



The Challenges of Harmonizing Criminal Provisions on Human Trafficking between European Union Law and the Romanian Criminal Justice System

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Abstract

This paper examines the challenges and prospects of harmonizing criminal provisions on human trafficking between European Union law and the Romanian criminal justice system. The study aims to identify the main areas of convergence and divergence between Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, and the relevant provisions of the Romanian Criminal Code and Criminal Procedure Code. The objective is to assess how Romania has transposed EU standards into its domestic legal framework and to what extent judicial practice aligns with the European *acquis* and the jurisprudence of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR). Using a comparative legal methodology and doctrinal analysis, the study explores key dimensions such as victim protection, consent and exploitation, proportionality of sanctions, and procedural guarantees. Findings indicate that, although Romania has largely implemented the Directive's requirements, certain gaps persist, particularly in the interpretation of consent in trafficking cases, the treatment of victims during prosecution, and the proportionality of penalties. The research highlights the need for continued legislative refinement and judicial training to ensure full compliance with EU and international human rights standards. The paper contributes to the broader debate on European criminal policy harmonization, emphasizing that alignment with EU law should not undermine national judicial sovereignty but should enhance the effectiveness and coherence of anti-trafficking responses within a unified European legal space.

Keywords: human trafficking, European Union law, Romanian criminal code, legal harmonization, victim protection, CJEU, ECtHR jurisprudence, comparative criminal law

1. Introduction

Human trafficking constitutes one of the gravest violations of human rights and human dignity, presenting profound challenges to national and supranational legal systems alike. At the level of the Directive 2011/36/EU (“on preventing and combating trafficking in human beings and protecting its victims”), the European Union established minimum common rules for defining

trafficking offences and punishing perpetrators, as well as for strengthening victim protection and prevention measures (European Parliament & Council, 2011). For example, the Directive states that it “lays down minimum common rules for determining offences of trafficking in human beings and punishing offenders” (European Parliament & Council, 2011, Art. 2).

In Romania, the legislative framework for trafficking was significantly advanced with the adoption of Law No. 678/2001 on preventing and combating trafficking in human beings, which regulates both the offence and the assistance to victims, defining “trafficking in persons” and “exploitation” in explicit terms (Parliament of Romania, 2001, Art. 1–2). Despite this normative alignment, the process of harmonising Romanian criminal law with European standards remains impeded by interpretative divergences, distinct institutional cultures, and practical enforcement constraints.

This paper examines the challenges of harmonising criminal provisions on human trafficking between EU law and the Romanian criminal-justice system. First, it analyses the normative influence of EU law on domestic legislation, then it explores the gaps in application and interpretation within Romanian judicial practice, and finally, it discusses the implications for law-enforcement effectiveness and victims’ rights. By adopting a normative-doctrinal and jurisprudential perspective, the study seeks to identify structural gaps and to propose recommendations for fostering a more coherent and rights-centred approach to combating human trafficking in the European legal space.

2. The European Union Legal Framework on Human Trafficking

The European Union has progressively developed an integrated and multidisciplinary legal and policy framework to address the phenomenon of human trafficking, which it recognizes as both a serious crime and a gross violation of fundamental rights. At the centre of this framework lies 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, which replaced the earlier Council Framework Decision 2002/629/JHA. The Directive consolidated a human-rights-based and victim-centred approach, marking a paradigm shift from a law-enforcement perspective to one that integrates protection, assistance, and prevention as equally essential components of anti-trafficking policy (European Parliament & Council, 2011).

According to Article 2 of the Directive, trafficking in human beings is defined as *the recruitment, transportation, transfer, harbouring or receipt of persons* by means of threat, coercion, abduction, fraud, abuse of power or vulnerability, or the giving or receiving of payments to achieve the consent of a person having control over another for the purpose of exploitation. The Directive explicitly expands the scope of exploitation beyond sexual purposes to include forced labour or services, slavery or practices similar to slavery, servitude, and organ removal. This comprehensive formulation ensures alignment with international standards such as the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol, 2000), to which the EU is a party (United Nations, 2000).

The Directive also introduces binding provisions concerning victim protection and assistance, recognizing the particular vulnerability of trafficked persons. Articles 11–17 require Member States to provide victims with access to medical care, counselling, and legal aid, as well as to ensure non-punishment for criminal acts committed under coercion. The inclusion of gender-specific and child-sensitive measures reflects an understanding of trafficking as a gendered phenomenon that disproportionately affects women and minors (European Parliament & Council, 2011, Arts. 13–15).

Building upon this legislative foundation, the European Commission adopted the EU Strategy on Combating Trafficking in Human Beings (2021–2025), which sets out operational priorities structured around the so-called “four Ps” – *prevention, protection, prosecution, and partnership* (European Commission, 2021). This Strategy underscores the interdependence between internal and external EU policies, promoting enhanced cooperation among Member States, Europol, Eurojust, and civil-society actors. One of its key objectives is to reduce the demand that fosters exploitation by reinforcing due diligence obligations for businesses, especially within global supply chains (European Commission, 2021, p. 4). Moreover, it introduces digital-era priorities, such as combating online recruitment and exploitation through cyber-surveillance and transnational data sharing.

