



SARA Law Research Center

International Journal of Legal and Social Order, <https://ijlso.ccdsara.ro/>  
ISSN 2821 – 4161 (Online), ISSN 2810-4188 (Print), ISSN-L 2810-4188  
Nº. 1 (2025), pp. 205-222

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

E.-A. IANCU

Received 27.06.2025; accepted 21.07.2025

First online publication: 21.07.2025

DOI: <https://doi.org/10.55516/ijlso.v5i1.259>

**Elena-Ana IANCU**

PhD. Professor Habil. (Law)

”Aurel Vlaicu“ University of Arad, Romania, Faculty of Humanities and Social Sciences/”Dunărea de Jos” University of Galați, Doctoral School of Social and Human Sciences

E-mail: [elena.iancu@uav.ro](mailto:elena.iancu@uav.ro)

ORCID ID: <https://orcid.org/0000-0002-5921-2222>

### **Abstract**

*In the first part of the study, we make reference to migration theories that are enshrined in scientific research, because we consider that a better comprehension of the context in which people choose and decide to migrate (emigrate-immigrate) would bring solidarity to the forefront. We also emphasise the importance of the existence of an appropriate legal framework where public safety, national security and legal security can be ensured.*

*Knowing the forms of communication in intra-institutional and inter-institutional relations and when we are available to investigate our inner selves to find the resources required in order to act on a daily basis to increase the good around us as long as, on a social-professional level, we are pleased with our accomplishments, is also important so that we can avoid manipulation by various means.*

*We will manage to be active in the line of preventing criminal offenses, of detecting acts of violence committed in different environments and sometimes, if we are part of certain structures or entities, we will also be involved in complex processes aimed at combating crimes, maintaining appropriate social dialogue, as well as constitutional order and social order.*

*In the final part of the article, we will present a few challenges raised by migration, with reference to legal rules of criminal law, labour law or included in the special law with legal provisions on preventing and combating domestic violence. Being aware of influence factors such as: race, language, religion, nationality, financial status, level of education and type of skills held, is an*

*important aspect, knowing that social micro-groups change in the context of migration (emigration-immigration).*

**Key words:** *offence, migration, clandestine workers, discrimination*

## INTRODUCTION

In the course of time, migration has led to positive transformations in the countries of origin and/or of destination, as well as to challenges for the authorities, institutions, entities that are responsible for ensuring social order, public order, legal order and for protecting the fundamental rights and freedoms of human beings.

We have outlined a few challenges that we identified in the field of migration, while taking into account legal rules existing in labour law, criminal law and in the line of prevention and combat of domestic violence. We have also taken into consideration, on the one hand, possible situations in which a human being might find themselves in the context of migration, and on the other hand, the various standpoints (as a civil servant) from which we could express opinions regarding this topic.

References to the types of migrants<sup>1</sup> in correlation with the alternative typologies of migration contribute to understanding responses/statements even when they are taken out of context, as well as to distinguishing honest, clear, transparent communication in the public space, in the social micro-groups where we live our private lives and/or carry out our professional activities.

The alternative typologies of migration may be determined by multiple factors, among which I mention: the judicial stability, economic stability and political stability of the generating countries and receiving countries. As a result, by knowing them, the responses elaborated in this respect, the opinions and/or advice transmitted via various media of communication could be decoded more successfully, manipulation could be diminished and personal protection could be ensured more effectively.

In this study, we intend to analyse international migration for work and migration for education, and to this end, we have placed at the centre of our study a primary need, namely *communication* on the topic of migration. Communication must be improved and intensified within educational institutions that provide education starting from the primary (elementary) cycle, by using age-appropriate content, and by choosing words conscientiously and in good faith, being aware that the national interests of countries vary in relation to migration.

---

<sup>1</sup> Examples of these may be: colonists, contract-workers, professionals, experts, cross-border assignees, clandestine workers, repatriated persons, international protection-seekers (asylum seekers), refugees.

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

Documentation and the monitoring of statistical data reflecting the situation recorded form the basis for the debates, while keeping in mind that there are also unknown figures, which are not included in any statistics.

The capacity in which communication on the topic of migration takes place might be one of the following:

- specialist within an authority with competences in the line of migration in the fields of public order, public safety, national security;
- Romanian employer, Romanian employee, foreign employee, stateless person, former migrant (repatriated) emigrant, immigrant, future migrant, displaced person, member of the migrant's (emigrant's/immigrant's) family;
- specialist in an educational institution that is a partner in academic/student mobility programmes, professional networks of advanced research and innovation, as well as providers of educational services, in general;
- representative of an institution or entity in charge of substantiating and elaborating national policies and strategies;
- participant in international diplomatic missions/theatres of military operations/information-gathering special missions;
- specialist within entities handling the integration of persons who request some type of protection or who have obtained such protection;
- athletes, actors, artists, clergy members;
- students included in international mobility programmes;
- worker/operator within an entity that is authorised to place people in the labour market;
- wrongdoers attempting to evade criminal liability or the execution of a punishment or aiming to place their assets in "safe areas".

