

## PROSTITUTION PHENOMENON - LEGAL AND SOCIAL ASPECTS

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**ABSTRACT:** *The prostitution phenomenon is a global, complex, controversial, and problematic phenomenon which remains one of the current subjects debated at national and international level.*

*From a judicial point of view, despite of the numerous legal measures and sporadic actions realized by the police, prostitution continues to be present in Romania, partially due to the low efficiency of legal controls and laws' implementation. In this respect, we have focused on the distinction between offence and contravention regarding prostitution as well as on the trials to dis-incriminate it, and last but not least on presenting this problem from the point of view of other European countries. From a social point of view the prostitution phenomenon will be analysed at a general level with the implications it has on society (causes and consequences), but also at a particular level from the perspective of the persons involved in human trafficking (from the "object" person to the client, and finally to the exploiting person). In this context, some psycho-pedagogical issues present in the complex prostitution phenomenon (such as the suffering, preventive aspect, etc.) will be emphasized.*

**KEYWORDS:** *prostitution, legislation, victim, preventive aspect.*

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### 1. LEGAL ASPECTS OF THE PROSTITUTION PHENOMENON

In some countries of the contemporary world, the debates on prostitution are now more intense than ever, the opinions being pro and against this phenomenon which demonstrates a way of living for many people. Internationally, these clashes led to the

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International Convention for the suppression of human trafficking and exploitation of others' prostitution adopted by the United Nations on December 2, 1949 and to which Romania adhered in 1968.

In the preamble to this International Convention it is stated that "prostitution and the accompanying evil, human trafficking for prostitution are incompatible with human dignity and values of people and endanger the welfare of the individual, family and communities."

In Romania, prostitution was not incriminated in the Penal Code of 1864 or in the Criminal Code of 1936. In the latter normative act, it was incriminated the instigation, facilitation, and encouraging of prostitution (art. 433). In criminal law, the prostitution crime was introduced in 1957. In specialty literature there are conflicting views in relation to maintaining and repealing the text of law which incriminates prostitution.

Being apprised, in 1955, the Constitutional Court had to solve the unconstitutionality exception of art. 328 Penal Code<sup>1</sup>. In order to motivate this unconstitutionality exception it was invoked that through art. 328 Penal Code are violated person's rights provided in the Constitution of Romania, art. 26 and 38. After a careful analyze of the cause subject to answer, the Constitutional Court decided that the stipulations from art. 328 Penal Code are and will remain in force, the incrimination being necessary if taking into account the relatively high social danger and the growing tendency of criminal phenomenon in this domain<sup>2</sup>. For motivating this decision it was invoked the fact that prostitution is a form of social parasitism and by committing it the relations concerning social cohabitation are violated. By maintaining the incrimination of prostitution the authorities also try to limit the uncontrolled proliferation of sexually transmitted diseases and the human trafficking for prostitution<sup>3</sup>.

Presently, this enormous phenomenon of prostitution, in the opinion of some people is described as *contravention*, although there are legal regulations that characterize prostitution as a crime. We specify that in the current legislation, prostitution is a *habitual crime*, so that punishing this act from a penal point of view interferes only if it is done repeatedly. When committing the facts has a non-recurring character, but isolated, the conditions to punish these ones as crimes are not fulfilled, so they are contraventions.

This crime was committed by I.G. from Constanța County, who though was able to work, obtained her main means of existence by practicing sex with different people. During the investigation, it was established that the offender proved refractory to the repeated police instructions to develop a useful work and thus ensure for herself a legitimate existence, without having a parasitic life.

#### *Legal Content*

The crime of prostitution is stipulated in art. 328 Penal Code and consists in "the act of the person who procures the main means of subsistence or livelihood practicing sex with different people."

<sup>1</sup> Constitutional Court was apprised by the Court of Constanța by the closing from October 24, 1995;

<sup>2</sup> Constitutional Court, Decision no. 74/1996 (Official Monitor no. 200 from August 27, 1996);

<sup>3</sup> V. Dobrinioiu - N. Conea, *Drept Penal, partea specială*, second volume, *Teorie și practică judiciară-infracțiuni prevăzute în legea specială*, Reviewed edition, Bucharest, Lumina Lex Publishing House, 2002, pg. 576;

*Crime's Structure**Pre-existing Conditions**Concept*

*Special legal object:* social relations which involve social cohabiting, protect morality and people's sense of decency.

