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## **SPECIFIC ASPECTS OF COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING IN THE WORK OF LAW ENFORCEMENT AUTHORITIES**

**Vasile Catalin GOLOP<sup>1</sup>**

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### **ABSTRACT:**

*THE ARTICLE EXPLORES CRITICAL ASPECTS IN COMBATING MODERN SLAVERY AND HUMAN TRAFFICKING, WITH A FOCUS ON LAW ENFORCEMENT STRATEGIES. IT HIGHLIGHTS THE SIGNIFICANCE OF UNDERCOVER OPERATIONS, EMPHASIZING METHODS FOR INFILTRATING AND DISMANTLING CRIMINAL NETWORKS INVOLVED IN TRAFFICKING. EFFECTIVE MANAGEMENT OF SENSITIVE INFORMATION IS ADDRESSED, ILLUSTRATING HOW SECURE HANDLING AND CLASSIFICATION OF DATA ARE ESSENTIAL IN PROTECTING THE INTEGRITY OF UNDERCOVER INVESTIGATIONS. THE ARTICLE FURTHER CATEGORIZES CRIMINAL GROUPS BASED ON THEIR STRUCTURE, MODUS OPERANDI, AND ADAPTABILITY IN RESPONSE TO LAW ENFORCEMENT TACTICS. EMPHASIS IS PLACED ON THE ROLE OF UNDERCOVER INVESTIGATORS IN GATHERING CRUCIAL EVIDENCE, WITH DETAILED ANALYSIS OF EVIDENCE ADMISSIBILITY STANDARDS AND THE PROTOCOLS FOR DOCUMENTING INTERACTIONS WITHIN CRIMINAL ORGANIZATIONS. THESE COMBINED APPROACHES UNDERSCORE THE COMPLEXITY OF ANTI-TRAFFICKING OPERATIONS AND THE NECESSARY PRECISION IN HANDLING INTELLIGENCE TO ACHIEVE SUCCESSFUL PROSECUTIONS AND VICTIM RESCUE.*

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**KEY WORDS:** UNDERCOVER INVESTIGATOR, MODERN SLAVERY AND HUMAN TRAFFICKING, THE MANAGEMENT OF INFORMATION, CRIMINAL GROUPS

### **INTRODUCTION**

In the light of the evolution of society and new challenges to fundamental rights, combating modern slavery and human trafficking is a key task for global law enforcement authorities. In a dynamic world where borders are easily accessible, criminal phenomena are evolving and becoming increasingly sophisticated. Modern slavery and trafficking in human beings are realities that global communities face as threats that transcend national boundaries and require a unified and effective international approach. This material aims to provide a robust and comprehensive framework for addressing these serious crimes.

Modern slavery and human trafficking persist as phenomena of contemporary society, affecting vulnerable people and leaving deep scars within civil society. Law enforcement

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authorities face complex challenges in identifying, combating and preventing these forms of inhuman exploitation.

Human trafficking and modern slavery are major global challenges that require a complex and collaborative approach by law enforcement authorities. These crimes have evolved significantly in recent years, taking advantage of modern technology to expand their networks and hide their operations. The theme of this article was chosen out of the need to better understand the mechanisms by which these criminal networks operate and to explore effective strategies to counter them. The research hypothesis assumes that the use of advanced undercover investigative methods, in combination with rigorous management of sensitive information, increases the effectiveness of capturing members of trafficking groups and proving the crimes. The research method used includes case study analysis and evaluation of infiltration strategies, classification of criminal groups and evidence documentation. The results support the importance of inter-agency collaboration and strict protocols in intelligence management to successfully combat these criminal activities.

### **UNDERCOVER OPERATIONS/INVESTIGATIONS**

Undercover operations or investigations are an essential component in tackling modern slavery and human trafficking. This tactic involves the discreet infiltration of undercover investigators into suspected illegal activity in order to obtain key information and document violations of the law. In the context of the fight against modern slavery, undercover operations can be particularly effective in identifying criminal networks and their modus operandi.