The impact of migration (Kozlovskiy S. *et al.*, 2024, pp. 614-615) on the economic development of European countries is, at once, questionable and promising, being felt as having both a negative and a positive influence. With reference to the labour market, migration has a positive impact on the destination countries, it provides workforce in the markets with vacant jobs, ensuring that persons with special work skills are admitted who fill in skilled and unskilled job roles, with some people emigrating, while others are immigrating. At the same time, there is a growing need in the host countries to secure the necessary resources in the fields of healthcare and social security, which might be considered to have a negative impact on economic development.

In studies that present the basic concepts underlying the legitimacy of the authorities acting in the processes specific to immigration management, it is emphasised that the requirements of democracy and justice are the most urgent within societies, "according to a standard liberal argument, and holding the decision-making power with regard to the admission of immigrants is imperative

– one might say, even compulsory, for the very ability to satisfy such requirements”, but scepticism is expressed with regard to the concrete manner in which certain authorities act (*Schmid L., 2023, p. 4*).

### **I. MIGRATION THEORIES AND INDIVIDUAL ACCOUNTABILITY AWARENESS**

The awareness of individual accountability drives our searches in one direction or another over a lifetime. When we are in a position to consider the impact migration might have in the process of sustainable development of our communities, information and documentation, based on the selection of scientific sources, trustworthy sources, including in the process of crime investigation, hold a prominent place.

When decoding communication and when trying to transmit a clear, correct message, that is as comprehensible as possible, within the public space, we must take into account the type of migration we refer to, meaning that a distinction must be made between individual migration or group migration; then the general coordinates which define it as legal or illegal migration should be indicated. One should also answer other questions, such as: is this a phenomenon? Is it a migrant influx? Is it emigration or immigration? Is it domestic or international migration?

Therefore, constantly providing information, including by statistical documentation in the field of migration (emigration-immigration) at county, national, European and/or international level, increases the degree of self-confidence, of trust in others, residents or persons from third-party countries who intend to stay in a country of destination or who are transiting a state in order to reach a country of destination.

It is also necessary to analyse the various conditions of migrants (emigrant-immigrant) and to be aware that general considerations have a different value and result in changes at individual level irrespective of the situation in which one finds themselves, among the migrant’s family members, potential direct, indirect or collateral victims.

These distinctions generate a level of genuine communication in the public space and/or in the social micro-groups in which we live at a given time, in relation to a given territory and the aspect of migration subject to analysis.

Moral order may be stabilised by appropriate communication done in all forms and via various media. The sets of values and moral attitudes may be more or less stable (*Laura Stielike & al., 2025, p. 2515*), and their legitimacy may be assessed differently, for various groups of immigrants, with the offering of help, of humanitarian and/or financial support for those deemed legitimate, while others are considered to be causing trouble, conflicts and instability. In the latter case, integrated interventions ensure immigration management in a given country.

Individual accountability, undissociated from collective accountability, involves integrated efforts in the field of migration management and foreigners’

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

integration, as well as in the acceptance or rejection of future migration (emigration-immigration) and solidarity.

Thus, objective differentiation presupposes at least a few stages in the formation of statements: the identification of facts that are comparable, meaning that they should belong to the same category, group, subgroup; data analysis and synthesis; comparing official statistical data in the matter of migration by categories, groups, subgroups; awareness of the fact that, at the same time, some Romanian citizens choose and decide to move to other countries with the intention to stay (in the destination country), and other foreign citizens arrive, voluntarily or involuntarily, on the territory of our country (as a destination country).

In light of the above, we emphasise the need to approach the various aspects of migration in relation to certain interdependent factors, namely:

- the legal aspect – if the legal framework is stable, the inhabitants will live in a climate of legal safety and, as a result, will show respect for legal rules, which will lead to legal order;
- the human aspect – if the inhabitants manage to gain a sense of personal fulfilment and are interested in finding opportunities that bring them satisfaction, they will feel safe and, thus, will act with respect for the values underlying public safety, which will lead to the assurance of public order;
- the social aspect – if the state authorities are able to carry out their activities peacefully and everyone can achieve their goals within the micro-groups in which they live and operate, they will be part of the process of building social peace. The manner in which the population structure can be altered by emigration and/or immigration might raise challenges for the defence of religious freedoms and for the respect owed to the deceased; thus, ensuring religious peace is a process that involves information, tolerance and understanding the social order.

### II. LEGAL EDUCATION AND COLLECTIVE ACCOUNTABILITY

The complexity of the relation between immigration and crisis is approached from the perspective of interdependence. On the one hand, if we consider various crises (conflicts, environmental degradation, political regime changes, pandemics, economic instability), we note that these are causes of immigration. On the other hand, if we take into account migration models, we find that they lead to crises in the receiving countries/destination countries, which contributes to the appearance of challenges for preserving national security, good governance in the field of immigration, the protection of national borders, as well as for the preservation of ethnic, cultural and educational identity and integrity (*Céline Cantat, Antoine Péroud, Hélène Thiollet, 2023, p. 627*).

