

External contribution: Experiences of exploitation for forced begging in Belgium and Romania

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In January 2016, Europol reported that 10,000 unaccompanied foreign minors have gone missing and may be at increased risk of being trafficked for the purposes of sexual exploitation and labour exploitation.¹⁸⁰ Increasingly concerns have been raised regarding the exploitation of children; in particular, human trafficking for forced criminality and human trafficking for forced begging.¹⁸¹ The latter, human trafficking for forced begging constitutes 1.5% of globally trafficked persons,¹⁸² and is the most cited when determining the number of persons trafficked for “other purposes.”¹⁸³ From a legal perspective, there are varying approaches to the inclusion of forced begging as an explicit form of exploitation and a number of legal principles to contend with, including the non-prosecution of victims of human trafficking. From a sociological point of view, forced begging is the social process describing trafficking in general, involving different actors, stages, roles and norms, governed by the same economical incentive “low risk-high profit”.

Human trafficking is generated and supported by a plethora of factors, including social

exclusion, poverty, discrimination and lack of alternatives, which are particularly cited when it comes to forced begging. In addition to the vulnerability of children, Roma adults and children and adults with a physical disability are also particularly vulnerable to forced begging because they are perceived as capable of earning more money.¹⁸⁴ Older people and people with a mental disability are also at risk to forced begging due to their limited capacity to react to the threats¹⁸⁵ and abuses of the traffickers, perceived by the traffickers as “tools”, easy to be manipulated.

In Europe, human trafficking for forced begging is an increasing trend.¹⁸⁶ Clear barriers exist to interrupting this form of exploitation, primarily based upon the domestic legal approach to begging. For instance, from the perspective of the trafficker the non-criminalisation of begging, in the absence of force, reduces the risk of apprehension. Similarly, law enforcement agencies will need to adapt victim

¹⁸⁰ <http://www.theguardian.com/world/2016/jan/30/fears-for-missing-child-refugees> [accessed 8 February 2016];

¹⁸¹ http://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/child_trafficking_for_exploitation_in_forced_criminal_activities.pdf [accessed 8 February 2016].

¹⁸² Global Report on Trafficking in Persons (2014), p. 62, https://www.unodc.org/documents/data-and-analysis/glotip/GLOTIP_2014_full_report.pdf [accessed 23 March 2016].

¹⁸³ *Ibid.*, p. 37.

¹⁸⁴ European Roma Rights Centre and People in Need, “Breaking The Silence. Trafficking in Romani Communities”, p. 71, <http://www.errc.org/cms/upload/file/breaking-the-silence-19-march-2011.pdf> [accessed 23 March 2016].

¹⁸⁵ National Agency against Trafficking in Persons, (2013) Trafficking in persons for begging-Romania study, pp 31-33, available at: http://www.anitp.mai.gov.ro/ro/docs/Proiecte/PIP/Studiu_cesetorie_PIP_engleza_B5_17.12.2013.pdf [accessed 23 March 2016]

¹⁸⁶ Vassiliadou, M., ‘Current trends and policies in trafficking in human beings in the European Union’ *Migration Policy Practice*, Vol II, Number 3, June-July 2012, p.4, http://publications.iom.int/system/files/pdf/migrationpolicypracticejournal_10july2012.pdf [accessed 23 March 2016].

identification methods in light of a domestic legal framework that does not criminalise begging. Furthermore, when it comes to forced begging of children, traffickers consider this particular form of trafficking to be high-profit and low-risk as children below the age of criminal responsibility cannot be prosecuted (18 years old in Belgium and 14 in Romania¹⁸⁷).

Research in Romania: The majority of victims (81%) were trafficked outside of the country. There is also often a higher living standard outside of Romania which increases profits and finally, because of the newness of this type of trafficking, authorities are unaware and have not yet developed strategies to combat it.¹⁸⁸

This contribution will consider human trafficking for forced begging, by considering the legal approaches in two EU Member States, Belgium (a country of destination) and Romania (a country of destination and country of origin), bearing in mind the observed criminal trends in terms of victims' profile and exploitation.