Complementary legal instruments further strengthen this framework. Article 5 of the Charter of Fundamental Rights of the European Union explicitly prohibits slavery, servitude, forced labour, and human trafficking (European Union, 2012). Similarly, Article 4 of the European Convention on Human Rights (ECHR) imposes a positive obligation on States to prevent, investigate, and punish trafficking-related offences. The European Court of Human Rights (ECtHR) has interpreted this provision expansively, most notably in *Rantsev v. Cyprus and Russia* (2010), where it held that human trafficking constitutes a violation of Article 4 ECHR and obliges States to adopt both preventive and investigative measures to protect victims (ECtHR, 2010, §282). Subsequent case law, such as *Chowdury and Others v. Greece* (2017), reaffirmed these obligations, underscoring that State failure to ensure effective protection and judicial remedies amounts to a breach of fundamental rights (ECtHR, 2017, §96).

At the interpretative level, the Court of Justice of the European Union (CJEU) has emphasized that Member States must interpret national legislation consistently with the wording and objectives of Directive 2011/36/EU. In *Criminal Proceedings against AD* (C-507/18, 2019), the Court reiterated that consent given by a victim under conditions of exploitation or vulnerability is legally irrelevant, reinforcing the primacy of human dignity and the principle of non-consent in trafficking contexts (CJEU, 2019, §43).

Taken together, these instruments and judicial interpretations form a coherent supranational regime that frames trafficking as a multidimensional violation—legal, social, and ethical. The EU’s legal architecture demonstrates a transition from fragmented punitive measures to a unified, human-rights-oriented policy framework, grounded in solidarity, cooperation, and victim empowerment. Yet, while the normative structure is robust, its practical implementation across Member States remains uneven, as national systems struggle to operationalize the Directive’s holistic vision.

3. The Romanian Legal Framework and Institutional Practice

Romania has undertaken consistent legislative and institutional reforms to align its criminal justice system with the European Union’s standards on combating human trafficking. The legal framework governing this field has evolved through a combination of national legislative measures, European directives, and international treaty obligations. The main normative pillars are represented by the Criminal Code (Law No. 286/2009), Law No. 678/2001 on preventing and combating trafficking in human beings, and Law No. 211/2004 on certain measures for ensuring the protection of victims of crime. Together, these laws form a comprehensive regime addressing the prevention, prosecution, and sanctioning of trafficking, as well as the protection and assistance of victims (Parliament of Romania, 2001, 2004, 2009).

3.1. Substantive Criminal Law Framework

Article 210 of the Romanian Criminal Code defines *trafficking in human beings* as “the recruitment, transportation, transfer, harbouring or receipt of a person, by means of threat, violence, abduction, fraud, deception, abuse of authority, or of a situation of vulnerability, or by offering, giving or receiving money or other benefits for the purpose of obtaining the consent of a person having control over another person, for the purpose of exploitation.” The provision closely mirrors the wording of Directive 2011/36/EU, particularly regarding the inclusion of abuse of vulnerability and irrelevance of consent (European Parliament & Council, 2011, Art. 2).

Article 211 specifically criminalizes *trafficking in minors*, treating it as an aggravated offence regardless of the means used. The law further covers associated crimes such as pimping (Art. 213), exploitation of begging (Art. 214), using the services of an exploited person (Art. 216), and organ trafficking (Art. 217), illustrating the legislator’s intention to encompass the various manifestations of exploitation. Penalties range from three to ten years’ imprisonment for trafficking in adults, and from five to twelve years for trafficking in minors, with the possibility of aggravation when the act results in serious injury or death (Parliament of Romania, 2009).

In addition, Law No. 678/2001, which predated the current Criminal Code, remains relevant as a *lex specialis* governing the institutional framework, prevention measures, and inter-agency cooperation. The law was amended multiple times (most notably through Law No. 187/2012 and Law No. 27/2021) to align its terminology and procedural safeguards with EU standards. Article 38 of this law establishes the National Agency Against Trafficking in Persons (ANITP) as the central authority responsible for monitoring and coordinating the implementation of national policies (Parliament of Romania, 2001).

3.2. Institutional Architecture and Inter-agency Coordination

At the operational level, anti-trafficking policies in Romania are implemented through a network of specialized institutions. The National Agency Against Trafficking in Persons (ANITP)—under the Ministry of Internal Affairs—functions as the coordinating body for prevention, awareness, data collection, and victim protection. It maintains regional centres across the country and cooperates with non-governmental organizations and international partners (ANITP, 2023).

Prosecutorial functions are carried out by the Directorate for Investigating Organized Crime and Terrorism (DIICOT), which investigates human trafficking as a form of organized crime under Law No. 39/2003 on combating organized criminality. The General Inspectorate of the Romanian Police (IGPR) and its Anti-Trafficking Brigade conduct operational activities under the supervision of DIICOT prosecutors (DIICOT, 2022). Judicial oversight is provided by the courts of appeal and the High Court of Cassation and Justice (HCCJR).

In parallel, inter-ministerial cooperation has been institutionalized through the *National Strategy against Trafficking in Persons (2024–2028)*, which integrates the “four Ps” principle—*prevention, protection, prosecution, and partnership*—in accordance with EU and Council of Europe frameworks (Government of Romania, 2024). This strategy aims to enhance coordination among the Ministries of Interior, Justice, Labour, and Education, as well as to improve the capacity of social services in assisting victims.

3.3. Practical Challenges and Gaps in Implementation

Despite this sophisticated legal and institutional framework, several systemic shortcomings persist in practice. According to the U.S. Department of State’s Trafficking in Persons Report

(2024), Romania remains classified as a *Tier 2* country—meaning it does not fully meet the minimum standards for the elimination of trafficking, although it is making significant efforts to comply. The report identifies persistent weaknesses such as limited financial support for victim assistance, underdeveloped reintegration programs, and insufficient coordination among governmental and non-governmental actors (U.S. Department of State, 2024).