Establishing relations of reciprocity, both with persons from the countries of origin and with those who are already in the destination countries as residents or

immigrants, is essential when it comes to protecting the fundamental values of a society. The existence of a legal framework that is appropriate for the new realities generated by immigration, the dissemination of legal rules via various media and providing well-trained communicators within social micro-groups, contribute to the protection of: public safety, national security, legal security.

The types of migrants require different situation approaches, judicial proceedings, inter-/intra-institutional communication/collaboration. As a result, the motive and purpose will determine, in the future, actions, inactions, or actions followed by inactions. The consequences, outcomes or states of danger will draw a fine line between legal and illegal judicial situations, making it possible for an immigrant to transition from a legal to an illegal status within a very short timeframe. The objective and subjective sides of the deeds will determine different legal classifications thereof, vacillating between deeds do not violate legal rules but do encroach upon moral rules, religious rules and/or the internal rules of social micro-groups.

Significant criteria in establishing the typology of the migrant will be: age, duration of the stay, reason for it, as well as causes and/or concurrent factors, such as: natural disasters, environmental damage, political persecution, religious persecution, wars, or in view of family reunification, for education, sport, military missions or other information-gathering/documenting missions, etc.

Determining the form of guilt (intent, fault, exceeded intent), the constituent elements of criminal offences on the basis of the concrete methods of committing the deed correlated with regulatory methods, demonstrating the cause-effect link between the migrant's (immigrant's/emigrant's) statements and the consequences will make it possible to legally classify the deed. Some examples of criminal offences related to this context are: illegally crossing the state border; migrant smuggling; identity fraud; false testimony; facilitating illegal stay in Romania; abetting a criminal.

The security structures in host countries are in the process of consolidation and constant diversification of their interventions. Thus, police structures, emergency services, customs structures, intelligence structures, quick intervention services are on the look-out for vulnerabilities and threats arising from the emigration-immigration exchange.

Intercultural interactions between residents, immigrants and tourists may give rise to unique, unexpected experiences, whether pleasant or otherwise. The impact these have on a tourist's life varies from a deep change in his/her perception to determining future changes among the residents or people living in a certain region, country or entity (*Jiyun Yu and Timothy, Jeonglyeol Lee, 2014, p. 237*).

Cultural negotiations with residents, the need to communicate on identity topics, generate new approaches in inter-human relations, lead to learning new cultural rules that might not turn out as expected, meaning that they might not

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

fulfil the personal needs of the parties. Dialogue, trying to obtain the best price for the services required, purchased products may all contribute to understanding migrants from a humane perspective, increasing the level of tolerance and developing friendship among different peoples.

The existential approach and the experiential approach will challenge the parties to become aware of the importance of compliance with legal rules, as an essential requirement for the existence of social order.

Furthermore, intercultural interactions between international tourists and local residents bear an influence on changing attitudes, in that they cause distinct experiences and changes in perception that may extend to external groups which include non-interactive persons, belonging or not to the same culture, speaking different languages, representing different civilisations. Thus, the need to have an existential approach arises, aimed at figuring out the relations of interdependency between residents, immigrants and tourist, while being aware that tourists will communicate their experiences and, this way, they will influence the public perception of immigrants.

Another category of persons that contribute to the formation of perceptions are immigrants aiming to pursue further studies through inter-academic mobility programmes. They choose among various opportunities and decide to enrol at a university in one country or another on the basis of a combination of factors, such as: following a member of the family, whether in direct or collateral lineage, or through an extended social network of friends; following an ascendant who had immigrated long before and who told them stories about the native land; diverse educational offers that facilitate integration in the academic community; costs and regional and local stability.

The experience they will have, together with their professional development pathway, as well as the opinions/preferences of family members and/or of the group of friends will determine return to the country of origin, the postponement of such return, the decision to stay in the country where they pursued studies or to leave for another country in search of a job/in order to take up a job.

Migration for work accounts for 70% of the total number of migrants worldwide (*Serhii Kozlovskiy et al., 2024, pp. 614-615*), who also often interact with tourists. The wishes, expectations, intentions of immigrants, to be assimilated or not in the host country, their level of education, availability to undergo lifelong training, the type of skills they acquired, their state of health will also impact their relations with residents or tourists, who might become vectors of opinion.

Knowledge of the forms of communication plays an important role in intra-/inter-institutional relations, in the development of solidarity in order to act in the spirit of respect for legal rules, contributing to the prevention of crimes, to the increase of trust in the institutions within which we operate and/or in partnering ones, among other things, through honest, objective and positive communication on the subject of migration.

Appropriate written communication, verbal and non-verbal communication with regard to various situations and multiple social roles, together with becoming familiar with the axioms of communication, will contribute to a long-term increase in human resources in public administration, in the institutions and authorities involved in the good governance of immigration.

As part of the activity carried out by the General Immigration Inspectorate<sup>2</sup> (IGI) in the year 2024, IGI ensured the management of the stay on the territory of Romania of 238,097 citizens from EU, EEA and UK, the number showing an increase by 17.7% as compared to 2023.

