



## Human Trafficking – A Modern Form of Slavery



### What is human trafficking

Human trafficking is a serious crime that violates basic human rights and human dignity. Perpetrators of human trafficking exploit the poverty or hardship of others and their hope of a better future elsewhere, by luring them with false promises of work or marriage opportunities. Once at their destination, victims are forced into dependency by coercion, violence or debt bondage (e.g. to pay off their travel debts) and exploited. The wrong consists in traffickers' abuse of power and in their denying victims the right to self-determination. Trafficking usually takes place furtively, which is why victims are practically invisible to society. For the perpetrators it is an extremely lucrative business.

Human trafficking in Switzerland is usually linked to migration. Switzerland is primarily a target country<sup>1</sup> and, to a lesser extent, a transit country.<sup>2</sup> The most common cases involve exploitation in the field of prostitution, but cases involving trafficking for the purpose of labour exploitation are transpiring more and more.

Three features, occurring in combination, constitute human trafficking under the international definition<sup>3</sup>:

- the recruitment, transportation, transfer, harbouring or receipt of persons (*act*)
- by means of the threat or use of force or other forms of coercion (*means*)
- for the purpose of sexual exploitation, forced labour or the removal of human organs (*purpose*)

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<sup>1</sup> The destination country is the country in which exploitation takes place.

<sup>2</sup> The transit country is the country (or countries) transited by migrants until they reach the country of destination.

<sup>3</sup> The exact definition can be found in Art. 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organised Crime  
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>

## Human trafficking is not the same as migrant smuggling

Migrant smuggling denotes the act of facilitating a person's illegal entry into, or their unlawful stay in a foreign country against payment. A person can also enter a foreign country through regular channels but using forged documents. Migrant smuggling usually takes place with the consent or on the request of the person being smuggled. Unlike human trafficking, the crime is committed not against the person involved, but against the country of destination. Human trafficking and migrant smuggling can occur simultaneously however, and be difficult to distinguish between if the price of smuggling a person is used by the smuggler to put the victim into a position of dependency and exploitation.

## Global dimension and causes of human trafficking

According to the International Labor Organization (ILO), approximately 21 million people worldwide are victims of forced labour, 4.5 million of whom are victims of sexual exploitation. The ILO estimates the annual turnover of this exploitation at USD 150 billion.<sup>4</sup> The Global Slavery Index, on the other hand, puts the number of victims at double the ILO figure, estimating that 45.8 million people were living under slavery-like conditions in 2016.<sup>5</sup>

It is extremely difficult to express global human trafficking in figures. The reasons for this lie partially in the causes of human trafficking: in poor regions where broad sections of the population are affected by human trafficking, many of these people are not even officially registered. Poverty, unemployment, poor education, war, conflict, crises and natural disasters on the one hand, and huge wealth inequality between countries on the other hand, are causes of migration and also human trafficking. Weak state institutions, patchy legislation and a lack of criminal prosecution facilitate the crime further. Labour exploitation also occurs without migration or within the framework of internal migration, when millions of people – often children – are forced for want of an alternative to work as cheap labour under precarious conditions, such as in the extraction of raw materials, in the fishing industry or the textile sector. One thing is certain: the people-trafficking business has assumed huge proportions and today is one of the most lucrative sectors of international crime.<sup>6</sup>

## Forms of human trafficking in Switzerland

### Sexual exploitation

The most widespread form of human trafficking in Switzerland is for the purpose of sexual exploitation. Victims are primarily young girls and women with no prospects in their own country. They are lured to Switzerland with promises of work or education, and subsequently forced into prostitution. Or they fall victim to so-called lover boys, who lure them to Switzerland and subject them to sex work.

### Labour exploitation

More and more cases of labour exploitation are coming to light in Switzerland. The victims are recruited with false promises of well-paid employment and must subsequently work under exploitive conditions, often illegally and with no legal protection, for the people who have recruited them. Many victims are male. According to a survey published in 2016,<sup>7</sup> experts estimate that the number of unreported cases is high and from having observed exploitive situations in various economic sectors their suspicions of human trafficking have been raised. The sectors at risk include the construction industry, the hotel and catering sector, the domestic help sector, the agricultural sector and irregular sectors such as begging and theft.