On the basis of Article 148 of the Criminal Procedure Code, which provides for "the use of undercover or real-identity investigators and collaborators", their use may be authorized for a maximum period of 60 days by the supervising or prosecuting prosecutor [1]. The legal text sets out the conditions under which the use of undercover investigators in criminal investigations may be authorized.

The limitation in time of authorization to 60 days underlines the need for rigorous supervision and clear justification of the use of undercover investigators in criminal investigations. This is important in order to protect individual rights and to avoid abuses or breaches of the law.

The conditions under which the use of undercover investigators may be authorized are: the existence of reasonable suspicion of the preparation or commission of a crime, the necessity and proportionality of the measure in relation to the restriction of fundamental rights and freedoms, and cases which would otherwise make it difficult to obtain evidence, and the risk to the safety of persons or property of value [2].

Par. 2, of the same Article, specifies the activities that the undercover investigator is authorized to carry out, the precise period for which the measure is authorized, and the identity given to the undercover investigator.

The practice of the European Court of Human Rights in the area of provocation by State agents has established that the activity of State agents (undercover investigators) cannot be considered as provocation if the person under investigation already had the predisposition to commit a crime, and the undercover investigators have done nothing more than provide the person under investigation with a regular opportunity to commit a crime, and the person under investigation takes advantage of the opportunity provided by the undercover investigators.

The undercover investigator is authorized to carry out, on the basis of a prosecutor's order, several activities in order to obtain and collect evidence necessary to combat cases of

trafficking in human beings ("undercover investigators are operational workers within the criminal investigation police" [3]).

1. The investigator must record, on the basis of the authorization of the competent court, the environmental conversations with the perpetrators and persons acting on their behalf or accompanying them, using the special technique available to the specialized structures.

2. They must possess, obtain and use documents and assets that enable them to carry out, according to their assigned undercover identities, the activities for which they are authorized.

3. The investigator is obliged to infiltrate, by using specific means, the criminal environment under investigation in the case in question, in order to obtain information or evidence relating to the acts committed by the alleged perpetrators, as well as to obtain data that may lead to the identification of the persons involved in the commission of the acts of trafficking in human beings.

4. With a view to obtaining evidence or information in relation to the acts that are the subject of the case, as well as to obtaining data that will make it possible to identify the persons involved in the commission of the act that is the subject of the human trafficking case file, he/she shall contact, by specific means, the persons investigated for the trafficking offenses and/or other persons acting as intermediaries for them. The undercover investigator is obliged to protect identified victims by ensuring their confidentiality and taking measures to prevent their exposure or re-traumatization. In dealing with victims, the investigator should maintain an empathetic attitude, immediately report to the authorities any risk to their safety and cooperate with other competent institutions to provide appropriate protective measures such as shelter, counseling or physical protection, if necessary.

In carrying out the aforementioned activities, the undercover investigator is authorized to attend meetings with suspected perpetrators and their criminal associates, to obtain and collect from them evidentiary property or documents relevant to the case and to hand them over. He/she may also, in the course of undercover operations, promise, offer or, as the case may be, give money or other benefits to the alleged perpetrators and their criminal connections, directly, indirectly, explicitly or implicitly, or to any other persons acting as their intermediaries, in compliance with the provisions of Art. 101 para. 3 C.p.pen. [4].

In order to carry out the authorized activities, the undercover investigator is authorized to use, with the technical support of the specialized structures, technical devices in order to obtain photographs or audio/audio-video recordings, in connection with the criminal activities investigated in order to combat the causes of trafficking in human beings, pursuant to art. 148 para. 3 C.p.pen. [5]. Under Article 148 para. 5 of the Criminal Procedure Code, the data and information obtained by the undercover investigator will be recorded in minutes, which will be immediately and fully made available to the Public Prosecutor [6]. The order issued is valid only for activities carried out on Romanian territory.

Undercover investigations are a method of operational activities in the arsenal of law enforcement authorities in the fight against modern slavery and trafficking in human beings, allowing effective penetration of criminal networks and gathering of evidence necessary for holding them accountable and sanctioning them.

### **MANAGING SENSITIVE INFORMATION IN UNDERCOVER OPERATIONS**

The management of sensitive information in undercover operations, especially when undercover investigators are used, is essential for the success of these missions and for the protection of those involved. In the context of combating modern slavery and trafficking in

human beings, the importance of this aspect is heightened by the extremely dangerous nature of the crimes under investigation and the risks to which both victims and investigators are exposed.