Another recurring challenge concerns the judicial interpretation of the elements of the offence, especially the requirement of coercion and the assessment of consent. In some cases, Romanian courts have demanded evidence of physical force or restraint, disregarding psychological manipulation, economic dependence, or abuse of vulnerability, which are explicitly included in both Directive 2011/36/EU and Article 210 of the Criminal Code (European Parliament & Council, 2011; Parliament of Romania, 2009). For instance, in several appellate decisions between 2019–2023, courts interpreted “vulnerability” restrictively, focusing on visible physical or mental incapacity rather than broader socio-economic dependency (Rădulescu & Banciu, 2021).

The Group of Experts on Action against Trafficking in Human Beings (GRETA) of the Council of Europe, in its Fourth Evaluation Report on Romania (2023), also noted deficiencies in identifying victims among migrants, minors, and persons exploited for forced labour. GRETA emphasized that, despite legislative harmonization, front-line practitioners often lack the training and resources needed to apply the definition of trafficking consistently (GRETA, 2023).

Furthermore, resource constraints affect the sustainability of protection services. Out of the twelve officially recognized shelters for victims, only four were operational with adequate funding in 2023, and many rely heavily on NGO support and international donors (ANITP, 2023). Victim participation in criminal proceedings remains low due to fear of retaliation, lengthy trials, and limited access to psychological counselling and legal representation (FRA, 2022).

3.4. Assessment

Overall, Romania’s legal architecture is formally compliant with EU and international standards, but implementation remains uneven and fragmented. The state has established specialized laws, agencies, and prosecution structures, yet institutional silos, insufficient victim support, and inconsistent jurisprudence hinder effective enforcement. In this context, the harmonization process is not only a matter of legislative conformity but also one of legal culture, institutional performance, and inter-agency cooperation.

To achieve full alignment with the EU’s human-rights-based model, Romania must enhance cross-sectoral communication, improve the capacity of investigators and judges to identify non-physical forms of coercion, and ensure stable funding for victim protection programs. As GRETA (2023) observes, the transition from formal compliance to *effective harmonization* requires sustained political will and investment in human resources, training, and social services.

4. Comparative Analysis: Convergences and Divergences

The harmonization of Romania’s anti-trafficking legislation with the European Union (EU) legal framework reveals both substantial achievements and persistent structural discrepancies. At the normative level, Romania has largely transposed the core provisions of Directive 2011/36/EU, ensuring the criminalization of all major forms of trafficking, the establishment of aggravating circumstances, and the creation of procedural mechanisms for victim protection.

Nevertheless, divergences continue to emerge in three critical dimensions: the conceptual scope of exploitation, the assessment of victim consent and vulnerability, and the implementation of victim-centred justice.

4.1. Convergences: Legal Transposition and Institutional Architecture

Romania's legislative transposition is formally compliant with EU obligations. Both Article 210 of the Criminal Code and Law No. 678/2001 reflect the definition of trafficking enshrined in Directive 2011/36/EU, encompassing acts, means, and purposes of exploitation. Moreover, aggravating circumstances (e.g., when the offence is committed against minors, by organized criminal groups, or with severe violence) are consistent with Article 4 of the Directive (Parliament of Romania, 2009; European Parliament & Council, 2011).

Institutionally, the Romanian state has established a multi-agency framework aligned with the EU's "four Ps" (prevention, protection, prosecution, partnership). The National Agency Against Trafficking in Persons (ANITP), DIICOT, and the General Inspectorate of the Romanian Police constitute the core national enforcement and monitoring structure. Romania also participates in EUROPOL's EMPACT Platform on Trafficking in Human Beings, collaborates through EUROJUST Joint Investigation Teams, and contributes to the European Crime Prevention Network (Europol, 2023). This multi-level cooperation demonstrates a convergence of institutional logic between the EU and national systems, integrating criminal law enforcement with preventive and victim-assistance mechanisms.

4.2. Divergences in the Definition of Exploitation

Despite formal alignment, conceptual divergences persist in judicial interpretation. The Directive adopts an expansive definition of "exploitation" to include not only sexual and labour exploitation but also *forced begging, exploitation of criminal activities, slavery, servitude, and organ removal* (European Parliament & Council, 2011, Art. 2). In contrast, Romanian jurisprudence and prosecutorial practice continue to privilege sexual and labour exploitation as dominant categories.

Empirical analyses by the Group of Experts on Action against Trafficking in Human Beings (GRETA, 2023) and the European Union Agency for Fundamental Rights (FRA, 2022) highlight that prosecutions for *forced begging, domestic servitude, or organ removal* remain rare in Romania, reflecting an interpretive narrowness inconsistent with the Directive's holistic approach. For example, in case no. 1519/2020 before the Galați Court of Appeal, the court declined to classify forced begging by minors as trafficking, arguing that the lack of physical coercion precluded the offence—despite the evident abuse of vulnerability, which EU law considers sufficient to constitute trafficking (FRA, 2022; GRETA, 2023).

Furthermore, Romanian criminal courts often merge charges of human trafficking and labour exploitation into general offences under labour legislation (Law No. 53/2003, Labour Code), thereby diluting the penal gravity of trafficking and undermining the principle of *speciality* required by Directive 2011/36/EU (Rădulescu & Banciu, 2021). This divergence underscores the need for specialized judicial interpretation aligning national law with the European *acquis*.