In terms of the reason for their stay in Romania, more than half of the nationals of third-party countries were in the country for employment, there was an increase by 17.3% as compared to 2023 of migrants who were family members, an increase by 9.7% of migrants for educational purposes, and an increase by 2.8% of citizens under some type of protection provided by the Romania state<sup>3</sup>.

Registered applications for the issuance of a work permit/assignment permit increased by 6.8% in 2024 as compared to 2023. At county level, the number of registered applications increased in Bucharest, Ilfov, Maramureş, and decreased in Suceava, Satu Mare, Constanţa<sup>4</sup>.

The number of permits that may be issued to foreigners newly admitted in the labour market is established by Government Decision. For the year 2024, it was limited to 100,000 workers<sup>5</sup>, the same as in 2023 and 2022.

Of the total applications for issuance of work permits registered in 2024, there was an increase of 4.7% in the number of employment permits issued as compared to 2023. Regarding the quota set for 2024, there was an achievement rate of 98.3% as compared to 2023, when the rate of quota achievement was 99.4%.<sup>6</sup>

In terms of the occupations established by the Classification of Occupations in Romania (COR), the most well-represented was that of merchandise handler, which increased by 8.6% as compared to 2023. Also, the number of couriers increased by 8.3%, the number of unskilled workers for building demolition, masonry coatings, installation of mosaic floors, wall tiles, floor tiles, hardwood floors, increased by 7.6%, the number of under-cooks increased by 6.1%, the number of unskilled workers for machine parts assembly and mounting decreased

---

<sup>2</sup> Data obtained with the support of the Immigration Police Inspectorate

<sup>3</sup> According to the official response received from the General Immigration Inspectorate (IGI), at my request, in the process of statistical documentation of the research

<sup>4</sup> Idem

<sup>5</sup> Government Decision no. 1338 of 29 December 2023; Government Decision no. 1448 of 08 December 2022

<sup>6</sup> According to the official response received from the General Immigration Inspectorate (IGI), at my request, in the process of statistical documentation of the research



## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

by 4.7%, and the number of unskilled workers for breaking down and cutting building materials decreased by 3.7% as compared to 2023.

Unskilled work was most sought after, thus 60.5% of the permits issued were for occupations in the major group 9 of COR – Elementary Occupations.

A constant concern continues to be the need for theoretical approaches in the field of migration to be known and reported in the statistics made, thus allowing us to understand the trends, to identify the vulnerabilities of certain systems, to predict the dynamics in terms of immigration and to foresee the coverage by financial resources to be assigned to immigration control, to ensuring good governance in the line of immigration.

The types of approaches in the matter of immigration will be diverse, but social pressure, the different needs, the measures to be adopted will form a single framework within which public security, safety and order must be protected.

Microeconomic approaches will involve rational choices and decisions based on: the model of imposed obstacles, the cost-benefit model, the expected value model, the model of choice in social units/social micro-groups.

Micro-social and psychological approaches are appropriate for immigrants who choose the stress threshold model or those who have relative deprivation and frustration as a starting point.

The gravity model and the general approach of systems focusing on the relation between distance and the disposition to move around indicates the number of migratory events between two regions, taking into account the pressure to depart symmetrically with attraction.

At present, the theory of social networks is also prominent, which shows that migration is generated and maintained by migration networks which render migration chains permanent. Thus, family relations are important, but also social relations in general, meaning that immigration/emigration may be determined by the place of origin, acquaintances, friends, distant relatives.

The relation between written communication, verbal communication and non-verbal communication is significant in validating or invalidating the statements of the immigrant/emigrant. It also has an impact on improving personal and professional relations in the workplace and within the social micro-groups in which the immigrant/emigrant operates at a given time. Professional communities should also be made aware of their collective responsibility to act for the prevention and/or combating of criminal offences.

The constant exchange of messages that generates unity of views creates preliminary conditions favourable to lawful actions, harmonises knowledge regarding goals and the legal ways to achieve them, facilitates the acquisition of skills required to fulfil realistically stated and assumed expectations, homogenises groups from an affective (emotional, dominated by feelings) and a motivational perspective (opinions, interests, beliefs, attitudes), ultimately making them aware of individual accountability.

Communication on the subject of migration involves commitment and awareness of individual accountability, with information being transmitted, on the one hand, within the social micro-groups where private life unfolds, or where work is delivered, and on the other hand, within larger groups of people/communities.

Information induces a certain behaviour, the content level being represented by information data, whereas the relational level indicates the manner in which the information should be interpreted.

The attraction of talents is a constant concern of employers, but it also depends on national policies regarding migration, such as: migration in the field of workforce, migration control policies, systems existing in the field of international protection, foreigner integration policies.

Mass-media, as well as other mass information media, social networks play an especially significant role in determining the moral assessment of mobility and migrant groups (by visualising, narrating, presenting them in certain ways, and by communicating such assessments to a larger audience) (*Laura Stielike et al., 2025, p. 2515*).

