



The EU Mutual Learning Programme in Gender Equality

Support services for victims of violence in asylum and migration

Greece, 20-21 February 2018

Comments Paper – Romania



The information contained in this publication does not necessarily reflect the position or opinion of the European Commission.

Justice



This publication is supported by the European Union Rights, Equality and Citizenship Programme (2014-2020).

This programme is implemented by the European Commission and shall contribute to the further development of an area where equality and the rights of persons, as enshrined in the Treaty, the Charter and international human rights conventions, are promoted and protected.

For more information see: http://ec.europa.eu/justice/grants1/programmes-2014-2020/rec/index_en.htm

Access to support services for women victims of violence in asylum and migration in Romania

Mihaela Sasarman
Association Transcena

1. Legislation and social welfare context

The raising numbers of refugees and asylum seekers in Romania draw the attention of the public after the refugee crisis in 2015. The concern is about the capacity of the institutional system to effectively process the cases and provide living conditions for these groups and persons at the level and requirement of the international and national norms.

In Romania the legal framework regulating the statute, rights and resource allocation for asylum seekers and refugees particularly for the vulnerable persons is substantial. The Law covers the following aspects of the problem: human rights, violence, gender equality/gender based violence and asylum and migration following two dimensions: (a) asylum and migration and (b) violence in the family and sexual violence¹. These two dimensions co-exist implicitly connected. This gives a relative lack of focus on the issue in question – the support services for victims of violence in asylum and migration.

1.1 Asylum and Migration

First the Constitution of Romania guarantees the basic human rights for aliens and stateless persons who have general protection of persons and assets (art. 18, (1)) from the Romanian state. The most relevant for the topic of GBV is the right to “life, physical and psychological integrity” (art. 22). Also relevant are: article 41 (4) which stipulates: “On equal work with men, women shall get equal wages”, article 47 defining the state welfare and article 57 describing “the exercise of rights and freedoms in good faith, without any infringement of the rights and liberties of others by Romanian citizens, foreign citizens, and stateless persons”. The Law 122 from 2002 with modifications regulates the domain of asylum seeking in Romania in accordance with the Geneva Convention. The General Inspectorate for Migration within the Ministry of Internal Affairs is in charge with the migration, asylum and integration of aliens. Within GIM there is the Direction for asylum and integration comprising 6 regional centres for accommodation and procedures for asylum seekers financed by the state through the budget of the Ministry of Internal Affairs. GIM also has financial support for specific relevant activities from European Social Fund, The Norwegian Financial Mechanism² and the Swiss-Romanian Cooperation Program. This includes the costs for accommodation, transportation, and authorised interpreters³. Article 51 of the Law 122 / 2006 defines the target group “vulnerable persons” and the landmarks of the evaluation process realised by the experts of the General Inspectorate of Migration in cooperation with responsible authorities. Article

¹ The Romanian law defines only violence in the family and not domestic violence or IPV.

² According to the Annual Report GIM for 2016.

³ Law 122 from 2006 art. 3 (3¹) – (3⁴).

121 of the same law gives the compulsory areas of professional training of these experts including “mechanisms for identification and support of vulnerable persons”. Assessment of vulnerability status includes criteria: age, serious health issues, whether they have been submitted to torture, rape and severe physical or psychological violence prior to arrival in the state and categories: unaccompanied children, persons with handicap, single parents with children, victims of human trafficking. There is no specific mentioning of GBV as a criterion for identifying vulnerable persons.

The law 122 / 2006 has explicit provision concerning cooperation with the state welfare system specifically with the social services for the protection of unaccompanied children. They will be in charge of the social services irrespective of their legal statute. Article 17 (1) letter l) stipulates the right of the refugee with special needs to have special conditions of accommodation and support within accommodation centres. They also have the right to access specific social services and access to the labour market. Victims of GBV are not explicitly included in this category. The integration of refugees and migrants is regulated in more detailed way in the Government Ordinance 44 from 2004 with modifications which stipulates the methodologies and stakeholders in the process i.e. The National Agency for Occupancy of Labour Force, the Local Public Administration, the General Inspectorate for Migrants. The Local Public Administration is responsible for financing and managing social services in Romania and thereby plays a crucial role in this partnership.

According to the annual report of GIM for 2016 there is Coordination Group for Implementing the National Strategy in Migration and an Inter-Ministerial Committee and a National Coalition for the Integration of Refugees. In order to put in practice the provisions concerning the integration of refugees and migrants, GIM works in partnerships (Annual Report 2016) with UNHCR, IOM, the Association Save the Children - Romania, The National Romanian Council for Refugees and other NGOs. There is also an emergency shelter for asylum seekers on Romanian territory. The hosting capacity of the 6 regional centres is of 900 places. Persons housed within the regional centres and emergency centre have medical services and psychological counselling based within the centres or contracted. Vulnerable persons are referred to social public or private services. There are no specific mentions in the law for victims of domestic or sexual violence.