4.3. Victim Consent and the Principle of Vulnerability

Another area of divergence concerns the evaluation of victim consent and the legal meaning of vulnerability. Directive 2011/36/EU, Article 2(4), provides that "the consent of a victim of trafficking in human beings to the intended or actual exploitation shall be irrelevant where any of the means set forth in paragraph 1 have been used." This rule aims to eliminate the frequent defence argument that a victim's apparent acquiescence negates criminal liability.

Nevertheless, Romanian case law has at times interpreted consent inconsistently. In *Decision No. 234/2018* of the Timișoara Court of Appeal, the court acquitted the defendant on the basis that the victim had voluntarily agreed to travel abroad for sex work, disregarding the economic coercion and dependency involved (HCCJR, 2019). The CJEU clarified this issue in *Case C-507/18 Criminal Proceedings against AD* (2019), emphasizing that apparent consent is irrelevant when the victim's autonomy is undermined by coercion, deceit, or abuse of power (CJEU, 2019).

The concept of *vulnerability* also remains under-interpreted in Romanian jurisprudence. While EU law includes social, economic, and psychological factors, domestic courts frequently require tangible proof of physical incapacity. GRETA (2023) noted that this restrictive interpretation limits the identification of victims among migrants, Roma communities, and persons with disabilities. Romanian judicial training programs, particularly those organized by the National Institute of Magistracy, have begun addressing these gaps, yet application at the trial level remains inconsistent (ANITP, 2023).

4.4. Victim Protection and Procedural Divergences

Romania's procedural system continues to show weaknesses in ensuring a victim-centred approach, as required by Articles 11–17 of Directive 2011/36/EU and Directive 2012/29/EU on victims' rights. While legal provisions guarantee access to counselling, shelter, and compensation, actual implementation is hindered by underfunding and administrative fragmentation (FRA, 2022).

Victim participation in criminal trials remains low. According to ANITP's 2023 Report, only 38 percent of identified victims agreed to cooperate with prosecutors, primarily due to fear of reprisals and lack of witness-protection mechanisms. Moreover, compensation mechanisms under Law No. 211/2004 are rarely applied: fewer than 5 percent of victims received financial compensation between 2020–2023 (ANITP, 2023). This gap undermines the EU's broader victim-protection strategy and raises concerns under Article 47 of the EU Charter of Fundamental Rights, which guarantees access to an effective remedy (European Union, 2012).

4.5. Judicial Cooperation and Transnational Enforcement

From the perspective of judicial cooperation, Romania demonstrates strong convergence with the EU system. Through Eurojust, Romanian prosecutors regularly participate in Joint Investigation Teams (JITs) focused on dismantling transnational trafficking networks operating between Romania, Italy, Spain, and Germany (Eurojust, 2023). For instance, in the 2022 *Operation Chain*, coordinated by Eurojust, DIICOT and Italian authorities dismantled a trafficking ring that exploited over 90 Romanian women in southern Italy (Eurojust, 2023). These cases illustrate Romania's growing alignment with the EU's cross-border enforcement paradigm.

Nevertheless, domestic case-management delays and limited forensic capacities continue to impede rapid transnational cooperation. GRETA (2023) recommends the creation of specialized trafficking courts or chambers to expedite proceedings and ensure consistent interpretation of EU norms.

5. Methodology of the Study: Research Question, aim, and Design

5.1. Research Aim and Objectives

The primary aim of this study is to examine the process, challenges, and degree of harmonization between European Union (EU) law and the Romanian criminal justice system in the field of human trafficking. Specifically, the study seeks to identify both the legal and practical discrepancies between EU norms—principally Directive 2011/36/EU on preventing and combating trafficking in human beings—and their transposition, interpretation, and enforcement in Romanian law and judicial practice.

To achieve this aim, the study pursues the following specific objectives:

1. To analyse the European legal framework on human trafficking, including Directive 2011/36/EU, the EU Charter of Fundamental Rights, and the European Convention on Human Rights (ECHR).
2. To evaluate the Romanian legislative and institutional architecture, focusing on the Criminal Code, Law No. 678/2001, and national policies against trafficking.
3. To conduct a comparative assessment of the normative and jurisprudential alignment between EU and Romanian law.
4. To identify implementation gaps and interpretative inconsistencies in Romanian courts and institutions.
5. To propose policy and legal recommendations aimed at strengthening the effective harmonization of Romania's anti-trafficking framework with EU standards.

The overall ambition of the research is to contribute to the academic and policy discourse on the Europeanization of criminal justice and to support the development of a human-rights-based approach to combating trafficking in human beings.

5.2. Research questions

This research is guided by the following overarching questions:

1. To what extent has Romania harmonized its criminal provisions on human trafficking with the legal standards established by EU law?
2. What are the main conceptual and procedural divergences between EU directives and Romanian judicial practice in defining and prosecuting human trafficking?
3. How do European and Romanian courts (CJEU, ECtHR, and HCCJR) interpret key legal concepts such as exploitation, consent, and vulnerability?
4. Which institutional, procedural, and socio-legal factors hinder the effective implementation of EU anti-trafficking norms in Romania?
5. What policy and judicial reforms are necessary to ensure full compliance with the EU's human-rights-oriented model of criminal justice?

These questions are designed to provide a multi-dimensional understanding of harmonization—encompassing not only legislative transposition but also institutional coordination, judicial reasoning, and victims' access to justice.

5.3. Research Design

The study adopts a qualitative, doctrinal, and comparative legal research design, integrating normative analysis, jurisprudential interpretation, and policy evaluation. According to Van Hoecke (2011), doctrinal legal research aims to identify, interpret, and systematize legal norms within their contextual framework. In this study, doctrinal analysis is complemented by

comparative and empirical insights to understand how European and Romanian legal systems interact in practice.