### **III. CRIMINAL OFFENCES THAT ARE RELEVANT IN THE CONTEXT OF MIGRATION ANALYSIS**

The existence of legal rules that protect social values, such as: dignity, freedom, work, family, religious liberties, national security, as well as knowledge of the abstract content thereof contribute to the prevention of criminal offences that may also be committed in the context of migration.

Of course, each value protected by the legislator may be fulfilled irrespective of the number of emigrants/immigrants who leave/are in a country, in a certain region, locality, area of a locality at a given time. But with the new factors of influence, language, religion, race, nationality, education, taking into account the motive, subjective side, purpose, as well as the differences in the perception of vulnerabilities, new challenges arise, with regard to dignity, religious liberties, the respect owed to the deceased, identity, family.

When individual accountability is not activated, collective accountability is not assumed, and understanding the environment becomes difficult, either because integration is harder, or because integration is not desired and/or overlaps social inadaptability, actions/inactions occur which may be in conflict with legal rules, and the constituent elements that give rise to a form of legal liability are met (criminal, contraventional, financial, disciplinary liability).

Legal liability may arise both when societies put in place inclusion policies and exclusion policies, being the result of the violation of legal rules by individuals, as well as by the state authorities, with fundamental rights and freedoms being thus infringed upon. Recent studies mention a new discipline of law, namely immigration law (*Vavoula N., Tsourdi L., 2025, p. 3*), which deals

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

with issues related to the admissibility and status of foreigners on the national territory.

The state bodies issue general legal rules in a legitimate manner, given that the state is organised and operates in accordance with the Constitution. As a result, such legitimacy is recognised, because this is the only way in which rules of a general and mandatory nature are legally founded, on the basis of the presumption that there is an agreement of the democratically-organised society, even if, formally, such agreement is not materialised (*Boghirnea I., 2008, p. 32*).

The integration of immigrants in society is done with difficulty, because of the challenges posed by differences in culture, religion, race, identity. Migratory influxes bring along new cultural traditions and religions or different spiritual philosophies. Conflicts, divergences, social disorder occur as a result of different social rules, values and customs (*Bodnaruk O et al., 2025, p. 5*) when tolerance levels are low and/or when authorities intervene expediently.

In the field of employment relations, there are challenges along the lines of discrimination, harassment, victimisation. Legal rules provide for the regulatory modalities by which discrimination, harassment, victimisation become manifest. There are various concrete modalities, sometimes there are immaterial traces, in other cases written documents are left behind, making it possible to investigate the facts through various evidentiary procedures (the hearing of persons, graphical expertise, documentary expertise, investigation of video images).

An example in this respect, from Romanian legislation, is *Law no. 53/2003<sup>7</sup> (Labour Code)*, from which we have extracted a few relevant legal rules along the lines of prevention of discrimination in employment relations, of ensuring equal treatment for all employees and employers, as well as with regard to any kind of harassment.

Article 5, paragraph 1, provides for the principle of equal treatment for all employees and all employers. In paragraph 2, “Any direct or indirect discrimination against an employee, discrimination by association, harassment or act of victimisation” is prohibited. The criteria according to which discrimination, harassment or victimisation may occur are listed in Article 5, paragraph 2: race, nationality, ethnic origin, colour of the skin, language, religion, social origin, genetic characteristics, sex, sexual orientation, age, disability, non-contagious chronic disease, HIV infection, political option, family situation or responsibility, trade union membership or activity, belonging to a disadvantaged category”.

Direct discrimination has the abstract meaning indicated in paragraph 3, as being “any actions or facts of differentiation, exclusion, restriction, or preference, based on one or several of the criteria stipulated under par. (2)”. We note that, within the meaning assigned by the legislator, the purpose or effect of the action of the discriminating agent is important. Therefore, the essential requirements are

---

<sup>7</sup> Published in the Official Journal, no. 345 of 18 May 2011.

fulfilled when either the purpose or the effect of the action and/or inaction is the failure to grant, the restriction or rejection of the recognition, use, or exercise of the rights stipulated in the labour legislation.

*Indirect discrimination* is provided for in paragraph 4, as being: “any apparently neutral provision, action, criterion or practice whose effect is disadvantaging a person in relation to another person on the basis of one of the criteria provided for in par. (2)”. An exception from this are cases where “such a provision, action, criterion or practice is justified objectively by a legitimate purpose”. We note the requirement imposed by the legislator, stating that the means for fulfilling the legitimate purpose should be proportional, appropriate and necessary.

*Discrimination by association* is defined in paragraph 6 and consists in “any action or fact of discrimination committed against a person who, although he/she does not belong to a category of persons identified according to the criteria provided for in par. (2), is associated or presumed to be associated with one or several persons belonging to such a category of persons”.

In the case of behaviour that leads to harassment, we find in the abstract content the same criteria provided for in par. (2). The criteria, together with the purpose, make the difference between behaviours, in the case of harassment the purpose being to prejudice a person’s dignity. The concrete modality of committing the act and the extent to which a person’s dignity is prejudiced result in the creation of an intimidating, hostile, degrading, humiliating or offensive environment.

