

CAPSULE INFORMATION ON THB: BREAKING THE MYTHS

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1

Trafficking in Human Beings is always a crime – The Argument of “Consent” is Legally Irrelevant

It is not possible to “consent” to trafficking. Intrinsic inalienability of personal freedom renders stipulated ‘consent’ irrelevant within the context of human trafficking. This understanding is reflected in the ‘means’ element of the THB definition according to the Protocol of 2000 to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

As further stated in OHCHR fact sheet elaborating on the definition and noted by the drafters of the Trafficking Protocol: “Once it is established that deception, coercion, force or other prohibited means were used, consent is irrelevant and cannot be used as a defence.”

Victims remain victims, and perpetrators remain criminally liable.

2

Support the Victims, Break the Chain

Article 14 of the Council of Europe Convention on Action against Trafficking in Human Beings foresees a good mechanism to support victims and contribute to identifying perpetrators. How? By offering the prospect of specially justified residence permits if the victim cooperates with the law enforcement authorities.

3

Deals with Perpetrators - Leniency Programmes

The use of domestic leniency programmes – deals with cooperative perpetrators – should be considered more often to identify the background actors within the criminal network.



4

Trafficking in Human Beings may be Related to Migrant Smuggling – But there are Different Legal Acts of EU Applicable

For migrant smuggling, the initial prerequisite is the illegal crossing of an international border. The crossing could be made through legal ports of entry with illegal documentation, or unofficial ports/points of entry. The smuggled individuals knowingly and voluntarily enter contact with the smugglers and make an agreement for a provision of the service. Here, the commodity in this crime is the service of movement, which constitutes a crime against the state, considering the illegal entry being against immigration laws.

However, for THB, the crime can take place also within the country and does not require crossing of international borders. Usually, as a control mechanism, perpetrators possess the documents from the trafficked persons in order to further limit their freedom, which could be identified as a tool for coercion and control. The act involves the exploitation of these victims who are essentially commodities, which indicates a crime against the individual victim of trafficking, therefore a direct violation of human rights.



5

Recruitment – A Process where Open Source Investigation Applications are More Than Helpful

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6

Law Enforcement Cooperation Agreements

Among the EU Member States as well as with a view to a vast number of Third States, there are bilateral policing agreements in force – in addition to the common agreements under the EU auspices. These bilateral agreements are allowing closer cooperation and allow the application of special investigation tactics. OSINT and related measures are also covered by such agreements.

