



Human Trafficking – A Modern Form of Slavery

A Fact Sheet by the Swiss Coordination Unit against the Trafficking in
Persons and Smuggling of Migrants (KSMM)

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What is human trafficking?

The internationally agreed definition of human trafficking is the 'recruitment, transportation, transfer, harbouring or receipt of persons for the purpose of exploitation' — be it for sexual exploitation, forced labour or the removal of human organs. Exploitation and migration are usually linked: traffickers take unfair advantage of the poverty and lack of a future perspective in the migrants' home country and their hope of a better life in the target country by deceiving them, for example, with promises of work or marriage. Migrants enter the target country either by legal or illegal means, become dependent either through servitude, coercion or violence and are then exploited. The wrong consists in the trafficker's abuse of power and the control of another person.

Human trafficking differs from the smuggling of migrants in that the latter denotes the act of abetting or assisting illegal entry into a country against payment, usually with the smuggled person's consent. Human trafficking and migrant smuggling can, however, occur simultaneously and are difficult to distinguish between, if the price someone pays for being smuggled into a country is nothing less than debt bondage, dependency and exploitation by the smugglers.

Estimated number of victims

According to source, there are an estimated 600,000 to 2.4 million victims of human trafficking worldwide. Europol assumes that transnational criminal organisations are primarily involved in the human trafficking business. Regarding Switzerland, isolated instances of human trafficking do suggest involvement of organised crime, but it is chiefly single perpetrators and small groups — often consisting of persons of the same clan or ethnicity — that traffic human beings. The exact number of trafficking victims in Switzerland is not known. Figures are difficult to estimate because the phenomenon manifests itself in criminal circles. Based on international figures and the approximate number of prostitutes, the Federal Office of Police estimated in 2002 that between 1500 and 3000 persons in Switzerland are affected by human trafficking for the purpose of sexual exploitation. Trafficking victims are usually women from Eastern and South-Eastern Europe, the Baltic States, Brazil and Thailand who are exploited as prostitutes. More recent figures, including figures on other forms of human trafficking (such as for labour exploitation and the removal of human organs), are not available.

The legal situation in Switzerland

Since 1 December 2006, human trafficking has been a punishable act in Switzerland under Article 182 of the Swiss Criminal Code (SCC). This paragraph has replaced Article 196 SCC, which only provided for human trafficking for the purpose of sexual exploitation. Under the new Article 182 all forms of human trafficking according to the internationally agreed definition above have become punishable offences. Even a single instance of trafficking only one person is now punishable under Article 182 SCC. The offence carries a penalty of up to twenty years' imprisonment, and a penalty of not less than one year if the victim is a minor or if trafficking is conducted on a commercial basis. With regards to trafficking for the purpose of

sexual exploitation, it is irrelevant whether the victim agreed to the act of prostitution if the victim's consent was given as a result of economic hardship. Whilst Article 182 SCC makes human trafficking for the purpose of sexual exploitation a punishable offence, Article 195 SCC still prohibits the promotion of prostitution. This ensures that instances where a person has been forced into or forced to remain in prostitution are punished.

Criminal prosecution

In the last few years, between twenty and fifty cases of human trafficking for the purpose of sexual exploitation, as defined under Article 196 SCC, and more than double as many cases of forced prostitution as provided against in Article 195 SCC, were reported to the police. Between 2000 and 2005 there were between two and eleven convictions for human trafficking annually, and between six and eighteen convictions for the promotion of prostitution. Each case or conviction can include several victims. At present there are no statistics on the new forms of human trafficking as provided for under Article 182 SCC.

Number of convictions

Year	2000	2001	2002	2003	2004	2005	2006
Human trafficking (Art. 196 SCC)	5	2	2	7	2	12	5
Forced prostitution (Art. 195 SCC)	18	17	11	6	12	15	14

Source: Federal Statistical Office, statistics on convictions.

Presumably, there is a large number of unreported cases of human trafficking. One of the reasons may be that victims generally do not trust the authorities and are seldom willing to give evidence against the perpetrators for fear of revenge. However, a victim's evidence can be crucial for successful criminal prosecution.