1. Legal approach to human trafficking for forced begging

Internationally, the Palermo Protocol does not include forced begging in the enumeration of types of exploitation under the definition of trafficking in human beings. A similar approach is adopted by the Council of Europe Convention on Action against Trafficking in Human Beings (2000), which mirrors the Palermo Protocol and does not explicitly include forced begging as a type of

exploitation. However, both instruments stress that the types of exploitation are not exhaustive and constitute "a minimum." It has been recognised that the definition has been expanded to include forms not included in original definition, including forced begging.

This broader approach was adopted in the EU Human Trafficking Directive 2011/36/EU, which extends the enumerated forms of exploitation to begging and the exploitation of criminal activities.¹⁸⁹ The Directive's Preamble states that forced begging should be understood as a form of forced labour or services as a form of forced labour or services as defined in the 1930 ILO Forced Labour Convention. Therefore, the exploitation of begging, including the use of a trafficked dependent person for begging, falls within the scope of the definition of trafficking in human beings only when all the elements of forced labour or services occur.¹⁹⁰ However, it is important to note that a child can be a victim of trafficking even in cases where no means of force or coercion have been used against the child.¹⁹¹

When considering the best approach to dealing with human trafficking for forced begging, it is important to take into account the difficulty in practically distinguishing between exploitation of voluntary begging and trafficking in persons with the purpose of exploitation through forced begging, as the situations are somewhat similar. This difficulty could impact upon the ability to make a proper identification of, and assistance to, the

¹⁸⁷ According to the Romanian Criminal Code the minor's legal responsibility starts at 14 years old, but it is taking into consideration the free consent to the crime till the age of 18.

¹⁸⁸ Swiss-Romanian Cooperation Programme, Trafficking in persons for begging – Romania study, 2013, p. 15 & p. 62, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_persons_for_begging_-_romania_study_0.pdf [accessed 23 March 2016].

¹⁸⁹ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA, Article 1(3).

¹⁹⁰ Ibid., Preamble, para. 11.

¹⁹¹ Ibid., Article 2(5); Council of the Baltic Sea States (CBSS), 2013, Children trafficked for exploitation in begging and criminality: A challenge for law enforcement and child protection, p.13-14, p. 16, http://www.childcentre.info/public/Childtrafficking_begging_crime.pdf [accessed 23 March 2016]

victims of trafficking.¹⁹² In particular, despite the distinction between forced begging and criminal activities, it is important to note that some victims of forced begging are often exploited for criminal activities such as petty theft, shoplifting, pickpocketing, as well as in some instances forced prostitution.¹⁹³

This latter point must be taken into account when developing anti-trafficking safeguards, including the non-prosecution of victims of human trafficking.¹⁹⁴ The close connection between forced begging and other criminal activities means that Member States must tackle exploitation for begging from a human rights approach so as to distinguish victims from criminals.¹⁹⁵ Research conducted by Anti-Slavery International noted ‘that victims are not being identified as such and are instead being treated as criminals, this discrepancy was noted, not only in instances of human trafficking for forced begging, but also for trafficking for forced criminal activities.’¹⁹⁶

The full implementation of this principle at national level is of great importance, as it is recognised that secondary victimisation not only breaches rights as victims of a crime, but also denies victims of their rights to support and assistance.¹⁹⁷ Furthermore, the non-recognition of such coercion not only facilitates the low risk and high profit paradigm, but also means that trafficked persons are less likely to cooperate with law enforcement, hampering effective prosecution.¹⁹⁸

2. Forced begging in Belgium

In Belgium, begging was decriminalised in the Law of 12 January 1993, abolishing the Law of 27 November 1891 which criminalised vagrancy and begging.¹⁹⁹ Begging in public places including with children is no longer punishable.²⁰⁰ Trafficking in human beings for the purpose of exploitation of forced begging is criminalised, as detailed in Article 433 quinquies, paragraph 1, of the Criminal Code, which was amended by the Law of 29 April 2013.²⁰¹

In the past, Belgium authorities has been criticised for not adequately dealing with trafficking for the purpose of exploitation of begging, and in particular, with regard to minors.²⁰²

¹⁹² Kirchofer.C.P., (2010). Organized Begging in Vienna: Austria, Right-Wing Propaganda, Benevolent Necessity, Illicit Business, Human Smuggling or Human Trafficking. Vienna: Webster University. Cited in Swiss-Romanian Cooperation Programme, Trafficking in persons for begging – Romania study, 2013, p. 12, https://ec.europa.eu/anti-trafficking/publications/trafficking-persons-begging-%E2%80%93-romania-study-0_en [accessed 23 March 2016].