Sensitive information in the context of undercover operations includes the identity of undercover investigators, the sources and methods used to gather information, details of planned or ongoing operations, as well as information about victims of trafficking in human beings and other vulnerable persons involved [7].

Proper management of sensitive information is crucial in missions where undercover investigators are used to protect the life and integrity of investigators and victims, to ensure the success of operations and avoid compromising them, to maintain the confidentiality of intelligence sources, and not least to prevent leaks of information that could lead to criminals being informed or evidence being destroyed.

In order to manage this information with maximum security, special measures are taken, such as the level of access to information (only the personnel involved should have access to sensitive information), encryption systems for internal communications and data storage, and continuous training of staff on handling sensitive information and identifying security risks.

All members of the teams involved in covert operations receive specialized training covering methods of protecting identity and sensitive information, procedures for reporting and responding to the detection of a security breach, and techniques for collecting and transmitting information without compromising the security of the operation.

When working with other implementing agencies, the exchange of data and information shall be carefully managed to ensure the controlled and secure exchange of information, and the coordination of operations shall be done in such a way as to avoid overlaps and conflicts that could compromise the security of information.

At the conclusion of an operation, the protection of information also remains essential in order to maintain the confidentiality of the identity of the investigators even after the mission has ended, as well as to ensure that sensitive information is not disclosed in judicial proceedings or through other public channels.

In conclusion, the management of sensitive information in operations involving undercover investigators involves a comprehensive and rigorous approach, integrating security protocols, advanced technologies, continuous training and inter-agency collaboration. In the context of the fight against modern slavery and human trafficking, these measures are essential for the protection of the lives involved and the success of law enforcement operations.

#### **CASE STUDY 2022 [8]**

Several persons were investigated for the crimes of forming an organized criminal group in the form of joining and supporting the criminal activity of such a group and trafficking in human beings.

The criminal prosecution in the present case was aimed at documenting, proving the criminal activity and annihilation of an organized criminal group operating across borders in order to obtain material benefits - sums of money as a result of criminal activity that falls within the criminal definition of the crime of trafficking in human beings (materialized on the basis of an ex officio report that several criminal cells, interconnected criminal cells, composed of Romanian and Turkish nationals, have formed a cross-border organized criminal group, which has as its main purpose the commission of trafficking in human beings in Turkey, Bulgaria, Serbia, Romania, Hungary, Austria and Germany).

At the top level, the crime cells consisted of Turkish citizens/Romanian citizens of Turkish ethnicity and only at the executive level were persons of other nationalities recruited on an ad hoc basis and given specific tasks (recruitment, transfer and transportation of victims, sheltering or receiving victims for exploitation).

Criminal activities were coordinated at a strategic level, from outside Romania, mainly from Turkey and Germany, through regional facilitators, who were also responsible for the financial circuit necessary for the payments to the persons involved in the criminal activity.

The organization within the cells allowed the members of the group to function optimally in relation to the geographical areas in which each of the cells operated and in relation to the criminal component (recruitment, transportation, harboring), with ramifications in Turkey, Bulgaria, Serbia, Austria and Germany, through several individuals.

The criminal group operated in Constanța County, Bucharest Municipality, with branches in Arad and Timișoara counties, operating in Romania's border area with Bulgaria and Serbia, as well as in the western part of Romania, by taking victims trafficked from the border areas, transferring them and temporarily accommodating them in locations in Arad and Timiș counties. The transfer took place by means of heavy goods vehicles/coaches and fraudulent smuggling through state border crossing points with Hungary to western European countries, mainly Germany. According to the identified modus operandi, the members of the criminal group used temporary accommodation facilities for the victims, which were mentioned by the group's leaders as safe.

Taking into account these aspects, it was found that there are indications that the case involves the commission of the crimes of constituting an organized criminal group and trafficking in persons, so it was ordered to start criminal proceedings in rem in the case of the commission of the above-mentioned crimes.