*Material legal object:* in the criminal doctrine there is an almost unanimous belief that the material object of this crime consists of the goods which are acquired by persons practicing prostitution. It is obvious that neither the body of the person practicing prostitution nor the body of the persons she has sex with, taken separately, cannot be regarded as material object, because they have nothing illegal themselves, only the purpose of purchasing the means of subsistence being illegal. Goods, things or money cannot also be the material object of this crime because in the doctrine and legal practice is alleged that by material object we understand goods, things or person's body on whom is directed the material activity described in the incrimination rule. In the case of danger crimes (or formal, as they are known in specialty literature), there is no material object, but only a legal one<sup>4</sup>. Given that the crime of prostitution is, inherently, a dangerous crime, it has no material object. On the other hand, goods or money from prostitution are the product of the crime and not the object it was acted upon.

*The subjects of crime*

*The active, direct subject* of the crime of prostitution can be any person responsible for a crime, in this position can be both a male or female person, the legal text containing no distinction as far as gender is concerned. The crime cannot be committed under co-authorship form, because each person is prostituting *in persona propria*. The crime can be committed in the form of incitement and complicity, but these participants became authors of other crimes such as trafficking for prostitution<sup>5</sup>.

*The passive subject* is the state which is the main passive subject. In the case of crime of prostitution, the passive subject (the one who suffers from committing it) should not be confused with the sex partner, it results that the crime has no adjacent passive subject.

*Constitutive Content**The objective aspect of crime*

a) *The material element* of the objective aspect consists in the activity of procuring either the livelihood in general (indicates the purpose) or the main means of subsistence by having sexual relations with different people (indicates the ways of achieving this objective). The material element is thus characterized by two joint actions: one is the purpose, and the other is the mean.<sup>6</sup>

By principal means of subsistence we understand those means which meet the essential needs of life, such as: housing, clothing and food. It should be noticed that in the case of prostitution we are not talking about isolated and random sex, but about a habitual activity like a job.

<sup>4</sup> V. Dongoroz, *Drept Penal* (Republishing of the 1939 edition), paper issued under aegis of Romanian Association of Criminal Sciences, Bucharest 2000, pg. 165;

<sup>5</sup> I. Pascu - M. Gorunescu, *Drept penal. Parte specială*, 2<sup>nd</sup> edition, Bucharest, Hamangiu Publishing House, 2009, pg. 693;

<sup>6</sup> See N. Conea - *Reflecții asupra infracțiunii de prostituție*, RPD no. 4/1996, pg. 141;

b) *The immediate consequence* consists in creating a danger state threatening the rules of social cohabitation, a danger state threatening morality.

c) *The causal connection*. Between the doer's action and the immediate consequence there must be a causal connection, it appears implicitly from committing the crime. The law does not provide special place or time conditions for the crime's existence.<sup>7</sup>

The subjective aspect of the prostitution crime is the guilty as a direct intention. Thus, the essential requirement of the crime consists in the fact that having sex with different people to be done in order to purchase means of subsistence or the main means of subsistence. If by having sexual relations with different people the person did not pursued this goal, there will be no crime.

#### *Forms*

Preparatory acts and the attempt are not possible because it is a crime involving repeated acts. The crime of prostitution is consumed when performing a sufficient number of sexual relations with different people, proving that the doer procures in this way the main means of subsistence and livelihood. Exhaustion occurs when the doer's activity stops.

The crime of prostitution is a habitual crime involving a plurality of acts over a certain period of time, in which the practice of these relations is the only or the main source of the person's livelihood.

*Sanctions*: The crime of prostitution is punished with imprisonment from 3 months to 3 years.

*Procedural aspects*: criminal proceedings for the crime of prostitution start *ex officio*.

#### *Legal Practice*

The crime of prostitution stipulated in art. 328 Penal Code cannot have multiple authors, because the action that represents its material element cannot be committed directly but by only one person, therefore when similar acts are committed in the same place and time by several persons, each of them committing a separate crime, the person is the author of this crime, and not co-author of crimes committed by the others.