¹⁹³ Ibid., p. 54.

¹⁹⁴ Article 26, Council of Europe Convention on Action against Trafficking in Human Beings, 2000; Article 8, EU Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

¹⁹⁵ Office of the Special Representative and Coordinator for Combating Trafficking in Human Beings (2013) Policy and legislative recommendations towards the effective implementation of the non-punishment provision with regard to victims of trafficking’ <http://www.osce.org/secretariat/101002?download=true> [accessed 23 March 2016]; Swiss-Romanian Cooperation Programme, Trafficking in persons for begging – Romania study, 2013, p. 7, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_persons_for_begging_-_romania_study_0.pdf [accessed 8 February 2016].

¹⁹⁶ Anti-slavery International, Trafficking for Forced Criminal Activities and Begging in Europe Exploratory Study and Good Practice Examples, 2014, p.5.

¹⁹⁷ Ibid., p.76.

¹⁹⁸ Ibid.

¹⁹⁹ http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&cn=1993011234&table_name=loi

²⁰⁰ Brussels Court of Appeal, (14e chambre) du 26 mai 2010; Question écrite n° 5-7147 de [André du Bus de Warnaffe](#) (cdH) du 9 octobre 2012 à la ministre de la Justice, http://senate.be/www/?Mlval=/index_senate&LANG=fr.

²⁰¹ http://www.ejustice.just.fgov.be/cgi_loi/change_lg.pl?language=fr&la=F&table_name=loi&cn=2013042915

²⁰² GRETA(2013)14 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium First evaluation round, paras 71-72, https://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_14_FGR_BEL_with_comments_en.pdf [accessed 23 March 2016]; FRA, Social Thematic Study The situation of Roma 2012, p.10, <http://fra.europa.eu/sites/default/files/situation-of-roma-2013-revised-be.pdf>.

The low identification of child victims has been attributed to specific structural issues, including the lack of capacity for receiving unaccompanied minors and inappropriate accommodation facilities leading to an increased risk of children absconding and falling into the hands of traffickers.²⁰³ Whilst acknowledging that unaccompanied minors children can go missing for reasons not connected to human trafficking, it is important to note that i) a quarter of unaccompanied children disappear within the first 48 hours²⁰⁴ and ii) a high proportion of child victims of trafficking who subsequently go missing from the accommodation in which they have been placed.²⁰⁵ Despite this high-risk of flight, Belgium has a fixed 'no action' period before the start of local police investigations for missing unaccompanied migrant minors, who may or may not have fallen into the hands of traffickers.²⁰⁶ Furthermore, the disappearance of an unaccompanied migrant minor from the "observation and research centre" is only reported to the police when it is considered alarming.²⁰⁷

The National Action Plan 2015-2018 recognises that despite the criminalisation of human trafficking for the purposes of forced begging, it is necessary to take further action to ensure that this form of exploitation is tackled. As such, a new Directive on the investigation and prosecution of human trafficking for forced begging will be adopted

in 2016.²⁰⁸ It will be important that the Directive recognises the need to protect victims of forced begging by focusing upon non-punishment and ensuring that social support is provided to the individuals whose vulnerability has been increased by lack of access to social protection.²⁰⁹ The need to prioritise awareness raising and training of professionals involved in children protection will assist in the improved detection and identification of child victims.²¹⁰

Despite the focus the exploitation of minors for forced begging, the majority of children begging in Belgium are accompanied by their parents or extended family members, from central and eastern Europe with a Roma background.²¹¹ Whilst noting, begging is not inherent to the Roma culture, it is often a consequence of the social exclusion and poverty they face,²¹² which are two of the risk factors that increase the vulnerability of children, as well as discrimination and lack of

²⁰³ GRETA(2013)14 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium First evaluation round, para. 134, https://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_14_FGR_BEL_with_comments_en.pdf [accessed 23 March 2016].