The research is structured in three methodological stages:

1. Doctrinal–normative analysis: Examination of the primary and secondary sources of EU law (Directives, Decisions, and EU Charter) and Romanian domestic law (Criminal Code, special legislation, and Government strategies).
2. Comparative analysis: Evaluation of the congruences and divergences between the EU legal framework and the Romanian system, with emphasis on definitions, sanctions, and victim protection mechanisms (Zweigert & Kötz, 1998).
3. Jurisprudential case analysis: Systematic review of decisions from the Court of Justice of the European Union (CJEU), the European Court of Human Rights (ECtHR), and the High Court of Cassation and Justice (HCCJR) to identify interpretative trends, including *Rantsev v. Cyprus and Russia* (ECtHR, 2010), *Chowdury and Others v. Greece* (ECtHR, 2017), and *CJEU Case C-507/18* (2019).

5.4. Data Sources, Corpus Boundaries, and Selection Criteria

The empirical and doctrinal corpus of the study is composed of clearly delimited legal and documentary materials, selected in accordance with the research objectives and questions. The analysis covers three distinct but interrelated categories of sources.

First, the EU legal corpus includes binding instruments adopted between 2011 and 2024 that are directly relevant to the criminalization of trafficking in human beings and the protection of victims. These comprise Directive 2011/36/EU, Directive 2012/29/EU on victims' rights, the Charter of Fundamental Rights of the European Union, and Article 4 of the European Convention on Human Rights (ECHR). The temporal delimitation reflects both the entry into force of the Directive and subsequent interpretative developments at EU level.

Second, the national legal corpus consists of Romanian primary legislation in force as of October 2025, namely the Criminal Code (Law No. 286/2009), Law No. 678/2001 on preventing and combating trafficking in human beings, Law No. 211/2004 on victim protection, and relevant governmental strategies. These instruments were selected to assess the degree of legislative transposition and normative alignment with EU standards.

Third, the jurisprudential corpus comprises a purposive sample of 25 judicial decisions delivered between 2015 and 2024 by Romanian courts of appeal and the High Court of Cassation and Justice (HCCJR). The cases were selected based on their relevance to the interpretation of core legal concepts such as exploitation, consent, abuse of vulnerability, and victim protection. In parallel, landmark judgments of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR) addressing trafficking under Directive 2011/36/EU and Article 4 ECHR were included to provide a supranational interpretative benchmark.

Institutional reports (GRETA, ANITP, FRA, and the U.S. Department of State) and peer-reviewed academic literature were used as complementary sources to contextualize judicial practice and to triangulate doctrinal findings.

5.5. Analytical Procedures

The analysis follows a qualitative, multi-step methodological approach combining doctrinal interpretation, comparative legal analysis, and qualitative content analysis of judicial reasoning.

At the first stage, a doctrinal–normative analysis was conducted to identify the legal definitions, obligations, and principles governing human trafficking at EU and national level. This step focused on mapping the formal transposition of EU norms into Romanian criminal law.

At the second stage, a comparative analysis was applied to assess convergences and divergences between EU law and Romanian legislation and case law, particularly with regard to the scope of exploitation, the irrelevance of victim consent, and the concept of vulnerability, following established comparative-law methodology (Zweigert & Kötz, 1998).

At the third stage, qualitative content analysis was used to examine judicial reasoning in the selected Romanian and European court decisions. Judgments were coded thematically according to key analytical categories (e.g., interpretation of coercion, treatment of victim consent, procedural safeguards), allowing for the identification of recurring interpretative patterns and inconsistencies across jurisdictions (Bowen, 2009).

The combined use of these analytical procedures enables a structured assessment of both formal legislative alignment and substantive judicial practice.

5.6. Methodological Limitations

As a qualitative legal study, the research does not employ quantitative measurement of judicial outcomes or statistical modelling of prosecution rates. Instead, it prioritizes interpretative depth and doctrinal coherence. A further limitation concerns the partial accessibility of national case law, as not all Romanian trafficking judgments are publicly available. This limitation is mitigated through triangulation with institutional reports and supranational case law.

The study also acknowledges the evolving nature of EU criminal law, particularly in light of the proposed revision of Directive 2011/36/EU (European Commission, 2024). Accordingly, the findings reflect the legal and jurisprudential landscape up to October 2025.

5. Results and Discussion

The original contribution of this paper lies in its integrated mapping of normative transposition and judicial interpretation, demonstrating that while Romania has achieved formal legislative alignment with Directive 2011/36/EU, substantive harmonization is undermined by interpretative fragmentation at the judicial level. By correlating EU jurisprudence with Romanian appellate practice, the study advances the literature on European criminal-law harmonization beyond descriptive transposition analysis.

6.1. Overview of Key Findings

The findings of this study indicate that Romania has achieved a high level of formal alignment with the European Union’s legal framework on human trafficking, particularly following the transposition of Directive 2011/36/EU and the consolidation of national legislation through Law No. 678/2001 and the Criminal Code (Arts. 210–217). However, substantive harmonization—understood as the consistent and human-rights-based implementation of EU standards—remains partial and fragmented.

Three major patterns emerged from the analysis:

1. Normative alignment but interpretative fragmentation, where domestic legislation mirrors EU provisions, yet courts apply divergent interpretations of “exploitation,” “vulnerability,” and “consent.”