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<sup>4</sup> <http://www.ilo.org/global/topics/forced-labour/lang--en/index.htm>

<sup>5</sup> <http://www.globalslaveryindex.org/findings/>

<sup>6</sup> <https://www.unodc.org/toc/en/crimes/organized-crime.html>

<sup>7</sup> Johanna Probst and Denise Efonyi-Mäder, in collaboration with Dina Bader, 'Arbeitsausbeutung im Kontext von Menschenhandel. Eine Standortbestimmung für die Schweiz', March 2016, SFM Studies #65d, University of Neuchâtel, Swiss Forum for Migration and Population Studies SFM (the study is in German, with an executive summary in English)

### Exploitation for the purpose of removing human organs

There are no known cases to date in Switzerland of the third form of human trafficking: for the purpose of removing human organs. Due to the statutory provisions regulating organ transplants, the high medical and technical challenges of transplantation, and the required transparency of the origin and use of human organs, trafficking for the purpose of removing human organs is extremely difficult in this country.

### Victims and perpetrators

#### Victims usually cannot end their own suffering

For several years victims have originated mainly from Hungary, Romania, Bulgaria, Thailand, China and Nigeria. Many are from Switzerland too. In general, victims are not able to end their own suffering. There are several reasons for this: many victims are forced to give their travel documents and most of their earnings to their tormentors; some are locked up or subject to permanent monitoring; they may fear violence by their tormentors, either towards themselves or their family at home; most cannot make themselves understood in a foreign country and do not know their legal rights; many fear sanctions by the host country or deportation if found to be living or working illegally in the country.

#### Perpetrators often have the same background as victims

Although some human traffickers are Swiss, most come from abroad and are often from the same background as their victims. The majority are male, but the proportion of female perpetrators is considerable. This is particularly the case with regard to victims from Thailand or West Africa, where female traffickers often play a key role. Human trafficking in Switzerland is carried out primarily by individuals or small family or ethnic groups. However, there is evidence that human trafficking to or in Switzerland is orchestrated from abroad by large, well-organised criminal networks.

### Low case numbers – high level of unrecorded cases

In Switzerland, as in other target countries, many cases of human trafficking go undetected. This is because the crime takes place in secret and is often only discovered when the authorities or police carry out checks. This means that greater controls and police inquiries are necessary. Identifying victims also requires specific skills that generally only specialists have. In addition, few victims report the offence because they fear reprisals by the perpetrators and mistrust the authorities. However, reporting the crime is of key importance for prosecution. This is why the low number of cases recorded in the statistics of the police or judicial authorities is offset by the presumably high number of unrecorded cases.

#### Number of cases recorded by the police involving human trafficking and incitement to prostitution

	2009	2010	2011	2012	2013	2014	2015	2016
Human trafficking (Art. 182 SCCB)	50	52	45	78	61	46	58	125
Incitement to prostitution (Art 195 SCC)	104	99	69	148	86	69	130	181

Source: Federal Statistical Office, Police Statistics on Crime (Number of recorded offences as of March 2017)

### Convictions for human trafficking and incitement to prostitution

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 <sup>8</sup>
Human trafficking (Art. 182 SCC) <sup>9</sup>	5	2	2	7	2	12	5	9	11	11	6	10	13	13	15	19	11
Incitement to prostitution (Art 195 SCC)	23	19	11	7	12	17	18	16	14	25	8	15	19	22	26	14	3

Source: Federal Statistical Office, *Statistics on Criminal Convictions (Number of final convictions as of June 2017)*

### The legal situation in Switzerland

Human trafficking has been a punishable offence under Article 182 Swiss Criminal Code (SCC) since 1 December 2006. This legal provision replaces the old Article 196 SCC, which only outlawed human trafficking for the purpose of sexual exploitation. Under the new provision, all forms of human trafficking according to its internationally agreed definition are punishable offences. This means that even a single instance of trafficking one person is now a crime. The offence carries a maximum penalty of twenty years' imprisonment. If the victim is a minor, or if trafficking is conducted for commercial gain, the minimum sentence is one year. It is irrelevant whether the victim has consented; the decisive factor is whether the trafficker has taken advantage of the person's economic hardship. While Article 182 SCC outlaws all forms of human trafficking, Article 195 SCC prohibits the incitement to prostitution. This ensures that instances where people are forced into, or to remain in prostitution against their will are punished.

