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Abstract

Monitoring through collection of numbers and qualitative descriptions of cases of human trafficking are undeniably important to keep the public and stakeholders aware of this crime and human rights violation and to prove also the impact of measures in law enforcement and victim support. The initiatives to collect relevant data should not get more, some could get better and some maybe should even be stopped. The existing monitoring measures provide the struggle against THB in the way, that they justify the expenses for investigations, for changes in law and administration and for victim protection and support. So far monitoring is reasonable.

But to come closer to the question of how to get out of a machine in perpetual motion: let me spotlight a painful gap in the database in Austria: As other countries too, we have some lapping between Trafficking in Human Beings and other sections in the Austrian penal code. Human trafficking and transborder trade for prostitution are the two delicts in the Criminal Code, that stay in so called competition to each other. Here criminal police collects detailed statistics on the perpetrators, on the form of exploitation and on the victims as well.

But there exists another delict in Austrian law, according to legal experts also in strong “competition” with Trafficking in human beings, too. This delict is “exploitation of a foreigner” and it makes not even part of the Criminal Code, but is written as section 116 in the immigration authorities law, the “Fremdenpolizeigesetz”. Why is this relevant for our discourse of today?

First: we do not know how many foreigners are exploited – police is obliged to record and publish the numbers of the offenders, but no data-collection about the victims is foreseen.

Second: there ARE no victims of “exploitation of a foreigner”. Not, because we do not now the numbers of women and men affected by this delict, because police doesn’t have to collect or publish this data. But in a sense, that’s wide more harmful for these people: As long as the investigations run only on “exploitation of a foreigner”, the exploited people has no victim rights comparable to the relative good ones, that victims of human trafficking do have.

Third: EU sanction directive foresees rights for exploited workers, that have no (full) legal access to labour market. The situation in Austria does not guarantee those important rights:

access to counselling about their rights (=UNDOK) and effective access to legal system ... labour court ... without risk of being quickly deported ...

Controll authorities as financial police and the controller of Social insurance agency, do a good job in detecting tax and social fraud. They should also facilitate access to the named important rights for the identified exploited workers.

Could better monitoring help in this point? ...