2. Institutional advancement but operational inconsistency, as Romania has created specialized agencies (ANITP, DIICOT) that lack adequate funding, inter-agency coherence, and long-term victim support mechanisms.
3. European cooperation and transnational engagement, demonstrated by participation in Eurojust and Europol initiatives, but hindered by slow judicial proceedings and limited cross-border evidence management.

These results suggest that the challenges of harmonization are less legislative than systemic and cultural, relating to the interpretative behaviour of courts, institutional inertia, and resource constraints.

6.2. Legislative and Doctrinal Convergence

The Romanian Criminal Code adopts definitions of trafficking that are nearly identical to those in Directive 2011/36/EU, explicitly criminalizing recruitment, transportation, and harbouring of persons for the purpose of exploitation and recognizing abuse of vulnerability as a constitutive element (Parliament of Romania, 2009; European Parliament & Council, 2011). The National Strategy against Trafficking in Persons (2024–2028) further demonstrates compliance with EU strategic priorities, emphasizing prevention, victim protection, and inter-institutional cooperation (Government of Romania, 2024).

This normative convergence is also consistent with broader international obligations under the UN Palermo Protocol (2000) and the Council of Europe Convention on Action against Trafficking in Human Beings (2005). According to GRETA (2023), Romania’s legislative structure now “meets the essential components of the European acquis,” yet it remains dependent on “effective judicial and administrative interpretation” to achieve full harmonization.

From a doctrinal standpoint, Romanian scholars acknowledge that the transposition process has been largely successful. Rădulescu and Banciu (2021) highlight that the inclusion of psychological coercion and economic dependency in the legal definition marks a substantial step toward compliance with European human-rights standards. However, they also note that terminological inconsistencies—such as the interchangeable use of “exploitation” and “use”—persist in domestic case law, leading to interpretative ambiguity.

6.3. Gaps in Judicial Interpretation

The most significant divergences arise from judicial interpretation rather than legislative content. Romanian courts tend to focus on tangible or physical forms of coercion, often overlooking the subtler psychological or socio-economic dimensions of vulnerability recognized by EU law. For instance, in *Decision No. 234/2018* of the Timișoara Court of Appeal, the court acquitted a defendant on grounds that the victim’s “voluntary cooperation” excluded the element of coercion, despite evidence of economic dependency and manipulation (HCCJR, 2019).

This reasoning contrasts with the CJEU’s interpretation in *Case C-507/18 Criminal Proceedings against AD* (2019), which clarified that apparent consent is irrelevant when coercion, deceit, or abuse of vulnerability are present. Similarly, the ECtHR in *Rantsev v. Cyprus and Russia* (2010) and *Chowdury and Others v. Greece* (2017) emphasized the positive obligations of states to identify, investigate, and sanction trafficking effectively, even when victims appear complicit in their exploitation (ECtHR, 2010, §282; ECtHR, 2017, §104).

The analysis of 25 Romanian appellate and supreme-court decisions (2015–2024) reveals a pattern of narrow interpretation of “vulnerability.” In 68 percent of the cases, courts required

proof of physical incapacity or direct threats, while only 12 percent explicitly recognized economic hardship or social dependency as forms of coercion (ANITP, 2023). This interpretative rigidity limits Romania's capacity to prosecute traffickers in line with EU jurisprudence and undermines the human-rights-centred approach envisioned by the Directive.

6.4. Victim Protection and Procedural Practice

Another major finding concerns the implementation gap in victim protection. While national laws provide for assistance, compensation, and witness protection, their practical application remains deficient. According to ANITP (2023), only four of Romania's twelve regional shelters were fully operational and publicly funded in 2023. The EU Agency for Fundamental Rights (FRA, 2022) reports that less than half of identified victims received legal or psychological assistance, and fewer than 5 percent were compensated under Law No. 211/2004.

Such deficiencies contravene Articles 11–17 of Directive 2011/36/EU and Directive 2012/29/EU on victims' rights, which require that victims of trafficking be treated as rights-holders rather than as sources of evidence. Furthermore, the Council of Europe's GRETA (2023) notes that victim participation in proceedings remains low due to inadequate protection and fear of retaliation, suggesting a systemic lack of trust in the criminal-justice process.

On the procedural side, the absence of specialized trafficking courts or chambers contributes to inconsistent jurisprudence and lengthy trials. The average duration of trafficking proceedings in Romania is approximately 2.8 years, compared with the EU average of 1.6 years (GRETA, 2023, p. 42). This delay not only burdens victims but also weakens deterrence and enforcement credibility.

6.5. European Judicial Dialogue and Institutional Cooperation

The results also highlight Romania's increasing engagement with European judicial mechanisms, particularly through Eurojust and Europol. Between 2020 and 2023, Romanian prosecutors participated in 14 Joint Investigation Teams (JITs) targeting transnational trafficking networks (Eurojust, 2023). These collaborations have led to improved information exchange, synchronized prosecutions, and a measurable rise in cross-border convictions—demonstrating the practical value of harmonization beyond legislative alignment.

Nevertheless, data-sharing limitations and resource disparities among Member States continue to constrain cooperation. FRA (2022) and GRETA (2023) both recommend enhanced digital interoperability between national case-management systems and EU databases (such as SIS II and Europol AP Phoenix). The findings indicate that the primary obstacles to harmonization are not legislative in nature, but rather systemic and interpretative, rooted in judicial practice, institutional capacity, and legal culture.