Data concerning asylum seekers and refugees⁴ in Romania 2016 – 2017

- 2017 asylum applications – 4,027 in total (including from Afghanistan, Algeria, Bangladesh, Egypt, Eritrea, India, Iran, Iraq (2,377), Pakistan, Palestine, Serbia and Kosovo, Somalia, Sri Lanka, Syrian Arab Republic (857), Turkey).
- In 2016 out of the total of 2,905 asylum seekers, 778 were Persons of Concern - juveniles, 359 girls and 419 boys, 609 females and 1,518 males.

Notable the number of women and children is significantly lower than the number of adult men.

According to the information provided in February 2018 by GIM to the National Agency for Equal Opportunities between Woman and Man concerning the support

⁴ The UNHCR statistics available at: http://popstats.unhcr.org/en/asylum_seekers_monthly

and protection insured by the Romanian responsible institutions to asylum seekers and refugees during 2017 the level of the material aid allocated for one person is approximately 110 euro / month, children receive the same monthly social welfare allowance as Romanian children. A number of 11 Regional Reintegration Centres functioned in Romania in 2017 organized as programs in partnership by non-governmental organizations and financed by the Swiss-Romanian cooperation program the Fund for Migration Asylum and Integration.

1.2 Violence against women, gender based violence

In the field of gender-based violence the situation is rapidly evolving. Romania ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention) in 2016. The governmental institution responsible for developing and implementing the policies and measures for preventing and combating GBV is the National Agency for Equal Opportunities Between Women and Men (NAEOWM) established in 2014. The profile of the Agency guarantees the gender equality perspective in tackling domestic and sexual violence in particular.

Currently preventing and combating domestic violence in Romania is the domain of the Law 217 from 2003 which went through many modifications over the years. The most important was the introduction of the protection order in 2012. There is no provisional protection order and this deficiency leaves victims in high risk of being murdered. Also, to the date there are no procedures for supervising the protection order issued by the court. Hopefully the provisional protection order and procedures for supervising the protection order will be introduced in the new legislation presently in the legislative process in the Parliament⁵.

The NAEOWM is responsible for the elaboration and supervises the implementation of the national strategy for preventing and combating domestic violence and the national strategy for equal opportunities between women and men. An Inter-ministerial committee was established in 2016 to coordinate the action plans with stakeholders: the Ministry of Justice, the Ministry of Internal Affairs, The Ministry of Health, the Ministry of Education and Ministry of Labour. The strategies for 2018 – 2020 are ready and awaiting approval from the Government.

Domestic violence named family violence is not defined as a specific crime in the Romanian Penal Code. Family violence constitutes an aggravating circumstance for the various forms of violence against the person. Sexual violence is regulated only in the Penal Code and it is not yet considered to be a form of GBV. There is no crisis shelter or centre for victims of rape in Romania. The Directive 29 2012/29/EU of the European Parliament establishing minimum standards on the rights, support and protection of victims of crime is not yet transposed in the Romanian legislation. There is a proposal presently submitted to the Parliament but it is not realistic to presume a time line for the approval of this proposal.

Social services for victims of family violence are described by the law 217 / 2003. There are 2 types of shelters: emergency shelters and long term residential shelters for women victims and their children the later offering up to 12 month hosting and counselling day centres for victims of domestic violence. In Romania there are no

⁵ The proposal for modification of the Law 217 from 2003 was registered in the Parliament the 23rd February 2018 in order to be debated and voted.

shelters for men victims of domestic violence. According to the most recent statistics provided by the National Agency for Equal Opportunities Between Women and Men 60 shelters were functioning in Romania in 2017 with a total capacity of 940 beds. The total number of victim women and children in shelters reported by NAEOWM was 2,328 in 2016 and 1,304 the first 6 month of 2017. There is a national help-line for victims centred on phone counselling and giving information about local public and private services and resources. There are only 2 day centers for batterers. In 7 out of 41 counties there are no shelters for victims. The public shelters admit only victims with residence in the same local administrative unit (county or sector of Bucharest). Private shelters do not have these admission criteria. Also, private counselling day centres provide services to victims of domestic violence regardless of their region of residence.

Data collection in Romania in the field of gender-based violence is uneven. A very important annual report⁶ was issued between 2012 – 2016 by The Network for preventing and combating violence Against Women, a network of 25 NGOs. This comprises information about the number of requests for issuing protection orders, number of protection orders issued, prevalence of women and men victims, number of penal complaints filed by victims of domestic violence, prevalence of women victims and rate of withdrawal of complaints by the victims due to excessive length of the trials. The annual report of the General Attorney Office⁷ does not comprise segregated data about victims of murder by the spouse or segregated data about victims of rape and other sex crime. The best annual statistics covering crimes in the family and sex crimes were collected by the General Inspectorate of Romanian Police for 2014 – 2017 years.