²⁰⁴ Terre des Hommes, Disappearing, departing, running away A surfeit of children in Europe?, 2010, p. 32.

²⁰⁵ Anti-slavery International, Trafficking for Forced Criminal Activities and Begging in Europe Exploratory Study and Good Practice Examples, 2014, p.32.

²⁰⁶ European Commission, Missing children in the European Union Mapping, data collection and statistics, 2013, p. 21.

²⁰⁷ Ibid., p. 16.

²⁰⁸ Belgian national action plan 2015-2018, p.14, http://www.dsb-spc.be/doc/pdf/ACTIEPLAN_MH_2015_2019-FRpr%2013072015.pdf [accessed 25 April 2016].

²⁰⁹ Coordination des ONG pour les droits d'enfants, Mendicité avec enfants : l'arsenal législatif est suffisant mais un renforcement des droits des enfants roms s'impose, Analyse Juillet 2013, p.3, & p. 5, http://www.lacode.be/IMG/pdf/Analyse_CODE_mendicite_juillet_2013.pdf [accessed 23 March 2016].

²¹⁰ GRETA(2013)14 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Belgium First evaluation round, para. 134, https://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_14_FGR_BEL_with_comments_en.pdf [accessed 23 March 2016]; Van Houcke, F., Recherche d'une réponse sociale à la mendicité des mineurs, Jeunesse et Droit, JDJ n°245 - mai 2005, p.12, http://www.jeunesseetdroit.be/jdj/documents/docs/Mendicite_mineurs_idjb245.pdf [accessed 23 March 2016].

²¹¹ Coordination des ONG pour les droits d'enfants, Mendicité avec enfants : l'arsenal législatif est suffisant mais un renforcement des droits des enfants roms s'impose, Analyse Juillet 2013, p.2, http://www.lacode.be/IMG/pdf/Analyse_CODE_mendicite_juillet_2013.pdf [accessed 23 March 2016].

²¹² Van Houcke, F., Recherche d'une réponse sociale à la mendicité des mineurs, Jeunesse et Droit, JDJ n°245 - mai 2005, p.5, http://www.jeunesseetdroit.be/jdj/documents/docs/Mendicite_mineurs_idjb245.pdf [accessed 23 March 2016].

social protection.²¹³ An additional factor, particularly experienced by Bulgarian or Romanian nationals, has been the restrictions in access to the labour market.²¹⁴ Further, other categories of victims must also be captured by anti-trafficking measures, including the forced begging of persons with disabilities.²¹⁵

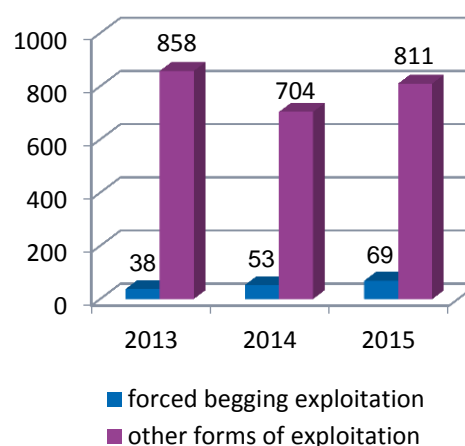
3. Forced begging in Romania

Romania formally criminalised human trafficking for forced begging in 2010. Despite a decrease in recorded number of victims for forced begging since the peak in 2007, when the Romanian authorities identified 146 Romanian victims trafficked in internally or in other countries,²¹⁶ it is still important to maintain forced begging as a form of exploitation for trafficking on the public and institutional agenda. Also, in 2014, changes in the Criminal Law, proscribed several variations of this crime as: 1) “exploitation of begging”-the act to determine a child or a person with a disability to beg is sentenced with maximum 3 years or a fine and 2) “the use of a minor for begging purpose”- the act of an adult to repeatedly ask material help from the public, in this purpose using a minor is sentenced with maximum 2 years or a fine.