Consequently, as long as between the defendants, from whom one is a minor, sent to trial for the crime of prostitution committed by each, have not been established relations from author to accomplice, there cannot be hold against the major defendant the aggravating stipulated in art. 75, paragraph 1, letter c, Penal Code (committing the crime by a major, if it was committed with a minor).<sup>8</sup>

#### *The crime of prostitution in different legal systems*

There are several types of legal regimes applicable to prostitution: the prohibitive, the normal and the abolitionist one. The first regime considers prostitution as prohibited. The system prevails in most American States, China and the countries from Persian Gulf. This does not mean that it is not present. The normal regime legalizes prostitution, considering that its practice in tolerance houses, located in areas specifically designated, subject to permanent supervision by competent authorities, is preferable to any other form of prostitution. It is the regime adopted in the Netherlands and

<sup>7</sup> A. Boroi, *Drept Penal. Partea specială*, Bucharest, C.H. Beck Publishing House, 2006, pg 624;

<sup>8</sup> Supreme Court, Criminal Section, Decision no. 5479/1971 in RRD no. 10/1972, pg. 164;

Germany. The abolitionist regime does not incriminate prostitution or its customers, but it incriminates pimping. As abolitionist regime gives special importance to preventing prostitution and reintegrating the prostitutes, one can say that abolition concerns in a certain matter the elimination of prostitution phenomenon as well.

In England and Wales prostitution is not a crime, but its visible manifestations are incriminated: recruitment, advertising, the management of specialized places, sealing contracts with customers.

The situation is different in Western Europe. By far the most tolerant in this respect is the Netherlands, where prostitution, together with drugs, same-sex marriages and euthanasia are allowed. This does not mean they are encouraged, but as long as they cannot be eradicated, the Dutch prefer to tolerate them, even if sometimes they do not accept them. Last spring it was unveiled even a bronze statue as a sign of respect for people around the world who earn their living from prostitution. Note that the sculpture is located in front of the oldest church in Amsterdam. In the field of prostitution, France applies two legal principles: decriminalization of prostitution and sanctioning of pimping. In other words, according to law, in France are sanctioned only those who seek sexual services and prostitution can be practiced on condition not to disturb the peace.

In Germany, starting from January the 1<sup>st</sup> 2002 the Law on the legalization of prostitution came into force. The law allows prostitution provided to be voluntarily practiced in brothels, clubs, streets and private homes, and the state taxes prostitutes' incomes, prostitutes have health insurance, vacations and even retirement. In Belgium, according to the Law from 21<sup>st</sup> of August 1948, prostitution is not a crime, being incriminated only the manifestations of prostitution which affect public policy and pimping, and since 1995, with the amendment of the Penal Code, human trafficking and child pornography are severely sanctioned.

Since 1978, in Spain, prostitution is not a crime any more, and since 1996 – with the enforcement of the new Penal Code – pimping is not a crime itself, but only its aggravating forms.

In Italy, prostitution has been tolerated for a long time, but to prevent the spread of venereal diseases, the Penal Code contains provisions concerning the supervision of prostitution. Since 1998, tolerance houses and pimping have been prohibited.

In the Netherlands, by Law 464/1999 there have been substantially amended the Penal Code provisions on prostitution and there were eliminated the provisions that prohibited tolerance houses. That law aimed at preventing forced prostitution, child protection and improving the status of prostitutes. The law also allows the pimping, but severely punishes its aggravating forms, i.e. pimping by coercion and with minors.

In Sweden, prostitution is not a crime, but it is incriminating buying sexual services and pimping. Denmark, by Law 141/1999, repealed the provisions of the Penal Code which incriminated prostitution, allowing it to be individually practiced and criminalizes the purchase of sexual services from persons under 18. We can see that in most western EU countries there are laws on prostitution's legalization. Some countries are more restrictive, others offer more freedom to this occupation. Most countries that have regulated this matter provide healthcare for prostitutes through state insurance, and in some countries like Sweden and Denmark they benefit of the basic pension.

As for the legal vision of prostitution in our country, the problem is very difficult, complex and it has a special sensitivity and will generate stormy debates. At this

time prostitution represents a scourge, and the current legislation has failed to alter the situation. Perhaps a law in this area will bring some peace and health for those who have this job. The fact is that prostitution will never disappear.