Romania does not have for the moment a national system of evidence of the perpetrators of domestic crime and sex crimes. In order to illustrate the effectiveness of combating the domestic violence in Romania the following data is relevant is relevant: in one year out of approximately 80.000 calls for domestic violence incidents at 112 line there is number of approximately 30.000 penal complaints filed out of which a number of 1.400 perpetrators are incriminated and only 40 perpetrators are sentenced to prison (estimates based upon the above cited Study). In the same time interval 25% of the total annual murders in Romania were taking place in the family.

2. Related good practice initiatives

An example of implementation of the legislation is the project for integration of beneficiaries of international protection led by The Romanian National Council for Refugees – an NGO of national interest. The project is funded by UNHCR Representation in Romania providing legal and social counselling.

The Romanian Ombudsperson representatives and experts are monitoring conditions in the regional centres for asylum seekers and refugees. The reports give a very good picture of the implementation of the integration plan for vulnerable

⁶ A comprehensive review of the annual studies can be found in the *Exploratory Study on the Implementation of the Protection Order and the Domestic Violence Provisions of the Criminal Code of Romania* in 2012 – 2016, Bucharest, 2017 available at: <http://transcena.ro/wp-content/uploads/Study-Network-VAW-RO-2017.pdf>

⁷ Most recent annual report available at: http://www.mpublic.ro/sites/default/files/PDF/raport_activitate_2016.pdf

persons. All the reports include a separate chapter on vulnerable persons. However, violence against women does not appear as a specific topic in these reports.

The existence of services for victims of domestic violence was included in the information sessions for the professionals working with the target group. Association ANAIS an NGO member of the Romanian Network for Preventing and Combating Violence Against Women⁸ and provider of services for women victims of domestic violence received in 2016-2017 in its day centre a number of women victims refugees from Syria and Iran. The persons came following the information received from the professionals working with refugees. The cultural barrier stops these victims from getting out of violent marriages and if they are adult victims of their father the situation is similar.

In the field of preventing and combating domestic violence and sexual violence Romania has a number of good practice initiatives.

- The network of services for victims of domestic violence established and functioning in Brasov
- The multi-service centre of The East European Institute for Reproductive Health, a model of public-private funding and coordinated community response
- The multi-annual advocacy campaign for harmonizing Romanian legislation with the Istanbul Convention developed by the Romanian Network for Preventing and Combating Violence Against Women. This network is a voice sensitive to the citizens needs and close to the media, public institutions, business sector and embassies.

Another good practice example is the involvement of AVON Cosmetics Romania in the fight against domestic violence starting with 2008 in the framework of the "Campaign of Respect"⁹. AVON Romania awarded over \$ 600,000 to 9 shelters, scholarships for journalists, educational campaigns and educational projects for youth.

3. Policy debate

In Romania it is possible to estimate an improvement of the access to protection and social services for victims of GBV asylum seekers and refugees. The first steps will be harmonising the civil and penal legislation for the protection of victims of GBV and for accountability of perpetrators with the provisions of the Istanbul Convention. The next important measure to be taken will be establishing an effective funding mechanism of private service providers from the local budget. This will create the good context for the access of the target group to the specific services in all the counties of Romania.

In the field of integration of asylum seekers and refugees the most important effort is to create a cultural dialogue. To this end the availability of interpreters for the newest arrivals is first priority. Giving the victim the possibility to become independent and working with the perpetrator so that the perpetrator never again uses violence against family members can be challenging when the workers, the victims and the family members belong to different cultures. Even the temporary protection the state

⁸ <http://violentaipotrivafemeilor.ro/>

⁹ <http://campaniarespectului.ro/home/index/aivd/#aivd>

can provide to women victims of domestic violence can be an issue. Cultural barriers mentioned also in the Greek model make the protection of women and children any system can offer extremely fragile. Direct intervention in the family by the state is difficult. The Romanian law leaves the victim to initiate any survival or healing process. The superior goal of well-being of the child guides decisions concerning separation from the parents. These principles will always function also with women and children victims of GBV who belong to cultures traditionally discriminating females.

4. Learning

Based upon the elements of the policies presented above it can be concluded that in Romania there are the building elements for implementing a model very similar to the Greek model. In both the migration and the GBV domains the inter-ministerial working groups exist. The professionals from migration field are working as stipulated in the law with the state social services and also collaborate on specific cases with providers of services for women victims of domestic violence. Once the GBV will get a clear legal definition in the Romanian law in accordance with the Istanbul Convention it would be possible to develop one action plan which includes all strategic elements and connections between the existing structures.

5. Conclusions and recommendations

The legal framework is positive and answers to basic survival needs of asylum seekers and refugees. The cultural factor is hard to manage. The European context of common guidelines for support of victims of violence and gender-based violence asylum seekers and refugees can be a powerful tool to better tackle the problems. The dialogue between stakeholders, international bodies and NGOs is a necessary step to achieve this goal.