Forced begging is the third form of exploitation encountered, among the identified victims per year, by Romanian authorities, with a share of 6.45% for the years 2009-2013²¹⁷ and a share of 6.31% for the years 2013-2015²¹⁸

Despite the global observation that forced begging especially impacts children,²¹⁹ in Romania, minors and adults are equally victimized for forced begging, minors being trafficked usually together with their parents while some adults present particular vulnerability (low level of education and/or disability). A correlation between the presence of a disability and exploitation through begging among the Romanian identified victims in 2015 has been observed.

Graphic regarding the victims identified in the period 2013-2015²²⁰



²¹³ Coordination des ONG pour les droits d'enfants, Mendicité avec enfants : l'arsenal législatif est suffisant mais un renforcement des droits des enfants roms s'impose, Analyse Juillet 2013, p.3, http://www.lacode.be/IMG/pdf/Analyse_CODE_mendicite_juillet_2013.pdf [accessed 23 March 2016].

²¹⁴ Coordination des ONG pour les droits d'enfants, Mendicité avec enfants : l'arsenal législatif est suffisant mais un renforcement des droits des enfants roms s'impose, Analyse Juillet 2013, p.3, http://www.lacode.be/IMG/pdf/Analyse_CODE_mendicite_juillet_2013.pdf [accessed 23 March 2016].; FRA, Social Thematic Study The situation of Roma 2012, p.4 & p. 19, <http://fra.europa.eu/sites/default/files/situation-of-roma-2013-revised-be.pdf> [accessed 23 March 2016].

²¹⁵ MYRIA, Federal Migration Centre, Annual report 2015 Trafficking and smuggling of human beings Tightening the links, p.124.

²¹⁶ National Agency against Trafficking in Persons, 2008, Annual Report regarding Trafficking in Persons in Romania in 2007.

²¹⁷ Constantinou et al, (2015), Report on the relevant aspects of the trafficking act (geographical routes and modus operandi) and on its possible evolutions in response to law enforcement, Trafficking as a Criminal Enterprise Project, p. 19, http://trace-project.eu/wp-content/uploads/2015/03/TRACE-D2.1_FINAL.pdf [accessed 23 March 2016].

²¹⁸ Data from the National Integrated System for Evaluation of Victims in Romania, system administered by Romanian National Agency against Trafficking in Persons.

²¹⁹ Global Report on Trafficking in Persons (2014), p. 37.

²²⁰ Source of data: National Agency against Trafficking in Persons-National Integrated System for Monitoring and Evaluation of Victims of Trafficking, Romania.

Victims older than 61 years old have also been identified in trafficking for forced begging or labour exploitation²²¹. Older adults are also particularly vulnerable due to their special medical needs (medicines, therapies²²²) social needs (lack of social support network, loss of life partner²²³) they find themselves provided with an “opportunity” of making money or even benefiting from medical assistance for their health specific problems.

At the same time, the risk of re-trafficking is higher for forced begging in comparison with other forms of exploitation, reaching 8%²²⁴. According to the Romanian study on begging, this situation is due to multiple factors, conditions and/or situations like, among others, lack of real or viable alternative to begging (due to socio-economic background) which seems to be perpetuating from a generation to another and a failure or limitation of the authorities to properly address the victims’ support and protection needs²²⁵.



Romania has addressed anti-trafficking actions for this particular type of trafficking by amending the anti-trafficking Law and through specific raising awareness national campaigns. As an example, one campaign developed in 2015, “Do not beg ask for help” developed by

the ANITP with other partners has aimed at raising awareness of forced begging, to identify vulnerable persons and to find the appropriate measures to reduce this phenomenon. The campaign visibility message was “The *begging hand receives no help, but is collecting money for traffickers*”²²⁶

Anti-trafficking public policy has constantly acknowledged the specific vulnerability of children and persons with disability toward forced begging, encouraging general and specific actions to reduce the condition of vulnerability including: anti-poverty actions in small socio-economically disadvantaged communities, specific assistance and protection for children in need, and measures to prevent the school dropout.

