

HUMAN TRAFFICKING

Aspects of human trafficking in Germany

Facts about human trafficking

- Germany is primarily a country of destination
- Main purpose of human trafficking is sexual exploitation
- Victims are mostly female foreigners from Romania, Bulgaria and Hungary
- Suspects are mostly male foreigners from Romania, Bulgaria and Hungary
- Victims and suspects are often linked in some way
 - cultural background
 - acquaintance
 - consensual prostitution
- Investigations are initiated by
 - report of the victims
 - police action
- No reliable data regarding human trafficking for labour exploitation, because of few cases
- Actual number of victims may be higher
 - some victims may not report
 - law enforcement agencies rely on the victims' willingness to cooperate and to give evidence

Legal difficulties before reform

- Difficulties before October 2016 because of necessity to prove that the perpetrator induced the victim to submit to the exploitation
- German Criminal Code distinguished between
 - ▣ human trafficking for sexual exploitation (section 232)
 - ▣ human trafficking for labour exploitation (section 233)
 - ▣ assisting in human trafficking (section 233a)
- Main criteria for these crimes
 - ▣ victim is in a vulnerable situation
 - ▣ perpetrator induces victim to submit to exploitation
 - ▣ perpetrator takes advantage of the situation

Adjusting the legal framework

- Call for adjustment of current legislation
 - practical difficulties
 - compliance with international and European law
- Relevant provisions to be considered
 - United Nations Convention against Transnational Organised Crime (UNTOC)
 - UNTOC Protocol against Migrant Smuggling
 - Council of Europe Convention on Action against Trafficking in Human Beings
 - European Union Directive 2011/36 on prevention and combating trafficking in human beings and protecting its victims
- Urgency of compliance
 - Obligation to transpose European Union Directive on human trafficking into national legislation
 - European Council Convention has a monitoring mechanism involving recommendations by an expert group GRETA
 - UNTOC and Protocol without a review mechanism
- Bill on improvements in combatting human trafficking came into force in October 2016

The new legal framework

- Provisions on human trafficking for sexual and labour exploitation retained
 - shifted from section 232 and 233 to section 232a and 232b
 - renamed forced prostitution and forced labour
 - new provision criminalising clients who knowingly use sexual services from a trafficked person
- Provision on assisting human trafficking remodelled
 - shifted from section 233a to section 232
 - renamed human trafficking
 - perpetrator needs not know, that the victim was induced to submit to the exploitation
- New provision on exploitation of labour
 - introduced in section 233
 - perpetrator knows about the victim's vulnerable situation and reaps the benefits
- New provision on exploitation utilising deprivation of liberty
 - introduced in section 233a
 - perpetrator deprives victim of liberty and abuses vulnerable situation for exploitation

Refining international legal instruments

- International legal instruments provide impetus for reviewing and improving national legislation
- Important to further develop existing legal instruments against human trafficking
- Initiatives regarding UNTOC
 - UNODC study on definition of migrant smuggling in the Protocol against Migrant Smuggling
 - Funding by Switzerland
 - Germany took part in the study (country visit in 2016 / expert group meeting in Vienna in 2016)
 - UNODC study on marriage trafficking
 - Funding by Germany
 - Concept of transnational organised marriage trafficking to be elaborated
 - Importance of phenomenon regarding number and type of victims to be assessed
 - Recommendations for improvements regarding national legislation, prevention, international cooperation to be elaborated

Thank you!