j) to pay a special attentions to the alien victims²⁷ in Romania, to their identification, protection and assistance²⁸;

i) to improve **the victims' assistance measures through:**

- review the system of shelters for victims of trafficking, with a view to assessing, in co-operation with relevant members of civil society, victims' needs in relation to the services currently provided, and to take all necessary measures to ensure that these needs are met throughout Romania, and in particular in Bucharest, for all categories of victims of THB;

- ensure the quality of the services delivered in all state-run shelters;

- ensure that all assistance measures provided for in law, including access to health care, are guaranteed in practice; when assistance is delegated to NGOs as service providers, the state has an obligation to provide adequate financing and to ensure the quality of the services delivered;

- ensure that assistance measures provided for in law are not made, in practice, dependent on the victims' willingness to co-operate with law enforcement agencies.

j) to granted the **recovery period**;

- facilitate the reintegration of victims of trafficking into society and avoid re-trafficking by providing them with access to education and vocational training, as well as access to the labor market.²⁹

GRETA on Strengthening of the international, transnational and regional cooperation

The *Report*...pays a special attention to the **International co-operation in fighting THB**.

It urges the Romanian authorities:

- to **reinforce co-operation** with trafficking **destination countries** in the areas of prevention, protection of victims and prosecution of perpetrators

²⁶CoE - **GRETA Report** ... art. 18-20

²⁷To facilitate their access to the *Temporary Residence Permits*; to ensure the conditions to return;

²⁸CoE - **GRETA Report** ... art. 21-22

²⁹**GRETA Report** ... art.

of trafficking, on the basis of existing mechanisms and by introducing further procedures wherever this proves necessary.³⁰

Conclusions

Looking back to the analysis on the CoE Document analysis in the Romanian public awareness, it is hardly to expect too much products. As for the present evaluation, it was not identified such an analysis, until September 2013. (One year after the *Report...* public release!)

Due to the speed of the phenomenon and the Romanian Police, Border Guards and Judicial forces professional reply, it could be seen as obsolete to pay too much attention to a Report ... which takes into consideration facts and tendencies more than three years old.

However, aside of the facts by facts assessment, the Reports ... reveals how many valuable and extremely powerful actors are keep out the front against the THB crimes. The most important, it is public, in general. The *Report ...* is empowered, in a way, by the NAPT – with its campaigns and with its site open to be use by the aware public. But, how large is the aware segment among the vulnerable persons to THB, in Romania?

As the sociologic studies proves, the aware public among the possible victims is the missing part. The offenders bet on the public low knowledge, low capacity to anticipate the criminal traps behind the promising for a better life arranged by a lover boy, a friend, a relative ... The Public communicators – people trained in Communications and Public Relations and the Journalists, together with the Educators should be involved. They are the best linkers to the public attitudes, ideas and values.

That is why it is to consider the ALLIANCE IN FIGHTING THB AS a MORE LARGER ONE! Here it is a warm plea to include there a section JOURNALISTS, COMMUNICATORS, EDUCATORS ALLIANCE IN FIGHTING THB,

The Public communicators – people trained in Communications and Public Relations and the Journalists, together with the Educators should be involved. They are the best linkers to the public attitudes, ideas and values.

Concretely, it is about the public right to know adequately the plague of THB, its dynamic, and the official efforts to ensure each person's security against it is. The two conditions are crucial: A COMMUNICATION STRATEGY & MOBILIZING the GRASS ROOTS ACTIVISTS IN PREVENTING THB.

³⁰CoE - **Report ...** art. 12

The PUBLIC COMMUNICATION STRATEGY in FIGHTING THB – drafted together with the Informational Center within the NAPT but substantively conceived and managed by the independent public communication’s professionals and by the specifically trained journalists and educators – is the main tools to involve and to alert effectively the presumptive victims. It confers to the fight in THB the forth pillar: the public cooperation, the public active support.

MOBILIZING the GRASS ROOTS ACTIVISTS IN PREVENTING THB it is to train, to develop personal and institutional coordination among the communicators of technical fighters of the THB’s crimes and the independent public communication’s professionals, the specifically trained journalists and educators. JOURNALISTS TRAINING IN THB – designed, approved and enforced in a deep public responsibility could be the affordable first step. (The training should be provide by a specific MA or other forms of an institutional training.)

With such an approach and with the public’s preparation to take an active part in its own shield of persons’ security, the effectiveness of the combating or eradicating THB in Europe is a more realistic mission and could be a success.

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