In Romania, after 1989, the prostitution has emerged from its relative obscurity and her semi-illegality to experience a large expansion. Prostitution was practiced and is practiced in large hotel units located in areas with high tourist traffic, such as: Constanța, Timișoara, Brăila, Galați, Arad, Oradea, Baia Mare, Suceava, Brașov, Predeal and, of course, Bucharest, in its main hotels or entertainment places. The international networks of trafficking in human beings also entered in Romania; these ones, under the flag of innocent companies seeking dancers, models or females to work abroad recruit prostitutes for various countries (notably Turkey, Greece, Italy, France and Germany). Many young girls arrived abroad through these companies have found that, in fact, they have signed a contract for prostitution. Juvenile prostitution is also widespread in Romania; "street children" providing a true "outlet" for both Romanian as well as foreign paedophiles. On the other hand, in trafficking in human beings children are also included. A number of adoption cases from previous years, in terms of poor legislation, were nothing but disguised forms of recruitment for prostitution. Prostitution is so spread in Romania that even the educational law provides a special regulation (art. 11) which prohibits the activities that "violate fundamental principles of morality jeopardizing the physical or mental health of youth" in schools, dormitories, boarding schools, canteens, clubs, houses of culture, cultural complexes and bases, the aim of that article being to prevent prostitution in schools.

In March 1996 were adopted amendments to the Law no. 61/1991 for punishing the crimes of prostitution and pimping, separate from the Penal Code and Penal Procedure Code, adopted by the Senate, but rejected by the Chamber of Deputies. The amendments of the law mentioned above are added to the amendments of the Penal Code that punish the act of prostitution with imprisonment from 6 months to 4 years, a more severe punishment than that applied before 1990.

Despite these legislative measures and sporadic actions taken by the police, prostitution knows a large expansion in Romania, partly due to reduced effectiveness of the control in this area. Though moralists believe that prostitution should be prohibited, we should say that in today's Romania the real problem is not selling sex, but all the other social problems associated with it: violence, aggression, prostitute's economic and sexual exploitation, and especially the spread of diseases associated with this profession (syphilis and AIDS). There were registered 5800 cases of syphilis contracted as a result of relations with occasional partners, only in Bucharest, during 1992-1995. Only a single prostitute, aged 22, suffering from syphilis and AIDS managed to disease 156 men (*Libertatea* Newspaper, 1996).

Currently, some Parliamentary fiercely desire to legalize this phenomenon. Thus, the Project submitted by the Deputy Silviu Prigoană, in Parliament, calling for the legalization and regulation of "the oldest job in the world" has reignited the debate about how welcomed such a step is. Briefly, the legislative initiative proposes that prostitutes to be authorized, to be at least 20 years old and to have medical examinations monthly. People over 16 can benefit of their services. The institution responsible for the record of those who own an authorization would be the Ministry of Interior and the Local Council would be the one that will issue the number of authorizations for each

locality. The tolerance houses have certain obligations as well, including to indicate the fees and to keep customers' confidentiality. Thus, those who support the legalization of prostitution say that in this way they will be able to control this phenomenon by making it legal, that prostitutes will work in safe conditions, protected by the abuse of pimps and clients and also that they will end the process of STD.

Both the legalization and non-legalization can have benefits but can also bring problems. There is a cost and a gain for either choice. The fact is that in Romania, in the last years, there was record a proliferation of the phenomenon. Seen from our point of view, where prostitution is legalized, there it has not disappeared at all and it does not have a tendency to diminish, just because prostitution is a certain kind of activity not related to law. On the contrary, the trend is even for the phenomenon to increase because legalizing it, the one becomes publicly acceptable. The tolerance towards it increases and it results from here a series of discussions about the values of a society. Most of the times, prostitutes are taken to the police station, they are severe fined, but they never pay. Rarely a criminal record is drawn to them. The pimps' networks have no problem, they mind their own business.

*Possible advantages in legalizing prostitution:*

- Funds from taxes which increase the budget;
- Hygiene: regular health checks, condom use etc.;
- Better control over how prostitutes are treated;
- Including the prostitution in the list of trades, which would help them to benefit of insurance, vacation, pension etc.

*Possible disadvantages in legalizing the prostitution:*

- Facilitates money washing;
- May lead to the expansion of drug use;
- Promotes human trafficking;
- The funds obtained could be illegally handled by politicians;
- The proliferation of STD;
- Increases the number of divorces due to weakening family relations;
- Woman's deterioration in society;
- Romania's image will be easily associated with prostitution.