In view of the specific nature of the case, the seriousness of the crimes committed by the members of the group and the manner in which they acted in carrying out their criminal activity, it was necessary to authorize special technical surveillance and investigation measures in the case.

Thus, the rights and freedoms judge of the Bucharest Tribunal was requested to authorize several such measures among those provided for by art. 138 para. 1 lit. a, c, d and e of the Criminal Procedure Code. Also, in the case, pursuant to the provisions of art. 138 para. 1 lit. g and h, para. 10, 11 C.C.C.p.p. with reference to art. 148-150 C.C.p.p., undercover investigators, investigators with real identity and an authorized collaborator were used and the performance of specific activities and the participation of the investigators and the collaborator in the performance of these activities was authorized according to the issued orders.

In fact, from the corroboration of the evidentiary material administered in the case concerning the organized criminal group, its constitution and structure, the mode of action implemented to achieve the criminal purpose, the persons involved in the criminal activity as core members, adherents and supporters of this activity and the concealment of the illicit origin of the money obtained, considerations were drawn regarding the organized criminal group. The types of organized criminal groups operating across borders are particularly diverse in terms of how they are organized, the area of crime in which they operate, their composition and the rules by which they operate.

## **CLASSIFICATION OF CRIMINAL GROUPS**

According to the analyses in the field, carried out by institutions with a direct role in combating the phenomenon of organized crime (Interpol, Europol, UNODC), the classification of criminal groups into two broad categories is highlighted:

- The hierarchical, so-called 'traditional' type groups (Italian Mafia: Cosa Nostra, N'draghetta, Japanese Camorra Yakuza, etc.).
- Characteristic of these types of criminal groups are certain types of organization: strict hierarchical structure, undisputed leader, distribution of roles on the levels of execution, homogeneous composition (members from the same geographical area, family ties, etc.).
- Network-collaborative, loose networks

The characteristics of these types of criminal groupings are much looser than in the former: horizontal hierarchical structure, no absolute leader, distribution of roles according to the needs of the group and overlapping of tasks between group members, heterogeneous composition (lack of family or clan ties, attraction of new members, even for short periods, determined by a specific criminal approach, etc.).

Although initially within the criminal activity, suspect A. A., has unquestionably and unequivocally set himself up as the leader and co-coordinator of the organized criminal group, coordinating the activity by means of the Whatsapp application and video phone calls made mainly through the same application, and he is also the one who confirms the arrival of victims in the country of final destination (usually Germany) by posting videos of the victims on Tik Tok, however, during the criminal prosecution, evidence emerged of situations when the defendant N. A. S. or suspects E. K. and D. M. decided on either transportation of trafficked persons or their actual eviction from temporary accommodation locations for non-payment of the price without prior consultation with A. A. or a directive to that effect from him.

The specific characteristic of horizontal type groups is the collaboration between the members of the group on a specific criminal level, over a long period of time, which shows that we are not in the presence of a simple random association for a certain event, but of a coordinated criminal group, as is the case here.

The modus operandi revealed the following pattern:

Where appropriate, suspects A. A., K. M., D. M., E. K. or other criminal connections of them, after the victims were previously recruited and fraudulently crossed the southern border with Bugaria or Serbia, via Whatsapp and video calls provided to supporting members of the group or other criminal connections of them the geolocation coordinates of points located near the border with Serbia or Bulgaria (as the case may be) from where the victims would be picked up and transported.

After the pick-up of the victims, the above-mentioned suspects coordinated the transportation to the safe house locations managed by the defendants N. A. S. and L. C. T. in order for them to temporarily shelter (accommodate) the victims for different periods of time until their transfer to locations where they were loaded into TIR/coach vehicles for the purpose of fraudulent crossing the border with Hungary.

The defendants N. A. S., L. C. T. and S. A. M. rented/provided and managed buildings in the Municipality of Timișoara and Dumbrăvița for the temporary accommodation of the victims, providing them with the necessary food during their stay.

The defendant R. N., under the coordination of the suspect D. M., was the person in charge of supervising the boarding of the victims in the vehicles in which they were hidden in order to fraudulently cross the Hungarian border and of making cash payments of moderate

value (in the order of several hundred euro) to the drivers who brought the victims to the boarding location as well as of paying the sums of money to the drivers of the vehicles in which the victims were hidden.