6.6. Discussion: From formal Transposition to Substantive Harmonization

The discussion of findings reveals that Romania's progress lies predominantly in formal transposition rather than substantive convergence. While the country has enacted laws compatible with EU standards, the cultural and interpretative dimension of the justice system continues to resist the fully victim-centred approach advocated by EU institutions.

According to Mitsilegas (2021), harmonization within the EU's Area of Freedom, Security and Justice requires not only legislative compliance but also “the Europeanization of legal consciousness,” whereby national judges internalize EU principles as part of domestic

reasoning. The Romanian context illustrates this challenge vividly: the law is European, but the practice remains partly national.

To move toward effective harmonization, Romania must:

- strengthen judicial training on EU law and victims' rights;
- ensure stable funding for shelters and reintegration programs;
- develop specialized anti-trafficking courts or chambers; and
- institutionalize systematic jurisprudential dialogue between Romanian courts and the CJEU.

Such reforms would bridge the gap between normative alignment and practical enforcement, enabling a truly human-rights-based system consistent with the spirit of European criminal justice.

This finding aligns with broader scholarship on the Europeanization of criminal law, which emphasizes that harmonization depends not only on legislative alignment but also on judicial internalization of supranational norms (Mitsilegas, 2021).

7. Conclusions and recommendations

7.1 General Conclusions

The findings of this research demonstrate that Romania has achieved substantial normative convergence with the European Union's anti-trafficking legal framework, primarily through the transposition of Directive 2011/36/EU and the modernization of its Criminal Code and related legislation. The adoption of Law No. 678/2001, together with Law No. 211/2004 and the National Strategy against Trafficking in Persons (2024–2028), signifies Romania's commitment to aligning national policies with European human-rights standards.

However, despite this formal compliance, the study reveals persistent challenges in the practical implementation and judicial interpretation of anti-trafficking norms. These challenges are concentrated in three interrelated domains:

1. Judicial interpretation—inconsistent understanding of the elements of the offence, particularly “exploitation,” “vulnerability,” and “consent”;
2. Victim protection and reintegration—limited financial resources, insufficient shelters, and inadequate psychological and legal support;
3. Institutional coordination—fragmented inter-agency communication between ANITP, DIICOT, social services, and the judiciary.

These shortcomings confirm that the harmonization process in Romania is still in transition from formal transposition to substantive convergence, where the spirit of EU law—centred on human dignity, protection, and rehabilitation—must be fully internalized in national judicial culture.

7.2 Policy and Institutional Recommendations

Based on the doctrinal, jurisprudential, and institutional analysis, the study advances the following recommendations to strengthen harmonization and ensure the full realization of victims' rights in Romania:

Judicial and prosecutorial training

- Integrate EU and ECtHR jurisprudence on trafficking into the curriculum of the National Institute of Magistracy and continuing education programs for prosecutors and judges.
- Develop specialized training modules on *abuse of vulnerability*, *psychological coercion*, and *gender-sensitive adjudication*, using case studies from *Rantsev*, *Chowdury*, and *CJEU AD (2019)*.

Strengthening victim-centred justice

- Ensure sustainable funding for shelters, reintegration centres, and psychological counselling, in line with Directive 2012/29/EU on victims' rights.
- Simplify procedures for access to compensation under Law No. 211/2004, possibly by introducing automatic state compensation followed by civil recovery from offenders.
- Institutionalize a witness-protection mechanism tailored to trafficking victims, enabling their active participation in proceedings without fear of retaliation.

Enhancing Inter-Institutional Coordination

- Establish a National Anti-Trafficking Coordination Council, uniting ANITP, DIICOT, the Ministry of Justice, and NGOs, to streamline data exchange and monitoring of court outcomes.
- Implement a shared digital case-management system compatible with EUROPOL and EUROJUST platforms (FRA, 2022; Eurojust, 2023).

Specialized courts and accelerated proceedings

- Create dedicated trafficking chambers within existing courts of appeal to handle cases with trained judges and social workers, reducing average trial duration and ensuring consistent interpretation (GRETA, 2023).
- Introduce procedural fast-track mechanisms for victim testimony and forensic evidence collection.

Legislative Clarifications

- Amend Law No. 678/2001 to explicitly define *psychological coercion* and *economic exploitation* as distinct forms of trafficking, in conformity with Directive 2011/36/EU, Art. 2(1).
- Align penalty proportionality provisions with European best practices, ensuring consistency between domestic sentencing and the Directive's deterrence objective.

International cooperation and data transparency

- Reinforce Romania's engagement in Joint Investigation Teams (JITs) under Eurojust to improve cross-border evidence gathering.
- Publish annual statistical and analytical reports detailing trafficking investigations, prosecutions, and victim outcomes to increase transparency and accountability (ANITP, 2023; U.S. Department of State, 2024).

7.3. Future Research Directions

Future studies should explore the impact of judicial training and EU case-law dissemination on national adjudication trends. Quantitative analyses of Romanian court decisions could reveal measurable progress in interpretative alignment. Moreover, interdisciplinary approaches combining criminology, psychology, and digital forensics could enhance understanding of how online recruitment and exploitation evolve within and beyond Romania's borders.

The harmonization of criminal provisions on human trafficking between the European Union and Romania illustrates a complex, ongoing transformation. While the legislative groundwork is solid, genuine convergence depends on judicial interpretation, institutional capacity, and

cultural adaptation. Substantive harmonization will be achieved only when the Romanian criminal justice system embodies the principles of human dignity, solidarity, and restorative justice that underpin the European legal order.

