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Criminal Participation in Human Trafficking Offenses: Co-perpetration, Instigation, and Complicity

Ștefănoaia Mihai

Faculty of Law and Administrative Sciences, Ștefan cel Mare University Suceava, Romania

Abstract

This paper explores the complex phenomenon of criminal participation in human trafficking offenses, focusing on the legal and criminological distinctions among co-perpetration, instigation, and complicity. The purpose of the study is to analyze how these forms of participation are conceptualized and applied within national and European criminal law frameworks, with particular attention to Romanian legislation and its harmonization with EU directives and international instruments such as the Palermo Protocol. The research aims to clarify the boundaries between collective criminal intent, hierarchical coordination, and secondary involvement in trafficking networks. Using a comparative doctrinal method, the study examines court rulings, doctrinal commentaries, and case law of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR). It highlights the challenges in differentiating co-perpetration from aiding or abetting, especially in organized crime contexts where the division of roles is fluid and overlapping. The findings indicate that inconsistencies in judicial interpretation may undermine proportional liability and the effective punishment of all participants. Therefore, the paper proposes a conceptual framework that integrates intent, contribution, and degree of autonomy as key analytical criteria. The study contributes to the development of a coherent European approach to criminal participation in human trafficking, reinforcing both legal certainty and victims' protection through a harmonized understanding of shared culpability.

Keywords: Human Trafficking, Criminal Participation, Co-Perpetration, Instigation, Complicity, Criminal Liability, European Criminal Law, Romanian Criminal Code, Harmonization, Organized Crime