Defendant B. M. N. had the role of facilitating the renting of a dwelling house in Moșnița Veche, jud. Timiș and making it available for the temporary shelter of the victims.

With regard to the money representing the payment of the price for the services of pick-up, transportation, sheltering and transfer for the purpose of fraudulent crossing of the Romanian state border to Hungary for the sheltered victims, as well as the methods used by the members of the criminal group, several ways were found.

### **EVIDENCE PROVIDED BY THE UNDERCOVER INVESTIGATORS**

The state of facts set out above resulted from the corroboration of several pieces of evidence, including those of the undercover investigators:

- Undercover Investigator Use Authorization Order and Undercover Investigator Use Authorization Authorization for Use of Collaborator with a Different Identity;
- Minutes of the undercover investigator's knowledge of the provisions of the order authorizing the use of the undercover investigator and authorizing the use of the collaborator under another identity;
- Report of the provisions of the order authorizing the use of the undercover investigator and authorizing the use of the collaborator under another identity;
- Order for the provision and use of a car by the undercover investigator and the disguised collaborator;
- Order authorizing the use of two undercover investigators;
- Minutes informing the undercover investigator of the provisions of the order authorizing the use of two undercover investigators;
- Order to extend for a period of 60 days the authorization to use the undercover investigator code-named S. I.;
- Order authorizing the use of an undercover investigator with real identity;
- Order to terminate the authorization to use investigators in question;
- Order to make available and use by the undercover investigator and authorized collaborator of a motor vehicle;
- Order for the provision and use by undercover investigators and authorized collaborator of cars;
- Ordinance authorizing the use of 2 undercover investigators, 1 investigator with real identity and 1 collaborator with another identity and authorizing the conduct and participation in specific activities;
- P-v playback of an environmental recording of a conversation between L. C. T., the collaborator B. I. and undercover investigator I. S. alias "Sever"
- P-v play-back of environmental recording of the discussion between the collaborator B. I., N. A. S. and undercover investigator I. S. alias "Sever"
- P-v play audio recording of the conversation between the collaborator B. I. and N. A. S.
- P-v playback of the audio recording of the conversation between the collaborator B. I. and the undercover investigator A. P. alias "Raul" between L. C. T. and the collaborator B. I.

On the basis of the evidence, the defendants were indicted.



## **CONCLUSION**

The analysis of the specificities of combating modern slavery and human trafficking has highlighted the crucial role of law enforcement authorities and the effectiveness of advanced investigative methods, in particular undercover operations. By strategically infiltrating criminal networks, undercover agents obtain crucial evidence, which significantly increases the chances of success in disrupting trafficking groups. Careful management and classification of sensitive information has proven to be essential factors in safeguarding investigations and ensuring good coordination in operational activities. In addition, the classification of criminal groups according to their structure and method of operation allows for a personalized approach in the fight against crime, facilitating adaptation to the tactics of the criminals. Effective law enforcement requires the implementation of strict protocols for the collection and management of evidence obtained by undercover investigators.

## REFERENCES

- [1] Art 148 para. 1 Code of Criminal Procedure - Use of undercover or real identity investigators and collaborators
- [2] Art 148 para. 1lit. a), b), c) Code of Criminal Procedure - Use of undercover or real identity investigators and collaborators
- [3] Art 148 para. 4 Code of Criminal Procedure - Use of undercover or real identity investigators and collaborators
- [4] Art. 101 para. 3 Criminal Procedure Code - Principle of loyalty of evidence
- [5] Art 148 para. 3 Code of Criminal Procedure - Use of undercover or real identity investigators and collaborators
- [6] "The undercover investigator collects data and information on the basis of the order issued pursuant to para. (1)-(3), which he shall place, in its entirety, at the disposal of the prosecutor conducting or supervising the criminal prosecution, drawing up a report."
- [7] Information obtained on the basis of discussions with a judicial police worker from a structure specialized in undercover investigators
- [8] Data and information obtained from specialized anti-trafficking structures following the completion of a criminal case involving undercover investigators, real-identity investigators and an authorized collaborator.