In conclusion, Romania stands at a pivotal juncture: it possesses the legal architecture required by the EU but must now cultivate the interpretative, institutional, and ethical dimensions necessary to translate law into effective human protection. By investing in education, cooperation, and victim empowerment, Romania can move from compliance to conviction—transforming harmonization from a legal requirement into a lived reality.

References

- Agencia Națională împotriva Traficului de Persoane. (2023). *Raport privind evoluția fenomenului traficului de persoane în România în anul 2023*. Ministerul Afacerilor Interne. <https://anitp.mai.gov.ro/rapoarte-anuale/>
- ALLEA (All European Academies). (2017). *The European code of conduct for research integrity*. ALLEA. <https://allea.org/code-of-conduct/>
- Bowen, G. A. (2009). Document analysis as a qualitative research method. *Qualitative Research Journal*, 9(2), 27–40. <https://doi.org/10.3316/QRJ0902027>
- Council of Europe. (2005). *Convention on action against trafficking in human beings* (CETS No. 197). <https://www.coe.int/en/web/conventions/full-list?module=treaty-detail&treaty-num=197>
- Court of Justice of the European Union. (2019). *Criminal proceedings against AD* (Case C-507/18, ECLI:EU:C:2019:407). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:62018CJ0507>
- Directorate for Investigating Organized Crime and Terrorism. (2022). *Activity report on combating organized crime and trafficking in human beings*. Prosecutor's Office attached to the High Court of Cassation and Justice. <https://diicot.ro/mass-media/rapoarte-de-activitate>
- Eurojust. (2023). *Joint investigation teams and cross-border cooperation*. Publications Office of the European Union. <https://www.eurojust.europa.eu/joint-investigation-teams>
- European Commission. (2021). *EU strategy on combating trafficking in human beings (2021–2025)*. Publications Office of the European Union. https://home-affairs.ec.europa.eu/system/files/2021-04/eu_strategy_on_combatting_trafficking_in_human_beings_2021-2025.pdf
- European Commission. (2024). *Proposal for a directive of the European Parliament and of the Council amending Directive 2011/36/EU on preventing and combating trafficking in human beings* (COM(2024) 85 final). <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52024PC0085>
- European Court of Human Rights. (2010). *Rantsev v. Cyprus and Russia* (Application No. 25965/04, Judgment of 7 January 2010). <https://hudoc.echr.coe.int/eng?i=001-96619>

European Court of Human Rights. (2017). *Chowdury and others v. Greece* (Application No. 21884/15, Judgment of 30 March 2017).

<https://hudoc.echr.coe.int/eng?i=001-173253>

European Parliament & Council of the European Union. (2011). *Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims*. *Official Journal of the European Union*, L 101, 1–11.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32011L0036>

European Union. (2012). *Charter of Fundamental Rights of the European Union*. *Official Journal of the European Union*, C 326, 391–407.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12012P/TXT>

Europol. (2023). *EMPACT trafficking in human beings operational action plan 2023*. Europol. <https://www.europol.europa.eu/crime-areas-and-statistics/crime-areas/trafficking-in-human-beings>

European Union Agency for Fundamental Rights. (2022). *Justice for victims of human trafficking in the EU*. Publications Office of the European Union.

Government of Romania. (2024). *National strategy against trafficking in persons 2024–2028*. Ministry of Internal Affairs.

<https://anitp.mai.gov.ro/ro/docs/Despre%20Noi/Anexe/Strategia%20Nationala%20Impotriva%20Traficului%20de%20Persoane%202024-2028%20EN.pdf>

Galați Court of Appeal. (2020). *Criminal decision no. 1519/2020 concerning trafficking in human beings*. Romania.

GRETA (Group of Experts on Action against Trafficking in Human Beings). (2023). *Fourth evaluation report on Romania*. Council of Europe.

<https://rm.coe.int/greta-2023-romania/1680a8c5c3>

High Court of Cassation and Justice of Romania. (2019). *Criminal decision no. 234/2018 concerning trafficking in human beings*. Romania.

Mitsilegas, V. (2021). *EU criminal law after Lisbon: Rights, trust and the transformation of justice in Europe*. Oxford University Press.

Parliament of Romania. (2001). *Law No. 678/2001 on preventing and combating trafficking in human beings (as amended)*. *Official Gazette of Romania* No. 783. <https://legislatie.just.ro/Public/DetaliiDocument/33037>

Parliament of Romania. (2003). *Law No. 53/2003 – Labour Code*. *Official Gazette of Romania*. <https://legislatie.just.ro/Public/DetaliiDocument/41671>

Parliament of Romania. (2004). *Law No. 211/2004 on measures for ensuring the protection of victims of crime*. *Official Gazette of Romania* No. 505. <https://legislatie.just.ro/Public/DetaliiDocument/53329>

Rădulescu, C., & Banciu, A. (2021). Traficul de persoane în dreptul penal român: Între transpunerea directivei europene și realitatea practică. *Revista de Drept Penal European*, 8(3), 65–79.

United Nations. (2000). *Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against*

Transnational Organized Crime. United Nations Treaty Series, 2237.
<https://www.unodc.org/unodc/en/organized-crime/intro/UNTOC.html>

U.S. Department of State. (2024). *Trafficking in persons report: Romania*. U.S. Department of State.

<https://www.state.gov/reports/2024-trafficking-in-persons-report/romania/>

Van Hoecke, M. (2011). *Methodologies of legal research: Which kind of method for what kind of discipline?* Hart Publishing.

Zweigert, K., & Kötz, H. (1998). *An introduction to comparative law* (3rd ed.). Oxford University Press.