From a legal point of view, we will conclude with the following statement: the legalization of prostitution as activity would involve not only its decriminalization, but also the adoption of necessary legislative framework for this activity by creating a statute of this profession, a regulation on taxing the obtained income, by shaping the organization of the activity of providing sexual services. All these would be necessary in order to have a legal framework in accordance with the international regulations on fighting prostitution, to which Romania is a part. In this context, we mention that by the Decree of the Ministry of National Defence no. 482/1954, Romania ratified the Convention for suppressing human traffic and the exploitation of others' prostitution, approved by UN General Assembly through 317(IV)/1949 resolution and entered into force on 25.06.1951, which requires strict rules concerning the state's monitoring of the activity of providing sexual services if this activity would be legalized. But all these aspects have not been considered yet by the legislator when he decriminalized prostitution in the new draft of the Penal Code, since there was no intention to legalize this activity, but only the non-

sanctioning, from the penal point of view, of persons practicing prostitution, the phenomenon will be sanctioned, especially from a civil and moral point of view.

## 2. SOCIAL DYNAMICS OF PROSTITUTION

The social dynamics of prostitution mean the social analysis of the phenomenon of prostitution, i.e. the delimitation and evolution of this phenomenon in relation to continuous social and legislative changes. Knowing the characteristic features<sup>9</sup> of the prostitution phenomenon is essential for understanding this phenomenon beyond the superficial image that leads to conviction, and for reaching the victim-person of this phenomenon.

The analyzed prostitution phenomenon falls in that dramatic dimension of human trafficking. This clarification is necessary in order to frame the prostitution phenomenon in the context and to distinguish it as an autonomous and free choice – reduced and marginal phenomenon towards the phenomenon of prostitution as exploitation of persons – a phenomenon increasingly ample and extended. In other words, the distinction between prostitution as a job and prostitution as a physical and psychological violence is highlighted.

Prostitution and human trafficking is the subject of social sciences such as sociology, but also pedagogy, psychology, anthropology, philosophy.

Human trafficking involves persons' recruitment, transportation, transfer, housing or receipt by means of threats or force, abduction, deception, fraud, coercion or abuse of power, receiving payments or other benefits in order to control the persons for exploitation<sup>10</sup>. The conditions from human trafficking can be assigned with those ones characterizing slavery.<sup>11</sup>

In general, when speaking of human trafficking, the tendency is to exclusively associate it with the phenomenon of prostitution. Human trafficking is an extensive phenomenon that includes multiple forms of exploitation such as sexual exploitation, human trafficking for organ harvesting, forced labour exploitation, etc. Prostitution can therefore be classified as human trafficking finalized towards sexual exploitation.

A distinction necessary to delineate the phenomenon of prostitution is that between "street" prostitution and prostitution in special places. The prostitution in special places means the prostitution behind the so-called profession recognized and accepted by society such as lap dancers, night clubs "entertainers", hostesses etc.<sup>12</sup>

Prostitution is generally localized on the outskirts of towns or in very poor neighbourhoods. The reason for such location is the illegitimacy of this work; therefore

<sup>9</sup> This article favors an analysis of prostitution in terms of quality, in the detriment of quantitative – statistical analysis, either for the relevance of exposure or for the fact that there are few statistical studies in this field, especially regarding Romania.

<sup>10</sup> L. SPIZZICHINO, *La prostituzione. Il fenomeno e l'intervento psicologico*, Rome, Carocci Publishing House, 2005, p. 91.

<sup>11</sup> In May 19, 2000, with the "Fight against women trafficking" resolution, the European Parliament associates prostitution with slavery.

<sup>12</sup> The final report of the research, *Una mappatura del fenomeno della prostituzione di donne dell'est Europa nella regione del Veneto*, Osservatorio regionale per la sicurezza nel Veneto, Giunta della regione Veneto, 2003;



prostitution takes place in less exposed, less visible areas, to avoid the risks of confrontation with the authorities.