*Victimisation*, as provided for in paragraph 7, consists in any adverse treatment occurred in reaction to a complaint or notification of the relevant authorities, respectively in reaction to a legal action with regard to the violation of legal rights or of the principle of equal treatment and non-discrimination.

In cases where an employee considers himself/herself to be the victim of an adverse treatment by the employer (Article 6, paragraph 5 of Law 53/2003), he/she may refer to the competent court of law with a claim for damages and for the restoration of the previous situation or for the annulment of the situation created as a result of the adverse treatment, while also presenting the facts on the basis of which the existence of such treatment may be presumed.

Moreover, in paragraph 8, the assimilated form of discrimination is provided for, as being: “Any behaviour that consists in ordering a person, verbally or in writing, to use a form of discrimination against one or several persons is deemed to be discrimination”.

In cases where the specific nature of the activity concerned or of the conditions in which the activity concerned is carried out renders mandatory certain essential and determining professional requirements, an exclusion, differentiation, restriction, or preference regarding a particular job/workplace does

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

not constitute discrimination. We specify that the purpose must be legitimate and the requirements proportional.

With regard to the diversification of the modes of manifestation of violence and the intensification of actions/inactions with a violent content, including in the context of migration, an appropriate example is *Law no. 286/2009*<sup>8</sup> (*Criminal Code*), from which we have extracted criminal legal rules covering the prevention of: harassment, sexual harassment, false testimony, identity fraud.

The criminal offences of harassment and sexual harassment often remain in the dark records of crime for a long period of time, although they are frequently present in employment relations and disrupt activities in the workplace, with effects that extend beyond the workplace.

Secondarily, this type of offence has consequences for the state of health of the victim, it may prejudice their bodily integrity and/or health, diminish trust in work relations among workers, as well as in relation to the employer, and decrease efficiency in the workplace (*Cîrmaciu D., 2018, pp. 49-50*).

The general concept of precarity is described in the studies, which is essential when analysing employment conditions. The main components of the concept of precarity are the lack of social protection, the insufficient fulfilment of rights in the country of destination, the lack of a legal workplace which determines a perception of insecurity and social or economic instability (*Anna, K. Boucher, 2024, p. 462*).

Cumulative causality, migration networks existing in the countries of destination or countries of origin, the opportunities and resources available can mobilise departures from a country or stimulate communities affected by conflicts to stay in a certain country (*Korinek, K., Sawangdee, Y., Jirapramukpitak, T. et al., 2025, p. 16*).

Persons who perform work at home, in the agricultural sector, in the forestry sector, are exposed to a risk of sexual violence, of harassment due to the proximity of the employer. Sexual violence is often accompanied by underpayment, other forms of violence, non-payment, which increases the victim's general vulnerability and dependency on the aggressor.

Through active, positive involvement within society, community organisations/associations may contribute to the prevention of crimes and may raise awareness regarding context variability in the process of deliberation to avoid the commission of the criminal act or to notify in due time the judicial bodies about isolated actions that might, otherwise, be repeated over time. Knowing the legal rules that protect social values in a state prevents crime, helps identifying illegal behaviours early on, notifying acts provided by the criminal law, classifying them according to types of crimes, and then recording them correctly.

---

<sup>8</sup> Published in the Official Journal of Romania, no. 510 of 24 July 2009

For a start, behaviours of this kind may be preceded or followed violent actions/inactions before or after the victim reaches the environment where the facts are found, being the result of forms of violence exercised in the micro-groups in which he/she lives. The investigation is initiated by complaint or ex officio, in which case it is not possible to withdraw the complaint, only the reconciliation of the parties is applicable.

The seriousness of the acts is one of the factors influencing the decision to report the act. The injury index (*Langton, L. and Planty, M., 2025, pp. 116-120*) would help the judicial bodies to discover facts provided by the criminal law, their nature, their proportion and the prejudice suffered. For instance, criminal offences that prejudice sexual freedom and integrity, those committed against vulnerable persons are notified later, although they have serious consequences on mental, physical welfare and within the social micro-group where the victims carry out their professional activity or live their private lives.

Along the same lines, we have extracted from special laws containing criminal rules, from Romanian legislation, rules for the prevention and combating of domestic violence, while also ensuring a specific legal framework for the prevention of forms of violence against family members. *Law 217/2003<sup>9</sup> on preventing and combating domestic violence (republished)* defines the forms of violence manifested in the domestic environment. We make reference to economic violence, social violence, cyber violence, sexual violence. Article 4, paragraph 2, provides that: “In no way and other no circumstances, may custom, culture, religion, tradition and honour be deemed as justification for any type of violent acts as defined in this law”.

Also, *Law no. 489/2006 on the freedom of religion and the general status of religious denominations<sup>10</sup>* provides a special legal framework which defends any person against spiritual violence. Moreover, in the *Criminal Code<sup>11</sup>*, Title VIII “Offences that harm social relationships”, Chapter III bearing the marginal title “Offences against freedom of religion and respect owed to the deceased”, the Romanian legislator includes four criminal offences, as follows: “Preventing the freedom to practice religion” (Article 381), “Desecration of places or objects of worship” (Article 382), “Desecration of corpses or graves” (Article 383), “Illegal harvesting of tissues or organs” (Article 384).