4. Conclusion

In light of the current refugee crisis experienced by Europe, it must be acknowledged that the vulnerability of minors who are exploited for forced begging and unaccompanied foreign minors is extremely high. Therefore, it is important for child protection systems and integration programme to take into account the high risk of absconding and re-entering exploitative situations.²²⁷ Preventing re-trafficking will require addressing deficiencies in the current system, such as lack of adequate accommodation and secure facilities and developing commonly agreed safety and protection standards for the placement of children who are suspected or known to be

²²¹ Constantinou et al, (2015), Report on the relevant aspects of the trafficking act (geographical routes and modus operandi) and on its possible evolutions in response to law enforcement, Trafficking as a Criminal Enterprise Project, p. 29, http://trace-project.eu/wp-content/uploads/2015/03/TRACE-D2.1_FINAL.pdf [accessed 23 March 2016].

²²² National Agency against Trafficking in Persons, (2013) Trafficking in persons for begging-Romania study, pp 31-33, available at: http://www.anitp.mai.gov.ro/ro/docs/Proiecte/PIP/Studiu_cerșetorie_PIP_engleza_B5_17.12.2013.pdf [accessed 23 March 2016].

²²³ Ibid.

²²⁴ Ibid, p.71.

²²⁵ Ibid., p. 71.

²²⁶ More information about the campaign, available in Romanian at: <http://www.anitp.mai.gov.ro/programs/cere-ajutor-nu-cersi/>

²²⁷ Swiss-Romanian Cooperation Programme, Trafficking in persons for begging – Romania study, 2013, p. 61-62 & p. 72, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_persons_for_begging_-_romania_study_0.pdf [accessed 23 March 2016].

trafficked.²²⁸

Equally, it is important to ensure that anti-trafficking measures take into account the vulnerability of other categories, including adults, older persons, and persons with disabilities. In this regard, it will be important to share knowledge between countries with more experience of tackling forced begging and countries now beginning to address the issue. This approach could guide a proper and rapid reaction to this new form of exploitation, implementing measures based on lessons learned.

Furthermore, it is important to raise awareness of human trafficking for forced begging,²²⁹ as victims very often do not identify themselves as such, as they do not realise that their situation amounts to trafficking.²³⁰ Despite the application of general measures for discouraging, preventing, and combating trafficking as a whole to the case of forced begging, it is important that specific actions are undertaken to reduce this phenomenon. Given the low level of self-recognition of victims' status, outreach activities should focus on identification of forced begging in public areas where the specialists could distinguish between situations of and forced begging in order to i) help the victims to identify themselves as such and ii) access programmes aimed at assisting their social and legal recovery. Also, the role of the general public is of vital importance, awareness raising campaigns should inform the public that offering money to beggars may lead to

secondary victimisation as it reinforces dependence on the act.

Finally, when determining the best legal and policy framework to combat forced begging, it is important to note that the non-criminalisation of begging could potentially act in the favour of traffickers, who adapt their approach according to legal and policy loopholes.²³¹ Therefore, law enforcement agencies and social services, through increased training and awareness raising, will need to adopt strategies that recognise those who are potentially being exploited into forced begging, and those who are, due to a poor socio-economic position, begging for survival.

²²⁸ Anti-slavery International, *Trafficking for Forced Criminal Activities and Begging in Europe Exploratory Study and Good Practice Examples*, 2014, p.32.

²²⁹ Swiss-Romanian Cooperation Programme, *Trafficking in persons for begging – Romania study*, 2013, p. 76, https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/trafficking_in_persons_for_begging_-_romania_study_0.pdf [accessed 23 March 2016]

²³⁰ Anti-slavery International, *Trafficking for Forced Criminal Activities and Begging in Europe Exploratory Study and Good Practice Examples*, 2014, p.58.

²³¹ *Ibid.*, p.8.