Another aspect that can be seen in the dynamics of prostitution phenomenon is the economic aspect, critical to the evolution of the phenomenon. “Nowadays, the sex industry is a complex of economic activities that produce billions of euros, of which prostitution is one factor along with private clubs, massage centres, erotic phone lines, chat lines, escorts agencies, travel agencies, pornography, forced marriages, wives chosen and ordered by mail.”<sup>13</sup>

Generally, prostitution is viewed by society in a negative way, and the person who “prostitutes” is condemned and marginalized. Bias, indifference, social isolation are the most common social attitudes and most of the times the slightest attempt to understand the phenomenon of prostitution beyond appearance, to “see” the person before judging or condemning, does not exist.

Social indifference towards prostitution phenomenon is determined by the theme’s taboo implemented by the Communist doctrine in the mentality of Romanian society. Ignorance and indifference are often preferred instead of an understanding and supportive attitude. The opposite of indifference is the attitude of looking for sensationalism. In this regard, through media, the phenomenon of prostitution is exaggerated; it only highlights the sensational, the drama.

Morally, prostitution is seen as a sin. In the current social context, the Church is the institution<sup>14</sup> that shows interest in understanding the prostitution phenomenon, seeing the “prostituted” person as a victim and calling for dialogue, understanding the dynamics and interpersonal relations.

The progress of the society is reflected from a certain standpoint in the evolution and changes of prostitution phenomenon, which becomes more complex and harder to classify. “The sex market has no boundaries or nationality when talking about demand or offer and it is moving quickly inside the United States and Europe (...). The places where it can be met are: street (streets of the cities or smaller streets in the villages), parks, pubs, lounges, private clubs and hotels as always; the streets are divided depending on services and people (homosexuals, transsexuals, and foreigners). In the same places there is an hour staggering (first women from the East, then Nigerian ones etc.). The services of women from one country only for their co-nationals or vice versa, women for an hour or for a night, sadistic services, couples exchange, women, but also children, preferably foreigners, sex and tourism, in Brazil, but also in the East, till our coasts, in summer time. Sexual touring sells travel-holidays which, among others, provide young men or women, based on sexual preferences.”<sup>15</sup>

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<sup>13</sup> L. Spizzichino, *La prostituzione. Il fenomeno e l'intervento psicologico*, Rome, Carocci Publishing House, 2005, p. 14;

<sup>14</sup> State’s position towards prostitution phenomenon was presented in the first part of this article with the help of legal aspects;

<sup>15</sup> V. Nozza V., *Introduzione*, in Da Pra Pocchiesa M., L. Grosso, *Prostitute, prostitute, clienti. Che fare?*, Turin, Gruppo Abele Publishing House, 2001, p. 11.

*The causes of the prostitution phenomenon*

Among the causes that promote prostitution we have:

- the unstable economic situation of Eastern Europe countries (in these countries there is the highest rate of prostitution) pushes more people towards migration in searching of a better life<sup>16</sup>;
- Mass migration following the collapse of communism;
- Decrease of cultural and professional level.

The prostitution phenomenon is an organized phenomenon that involves a series of steps. F. Carchedi indicates three stages of the phenomenon of prostitution:

- Recruiting (convincing by promises and deceit; kidnapping).
- Transportation (ways to transfer, move);
- Exercise of prostitution.<sup>17</sup>

Other authors such as D. Opreș and M. Opreș identify seven stages of the prostitution phenomenon: the recruitment, transportation, sale, seizure and exploitation, re-sale, escape, and repatriation.

Prostitution involves a “scene” with different actors: victims, customers, exploiters; a scene where the lines are often difficult to understand or accept. It’s a vicious circle of well-defined roles, with mechanisms of dependence starting from the object person (victim) and ending at the subject person (exploiter).

*Victim’s Profile*

- Woman;
- Minor;
- Poverty and low economic level;
- Illiteracy or poor education;
- Migration to a foreign country without knowing the language and without a job;
- Unwariness and illusion (in the front of promises for a stable job abroad, etc.);
- The victim of blackmail and threats;
- Loneliness (no relatives or friends);
- Large family;
- Social non-integration.

*Client’s Profile*

- Man;
- Relational problems;
- Psychological problems;
- Patriarchal education;
- Good economic situation.

*Exploiter’s Profile (trafficker)*

- Organizations made up of 8-10 people;
- Violence;
- Scam;
- Kidnapping;

<sup>16</sup> Presently, the economic crisis deepens even more the dramatic situation of prostitution phenomenon;

<sup>17</sup> F. Carchedi, *Prostituzione migrante e donne trafficate. Il caso delle donne albanesi, moldave e rumene*, Milan, Franco Angeli Publishing House, 2004, p. 15.