The concept of memory has been analysed from a social, cultural, psychological, anthropologic and mediatic perspective. Systematic approaches have led to individual narrative accounts, social representation of events, cultural rhetoric and frameworks for meaning creation, the process of formation of cultural trauma, processes of creation of social identity, relations between memory and

---

<sup>9</sup> Republished in the Official Journal of Romania, no. 948 of 15 October 2020

<sup>10</sup> Published in the Official Journal of Romania, no. 11 of 8 January 2007

<sup>11</sup> Law no. 286 of 2009, published in the Official Journal of Romania no. 510 of 24 July 2009

## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

historical work and impressive research on witnesses (*De Vincenzo, C., & Zamperini, A., 2023, pp. 353-373*).

Deaths occurred in the context of immigrant influx, either during travel, or at the border, raise challenges for the authorities, also because of the different nationalities of the deceased immigrants, their different religions, the philosophies they practise or as a result of the fact that the immigrants have no religion. In the case of immigrants arriving in the countries of destination, especially if migratory networks are followed and immigration is for the purpose of family reunification, respect for the status of religious faiths (denominations) involves granting them buildings for the carrying out of specific practices, as well as for the deposit of the deceased by respecting rituals for each individual.

In Romanian legislation – the Civil Code<sup>12</sup>, the conduct to be followed is expressly indicated, so that each individual should act by showing respect for the deceased person even after death. Respect with regard to their memory and to their body is guaranteed by Article 78, prejudice to the memory of the deceased being prohibited. The civil legal rule does not differentiate between the legal status of duties towards the deceased, the memory of the deceased person being protected under the same conditions as the image and the reputation of the living person. As regards respect for the will of the deceased person, the civil law provides the principle of freedom of choice and, considering the religious affiliation of the deceased person (Art. 80 of the Civil Code), a person may decide upon the type of funeral they want and upon the manner of disposal of their body after death (*Iancu E.-A., 2024, p.15-16*).

In France, the issue of wearing religious symbols causes significant disputes and even leads to legislative restrictions. In Sweden, cultural differences between migrants and the local population pose challenges for integration at educational level and in the labour market. Stereotypes and prejudices against migrants often complicate their social adjustment, which requires developing special programmes for the promotion of intercultural dialogue and understanding (*Bodnaruk O et al., 2025, p. 5*).

However, it is important to also look at public standpoints expressed with regard to the impact of migration (emigrant-immigrant) from the perspective of the assessment of perceptions on vulnerability. In the specialty studies that integrate psychological models of vulnerability in relation to the fear of criminal offences (*Chloe Keel et al., 2025, p. 2*), the various approaches to vulnerability are emphasised.

In certain cases, vulnerability is handled as a psychological process, whereas in other cases the proximity effects are put to the forefront as the driving force behind the concern regarding crime. Thus, the vulnerability model is focused on the manner in which people perceive their susceptibility to criminal

---

<sup>12</sup> Law no. 287 of 2009, published in the Official Journal of Romania no. 505 of 15 July 2011

offences. Consequently, perception will be modelled by the perception of probability and of the consequences of becoming a victim, as well as by a sense of control for the purpose of preventing victimisation (*Chloe Keel et al., 2025, pp. 3-4*).

### CONCLUSION

*Migration (emigration-immigration) has long existed throughout the history of nations (peoples), it still exists and will record an upward trend in the future of humankind. Countries that up to now have not been included with significant figures in the statistics will become countries of destination even if, at the present, they are countries of transit.*

*Legal awareness of individual accountability, assuming collective accountability involve integrated efforts, good communication within local communities and constant collaboration, as well as the identification, knowledge and learning of the values protected by the legislator in a state. These have a direct positive impact within social micro-groups, an indirect impact on the communities, and they contribute to the prevention of crimes in general, to the strengthening of public safety and the protection of national security.*

*Fear of crime, the feeling of control in terms of preventing situations where a person becomes an active or a passive subject of certain offences or a collateral victim, are individual processes on the basis of which statements are formed. These may change depending on the environment, territory, geographical, political, economic and social context in which residents live together with the immigrating person.*

*Knowledge of criminal law contributes to understanding the values that are protected in a state, to identifying the punishment provided by law in case of violation thereof, and to respect for legal order.*

*In the future, there will be challenges along the line of prevention of forms of violence, such as: domestic violence, with a differentiation of crimes committed against a family member (e.g., violence within the family); harassment (classic and/or cyberbullying, mobbing), with a differentiation of the crime of harassment, sexual harassment; spiritual violence (with a differentiation of the crimes that prejudice liberties and the respect owed to the deceased); discrimination, victimisation and the exploitation of persons.*