### Victim assistance and staying in Switzerland

Under Switzerland's Victim Assistance Act (VAA), any person whose sexual, physical or psychological integrity has been violated in Switzerland is entitled to counselling and support. This provision applies regardless of the victim's nationality or residential status. Human trafficking victims can request assistance from state and private victim advisory services. Victim assistance includes counselling and medical, psychological, social, material and legal help. Under the Criminal Procedure Code (CrimPC), victims who act as witnesses are entitled to a range of protection rights. Since 1 January 2013, the Federal Act on Extra-Procedural Witness Protection (WitPA) and the witness protection unit established under this piece of legislation grant protection to witnesses in federal and cantonal criminal proceedings also outside and after proceedings.

Victims' residential status is a crucial issue when it comes to victim protection. This is regulated in the Foreign Nationals Act (FNA), effective since 2008. Under the act, victims are granted a 30-day period of reflection following exploitation in which to recover and consider whether to co-operate with law enforcement authorities. If, once the 30 days have expired, victims are willing to co-operate with the authorities, they can be granted a residence permit for the duration of the investigations and court proceedings. If victims are not willing to give evidence, but their personal situation is not conducive to returning to their home country (personal hardship), they can still be granted a residence permit.

<sup>8</sup> The statistics on criminal convictions for adults are based on the number of convictions in the criminal records. Convictions are only recorded once they become final and binding. Appeals can take years until a final decision is reached. If the decision of the court of first instance is upheld by the court of appeal, it is entered in the criminal records under the date of the decision of the court of first instance. For this reason it may take years until a decision is entered on the criminal records and appears in the statistics. Therefore, the statistics from the last few years of the survey are not conclusive because they are not necessarily complete.

<sup>9</sup> Up to 1.12.2006 the offence of human trafficking fell under Art. 196 SCC

## Measures in Switzerland against human trafficking

### Institutional measures

- In 2003, the *Swiss Coordination Unit against the Trafficking of Persons and Smuggling of Migrants (KSMM)* was established. The unit has a permanent secretariat at fedpol and incorporates all the federal and cantonal agencies as well as intergovernmental and nongovernmental agencies involved in fighting and preventing human trafficking and migrant smuggling. KSMM ensures nationwide standard procedures against human trafficking by compiling strategies, developing instruments, bringing together key players, analysing the situation and gathering information.
- In 2004, the new Paedophile Crime, Human Trafficking and Migrant Smuggling Unit was established in fedpol's Federal Criminal Police division. The unit was divided into two new units in 2007; the Pornography and Paedophilia Investigation Unit and the Human Trafficking and Migrant Smuggling Investigation Unit, the latter receiving additional personnel resources. It coordinates national and international criminal proceedings involving human trafficking and migrant smuggling, and assists law enforcement services in Switzerland and abroad in fighting these forms of crime.

### 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 Organized Crime Regarding Human Trafficking and Smuggling. The protocols came into force in Switzerland on 19 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 (see above).
- The Foreign Nationals Act, in force since 1 January 2008, regulates in detail the stay in Switzerland of human trafficking victims (see above). The provisions fulfil the requirements of the Council of Europe Convention on Action against Trafficking in Human Beings.
- The revised Victim Assistance Act, which came into force at the beginning of 2009, promotes specialised victim care by placing the cantons under an obligation to take into account the special needs of certain groups of victims – including the victims of human trafficking.
- In December 2012, Switzerland ratified the Council of Europe Convention on Action against Trafficking in Human Beings, which came into force in Switzerland on 1 April 2013. In the course of ratification, new legislation was enacted on extra-procedural witness protection.
- On 23 October 2013, the Federal Council approved an ordinance empowering federal authorities in future to adopt their own preventive measures against human trafficking or to support measures by civil society organisations. The ordinance also contains the necessary legal provisions for KSMM's anti-human trafficking activities.

### Other measures

- Under the lead of the KSMM, a team of experts from the federal authorities, cantons and NGOs have developed guidelines with the title 'Co-operation Mechanisms for Combating Trafficking in Human Beings'. The guidelines contain recommendations for structuring interdisciplinary co-operation in the cantons.
- Since 2007, the KSMM has been involved in specialised anti-human trafficking training courses at the Swiss Police Institute, the Competence Center for Forensics and Economic Crime, and the College of Social Work Geneva (hets).
- Following a two-year pilot project, the Federal Office for Migration (now the State Secretariat for Migration) introduced in April 2010 a return and reintegration assistance programme for human trafficking victims. Assistance is granted under the Foreign Nationals Act and in co-operation with the cantonal return advisory centres and the International Organization for Migration (IOM).