- Own laws and rules;
- Rigid casting;
- Own autonomy.

In the prostitution phenomenon scenario, the victim's family should be evoked, because that family generally feels the consequences of prostitution through threats from the exploiter, or through complicity or non-accepting the victim's situation.

*Violence and suffering*

Street prostitution, tolerance houses prostitution, actually both are cases of violence against the person, obvious or hidden violence.

It is necessary to distinguish between physical and psychological violence, both present in the phenomenon of prostitution. Physical violence is often ignored because it is not easily recognized either by victim or by exploiter. But it must be noted that any physical violence causes mental disorders. "The purpose of violence is to expropriate the trafficking victim by the revenge desire, to maintain autonomy and freedom of thought and movement (...), is to achieve total obedience of the victim towards the employer."<sup>18</sup>

They say prostitution is the oldest job in the world, it is linked to human nature and therefore it is natural. But maybe it is also the oldest form of violence and most profitable way of earning money.

Speaking of the violence of the prostitution phenomenon we come to its effects and, in this context, we insist upon suffering. In this context of prostitution, by suffering we understand both physical suffering as a consequence of the exploiter or client's aggression, and the psychological suffering, that is the traumatic event.

Psychological suffering is "the unpleasant emotional experience of an individual following a painful event."<sup>19</sup> According to this definition, for the victim of prostitution the psychological suffering is the state of stress, emotional shock from the traumatic event of prostitution. Psychological suffering may be a consequence of physical suffering.

The traumatic event involves experiencing the sense of vulnerability to threats, to the mechanisms that are behind the phenomenon of prostitution.

*Preventive aspect*

*Where do these young women come from? Why are they entering the tunnel of prostitution? Why are not they able to come out of this tunnel?* These questions sometimes cross our minds and we probably forget them just as soon. We try to understand, but we fail. We plan to help, but we do not know how.

Given the violence, the suffering arises from the prostitution drama and hence the need for action, attitude, position, therefore the importance of the preventive aspect.

To avoid the devastating effects of the prostitution phenomenon on person, a preventive tool may be the thorough knowledge of prostitution from a social and legal point of view. In this way it is acknowledged the scale and seriousness of this phenomenon, but also the legislative means by which one can fight against it and can prevent it.

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<sup>18</sup> P. Romani, *Il ruolo della criminalità organizzata nel traffico degli esseri umani*, in F. CARCHEDI, *Prostituzione migrante e donne trafficate. Il caso delle donne albanesi, moldave e rumene*, Milan, Franco Angeli Publishing House, 2004, pp. 129-155;

<sup>19</sup> V. Polizzi, *Sofferenza Psicica*, in J. M. Prelezio - Nanni C. - Malizia G., *Dizionario di scienze dell'educazione*, Rome, LAS, 2008;

Sexual education in schools, health education and illiteracy education are real attempts to prevent the prostitution phenomenon. So the school can become the institution that promotes knowledge with the purpose of prevention.

In front of the prostitution phenomenon which is more ample and diversified flexible interventions for each person, networking, collaboration, joining forces and resources are needed.<sup>20</sup> It is necessary and useful to have units for receiving, counselling or healing the people in the prostitution's circle and especially for those who want to get out of this circle and out of traffic. In fact, it is about alternatives and prospects for people who need a present and a future different from the one they have now.

October 18 is the European day against human trafficking. This initiative of the European Commission from 2007 is another preventive way to sensitize the population towards understanding the prostitution phenomenon, towards fighting against violating human rights and freedoms.

### 3. CONCLUSION

In the end we can say that despite the numerous legislative measures that start from harsh punishment to complete legalization of the phenomenon, despite the different social positions that oscillate between the conviction, compassion and ignorance, the prostitution is, in many ways, an unknown land. It requires a change in the mentality of society, social action against exploitation, sensitivity to see the whole dynamic of the prostitution phenomenon and not just the "prostitute." As Susan Sontag said, it is not enough to change discriminatory laws affecting women, we have to change the forms of employment, sexual habits, the idea of family life and even the language".<sup>21</sup>

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