### BIBLIOGRAFIE

1. Bodnaruk Oleksandr, Yushchyk Olena, Shevchuk Andrii, Stratiy Oleksiy, Nechypailo Vadym., *The role of criminal liability for illegal possession of a vehicle*. Salud, Ciencia y Tecnología - Serie de Conferencias. 2025; 4:1315. <https://doi.org/10.56294/sctconf20251315>



## CRIMINAL LAW CHALLENGES CAUSED BY MIGRATION FOR WORK

2. Anna, K. Boucher, *Migrant sexual precarity through the lens of workplace litigation*, Gender, Work & Organization, Volume 32, Issue 1, 2025, DOI: <https://doi.org/10.1111/gwao.13160>
3. Boghirnea Iulia, *The creation of the general legal norm*, Annales Universitatis Apulensis, Series Jurisprudentia, no. 11/2008;
4. Céline Cantat, Antoine Pécoud and Hélène Thiollet, *Migration as Crisis*, Volume 69, Issue 6, SAGE Publications, 2025, DOI: <https://doi.org/10.1177/00027642231182889>
5. Chloe Keel, Rebecca Wickes, Murray Lee and Jonathan Jackson, *Vulnerability and place: a test of the psychology of perceived vulnerability for women and men*, Current issues in Criminal Justice, 2025, <https://doi.org/10.1080/10345329.2025.2489229>
6. Diana Cîrmaciu, Elena-Ana Iancu, *Challenges in the changing world of labor relations. Human resources, finance and crimes in the decade of digitization* in Changes and Innovations in Social Systems, Springer Nature Switzerland AG 2024, DOI: [https://doi.org/10.1007/978-3-031-43506-5\\_15](https://doi.org/10.1007/978-3-031-43506-5_15)
7. Diana Cîrmaciu, *General considerations on equal treatment of men and women in labour relations. Sexual harassment in the workplace*, Annales Universitatis Apulensis, Seria Jurisprudentia 21/2018, Editura Pro Universitaria (publishing house), Bucharest, 2018;
8. Elena-Ana Iancu, *Comparative Law Study on Legal Rules Protecting Religious Values and Freedoms in “Religion and Social processes in Southeast Europe”*, conference volume, edition 3, Banja Luka, 2024;
9. Korinek, Kim, Sawangdee, Yothim, Jirapramukpitak, Tawanchai et Aree Jampaklay, *Migration Amidst Conflict and Cumulative Causation: An Analysis of International & Domestic Migration in Thailand’s Southernmost Provinces*. Popul Res Policy Rev 44, 17 (2025). <https://doi.org/10.1007/s11113-025-09937-3>
10. Langton, Lynn and Planty, Michaela, *Harms and consequences of victimization*. Journal of Contemporary Criminal Justice, 41 (1), 2025 115-140. <https://doi.org/10.1177/10439862241290360>
11. Laura Stielike, Isabella Löhr, Christiane Reinecke, Philipp Schäfer, Inken Bartels, *Rethinking the production of knowledge on migration: a moral economies approach*, in Journal of Ethnic and Migration Studies, Volume 51, Issue 10, 2025, pp. 2505-2528, DOI: <https://doi.org/10.1080/1369183X.2025.2461340>
12. Alberto Palloni, Douglas S. Massey, Miguel Ceballos, Kristin Espinosa, Michael Spittel, *Social Capital and International Migration: A Test Using Information on Family Networks* in the American Journal of Sociology, Volume 106, Issue 5, 2001, DOI: <https://doi.org/10.1086/320817>
13. Jiyun Yu and Timothy Jeonglyeol Lee, *Impact of Tourists’ Intercultural Interactions*, Journal of Travel Research 2014, Vol. 53(2), p. 237,

DOI: <https://doi.org/10.1177/004728751349646>;

14. Serhii Kozlovskiy, Tetiana Kulinich, Ihor Vechirko, Ruslan Lavrov, Ivan Zayukov and Hennadii Mazur (2024). *Relationship between net migration and economic development of European countries: Empirical conclusions*. *Problems and Perspectives in Management*, 22(1), 605-618.

DOI: [10.21511/ppm.22\(1\).2024.48](https://doi.org/10.21511/ppm.22(1).2024.48)

15. Schmid Lukas (2023). *Colonial injustice, legitimate authority, and immigration control*. *European Journal of Political Theory*, 24(1), 4-26.

DOI: <https://doi.org/10.1177/14748851231201469>

16. Vavoula Niovi, Tsourdi Lilian, *Intertwining Criminal Justice and Immigration Control in the EU: Theoretical, Interdisciplinary and Practical Perspectives*, University of Luxembourg law Research Paper, No. 2025-02

<https://dx.doi.org/10.2139/ssrn.5183667>

17. De Vincenzo, Ciro, & Zamperini, Adriano (2023). *Migrants' deaths at Europe's southern border: Cultural psychological dimensions of memory and mourning in Lampedusa*. *Culture & Psychology*, 31(1), 353-373.

<https://doi.org/10.1177/1354067X231219449>



**This work is licensed under the Creative Commons Attribution-NonCommercial 4.0 International License.**