Victim assistance and protection

Under the Swiss Victim Assistance Act (VAA), anyone whose sexual, physical or psychological integrity has been violated in Switzerland is entitled to counselling and support. This provision applies whatever a person's nationality or residential status. This legislation, together with cantonal criminal procedure ordinances, also provides for the protection of victims and witnesses who give evidence in criminal proceedings. The victims of human trafficking, too, are by law entitled to request assistance from state and private victim assistance agencies. The victims' residential status is an essential issue when it comes to safeguarding their rights and interests in Switzerland. Foreign nationals staying in Switzerland are subject to the Ordinance on Limiting the Number of Foreigners.

Under Articles 13(f) and 36 of this ordinance, which is still in force, cantonal authorities are at discretion to issue a residence permit in cases of serious personal hardship or for other compelling reasons. These provisions also apply to victims of human trafficking; thus, victims may be issued with a residence permit valid for the time they need to think about whether they wish to participate in the criminal proceedings instituted against a presumed offender and, eventually, for the duration of proceedings. However, while eligible to apply for temporary stay, a victim is not automatically entitled to such a right. The Federal Office of Migration, on 25 August 2004, issued recommendations as to the practice of issuing residential authorisations. A 2006 survey of the practice conducted in the cantons showed that in forty-five instances (2005: 56) linked to human trafficking, victims were granted the possibility to stay. Out of these 45 cases, the authorities refrained in 39 instances (2005: 30) from turning trafficking victims away, issued a short-stay permit in three instances (2005:18) and applied the hardship clause in three instances (2005:8).

Federal measures against human trafficking

The Federal Council has declared the fight against human trafficking a central objective. The following measures have been introduced:

Institutional measures:

- In 2003 the Federal Office of Police established the Swiss Coordination Unit against the Trafficking of Persons and Smuggling of Migrants (KSMM). This unit comprises all the federal and cantonal agencies involved in fighting and preventing human trafficking and smuggling. Furthermore, this unit coordinates measures in the field of prevention, prosecution and victim assistance.
- In 2004 the Coordination Division of the Federal Criminal Police was reinforced by the Paedophilia, Human Trafficking and Smuggling Investigating Unit. In 2007 this unit was divided into two new units; the "Pornography and Paedophilia Investigation Unit" and the "Human Trafficking and Migrant Smuggling Investigation Unit", the latter receiving additional personnel resources. It assists the cantonal police authorities in intercantonal and international investigations.

Legal measures:

- Switzerland has ratified the Facultative Protocol to the Convention on the Rights of the Child Regarding the Sale of Children, Child Prostitution and Child Pornography and the Additional Protocols to the UN Convention on Transnational Organised Crime Regarding Human Trafficking and Smuggling. Both protocols came into force in Switzerland on 18 October 2006 and 26 November 2006 respectively.
- In the course of ratifying the Facultative Protocol to the Convention on the Rights of the Child, Article 196 SCC (human trafficking) was replaced by Article 182. The contents were adapted to the internationally agreed definition of human trafficking (see above).
- The new legislation on foreign nationals, which was approved by the Swiss electorate on 24 September 2006, provides explicitly for the possibility of victims of human trafficking to be exempted from the requirements for eligibility to the right to stay; moreover, return assistance is also provided for. The new Foreign Nationals Act should come into force on 1 January 2008.

Further measures:

- Under the aegis of KSMM, an expert team consisting of representatives of the federal government, the cantons and NGOs have developed guidelines on *Co-operation mechanisms for combating trafficking in human beings*. These guidelines were presented on the occasion of a national experts' meeting entitled Human Trafficking in Switzerland on 3 November 2005. The guidelines contain an overview of the tools for fighting human trafficking and suggest forms of co-operation.
- KSMM is involved in specialised training modules at the Swiss Police Institute on combating human trafficking. The first course, which is aimed at the cantonal police corps and migration offices, will take place in April 2007.