- Switzerland's National Action Plan against Human Trafficking 2012-2014, with its 23 anti-trafficking measures in the four fields of prevention, prosecution, victim assistance and partnership, was compiled and implemented. The second National Action Plan, for the years 2017-2020, follows the same approach and contains 28 anti-human trafficking measures.
- The Federal Department of Justice and Police (FDJP) defined human trafficking as one of four crime prevention priorities for the 2015-2019 legislative period. Based on the objectives of the Federal Council and the current threat situation, the FDJP has specified the key tasks and threats for which fedpol must prioritise available resources.

### **Cantonal measures**

- To improve co-operation between the police, judiciary, migration services and victim advisory centres, various cantons hold roundtable meetings on human trafficking. To date, 18 cantons have established co-operation agreements between the players involved in these roundtables.
- The working group on human trafficking and migrant smuggling, established by the Conference of Cantonal Police Commanders (CCPC), began work in 2007. The aim of the working group is to strengthen the exchange of police information.
- To harmonise the different tasks and responsibilities of, and co-operation between the police, migration authorities and NGOs relating to issuing residence permits for human trafficking victims, the multidisciplinary process known as COMPETO was developed. This process had been an inherent part of the State Secretariat for Migration's FNA directives since 2016 and means that a single standard now applies in practices throughout Switzerland.

### **Measures by other organisations**

In summer 2004, the Zurich Women's Information Centre (FIZ) launched a project called 'FIZ Makasi – Counselling and support for victims of trafficking in women'. This advisory centre specialises in victim support, organising accommodation and providing financial assistance. The centre also helps victims to clarify their residential status in Switzerland and determine the level of threat a victim would face if turned away to her country of origin. This additional protection helps to stabilise victims and allow them to develop better future prospects. The *Au Coeur des Grottes* foundation in Geneva and *Astrée* in Lausanne have similar functions.

### **Switzerland's international commitment**

Switzerland condemns human trafficking as a grave violation of human rights. In its 'Guidelines for Internationally Effective Measures for the Prevention of Trafficking in Persons and Protection of Victims', the Federal Department of Foreign Affairs (FDA) outlined in 2003 specific measures and objectives at international level. Strategic and operative co-operation between target and transit countries, and with victims' country of origin, is gaining more and more in importance at international level. Switzerland's efforts abroad focus on the following main areas:

- Prevention in the countries of origin, aimed at warning potential victims of the dangers of human trafficking;
- Establishing and supporting agencies and NGOs abroad that are committed to fighting human trafficking and protecting victims.

The Swiss Agency for Development and Cooperation (SDC/FDFA), the Human Security Division (HSD/FDFA) and the State Secretariat for Migration (SEM/FDJP) are responsible for implementing appropriate measures in the countries of origin. They co-ordinate their activities within the framework of international migration co-operation and operatively support various projects abroad. Switzerland is also actively involved in international organisations that oppose human trafficking, such as the United Nations, the Organisation for Security and Co-operation in Europe, and the Council of Europe.

A co-operation agreement between Switzerland and Europol became effective on 1 March 2006. The agreement provides for the Europe-wide exchange of strategic and operational information and expertise also in the field of human trafficking. To combat serious organised crime, the EU, with the support of Europol, operates various investigation platforms known as EMPACTs (European Multidisciplinary Platform against Criminal Threats), within the framework of which cross-national projects and operations are planned and implemented. Fedpol is involved in the anti-trafficking EMPACT platform and participates regularly in joint action days against human trafficking. Various cantons take part in the European-wide controls.

### **KSMM — tasks and priorities**

KSMM's objective is to combat and prevent human trafficking and migrant smuggling in Switzerland. Protecting the victims and bringing the perpetrators to justice is an overriding goal, which the KSMM seeks to attain by improving the necessary instruments and establishing appropriate contacts between all those involved. KSMM's tasks in combating human trafficking comprise:

- supporting the cantons in instituting roundtable meetings and co-operation mechanisms against human trafficking;
- further developing and participating in training courses for practitioners on combating human trafficking;
- heightening awareness in political circles and among administrative bodies and the public;
- fostering co-operation and exchange at international level;
- bringing together the respective federal and cantonal bodies, and NGOs;
- developing instruments to combat the exploitation of labour;
- improving situation reports and analyses on human trafficking.