Cantonal measures

To improve co-operation between the police, judicial and migration agencies and the victim advisory centres, various cantons hold roundtable meetings on human trafficking. In the meantime, the cantons of Zurich, Bern, Solothurn, St. Gallen, Lucerne, Basel-Stadt and Tessin have established co-operation mechanisms to ensure close co-operation between the law enforcement agencies, migration authorities and the advisory centres.

Measures by other organisations

In summer 2004, the Zurich Women's Information Centre (FIZ) launched a project called 'FIZ Makasi – Consultation and support for victims of counter-trafficking'. This advisory centre specialises in victim support, providing legal and (psycho-) social help, and organising accommodation and financial assistance. The centre helps secure a victim's residential status in Switzerland and establish the degree of threat victims would face if turned away to their country of origin. Thanks to the increase in protection, the situation of the victims can be eased and they can have a better outlook for the future and are, therefore, more likely to testify against perpetrators.

Since January 2005, the Swiss branch of the International Organisation for Migration (IOM) in Bern offers cantonal authorities and private and public advisory centres individual support in helping victims of human trafficking return to their country of origin voluntarily and in placing them in rehabilitation and reintegration programs on-site. Furthermore, the IOM provides training and assistance to heighten awareness.

Switzerland's international commitment

In the Swiss Foreign Policy Report 2000, the Federal Department of Foreign Affairs (FDA) defines human trafficking and in particular the trafficking in women as a significant challenge. Switzerland condemns human trafficking worldwide as a grave violation of human rights. The FDA outlines specific measures and objectives in its 'Guidelines for Internationally Effective Measures for the Prevention of Trafficking in Persons and Protection of Victims', which was published in 2003. Switzerland concentrates its efforts abroad on the following main areas:

- Prevention in the countries of origin;
- The setting-up and support of agencies and NGOs abroad that are committed to fighting human trafficking and protecting victims.

The Swiss Agency for Development and Cooperation (SDC) and the FDA's Directorate of Political Affairs, the competent government agencies dealing with human security and humanitarian policy, support various projects abroad. Switzerland is also actively involved in international organisations that oppose human trafficking, for example the United Nations, the OSCE and the European Council.

KSMM— tasks and priorities

Primarily a coordination unit, KSMM is responsible for fighting and preventing human trafficking and smuggling in Switzerland. Protecting the victims and bringing the perpetrators to justice is an overriding goal of KSMM. It does so by improving the necessary instruments, coordinating measures, and establishing appropriate contacts between authorities and relief agencies. Its main tasks in preventing human trafficking include the following areas:

- to support the cantons in instituting roundtable meetings and cooperation mechanisms against human trafficking;
- to further develop and be involved in training courses for professionals involved in combating human trafficking;
- to co-ordinate federal resources used for public awareness campaigns on human trafficking and forced prostitution before and during the European Football Championships UEFA EURO 2008TM;
- to heighten awareness in political circles, amongst administrative bodies and the public;
- to link the respective federal and cantonal bodies, and NGOs.

Further links

- KSMM on the internet: <http://www.fedpol.ch> -> Topics – Crime – Human Trafficking
- Guidelines "Co-operation mechanisms for combating trafficking in human beings": http://www.fedpol.admin.ch/fedpol/en/home/themen/kriminalitaet/menschenhandel/leitfad_en.html
- Report on Internal Security 2005, Federal Office of Police: <http://www.fedpol.ch> -> Documentation - Reports
- Swiss Criminal Code (SCC): Article 182: http://www.admin.ch/ch/d/sr/311_0/a182.html
- UN Additional Protocol against Human Trafficking:
English: http://www.unodc.org/unodc/en/crime_cicp_signatures.html
German: http://www.un.org/Depts/german/gv-sonst/a55383_anhii.pdf
- Council of Europe - European Convention on Combating Trafficking in Human Beings:
English: <http://conventions.coe.int/Treaty/EN/Treaties/Html/197.htm>
German: http://www.coe.int/T/dg2/trafficking/campaign/Source/PDF_Conv_197_Trafficking_German.pdf