

Trafficking in persons: Phenomenology and possible measures in Switzerland

YQUEM ZBERG*

SCHLAGWÖRTER	Organised crime – trafficking in persons – phenomenology – statistics – possible measures
ZUSAMMENFASSUNG	Obwohl das Verbrechen des Menschenhandels grosse öffentliche Empörung, Bestürzung und Wut auslöst, bleibt es doch meist unentdeckt. Die strafrechtliche Definition sowie die Phänomenologie des Menschenhandels in der Schweiz sollen untersucht, die Dunkelziffer verortet und mögliche Verbesserungen aufgezeigt werden.
ABSTRACT	Although the crime of trafficking in persons causes great public indignation, consternation, and wrath, it often remains undetected. The aim of this essay is to examine the legal definition and the phenomenology of trafficking in persons in Switzerland, to contextualise the dark figure and to identify possible improvements.
RÉSUMÉ	Bien que le crime de traite des êtres humains suscite l'indignation, la consternation et la colère du public, il reste souvent non détecté. L'objectif de cette étude est d'examiner la définition légale et la phénoménologie de la traite des êtres humains en Suisse, de classer les chiffres non connus et d'identifier des améliorations possibles.

I. Introduction

A. Background

Seldom does a crime cause as much public indignation, consternation and wrath as does the one of trafficking in persons. This phenomenon does not occur without good reason: in its core, trafficking in persons exhibits the exploitation of a human being and therewith the devaluation of a human being to a mere object,¹ which in turn negates fundamental human values and central moral norms.

B. Questions to be treated

However great the public outrage about trafficking in persons may be, the number of cases detected and treated by Swiss authorities are few and far between.

To understand the crime of trafficking in persons better, the phenomenology of the said crime ought to be examined. In this essay, the occurrence of cases of trafficking in persons and their backgrounds shall be analysed in the timespan between 2011 and 2020 in Switzerland. Finally, a hint at possible future measures shall be issued

and a conclusion shall be drawn on the nature of trafficking in persons of operating in the shadows.

II. Brief outline of Article 182 of the Swiss Criminal Code

Article 182 of the Swiss Criminal Code² criminalises trafficking in persons.³

A. Historical outline

The initial form of Article 182 SCC was introduced following and implementing several international conventions and only included trafficking in persons with the purpose of exploitation for prostitution.⁴ In the course of ratifying further international conventions and assuming additional obligations, the scope of application had to be broadened to include other forms of exploitation.⁵

* Stud. iur. Student Rechtswissenschaften, wissenschaftlicher Hilfsassistent, Universität Zürich.

Dieser Beitrag ist lizenziert unter Creative Commons Lizenz CC BY-NC-ND. DOI dieses Artikels: 10.3256/978-3-03929-024-6_05

¹ BSK StGB II-DELNON/RÜDY, Art. 182 N 6.

² Hereafter: SCC.

³ Schweizerisches Strafgesetzbuch vom 21. Dezember 1937 (StGB; SR 311.0).

⁴ BGE 96 IV 118, 118 f., E. 2a; BSK StGB II-DELNON/RÜDY, Art. 182 N 5; StGB Handkommentar-GODENZI, Art. 182 N 1.

⁵ BSK StGB II-DELNON/RÜDY, Art. 182 N 5; DANIELA DEMKO, Strafrechtliche Aspekte im Kampf gegen Versklavung und Menschenhandel auf internationaler Ebene und in der Schweiz, ZStrR 127/2009, 177 ff., 196 ff.; StGB Handkommen-

B. Elements of Article 182

As mentioned in the introduction, trafficking in persons in its core involves the devaluation of a human being to a mere object.⁶ Article 182 SCC protects the self-determination and personal freedom of a human being.⁷

The criminal act (*actus reus*) defined in Article 182 SCC comprises the action of trafficking as a supplier, intermediary, or customer as well as the action of recruitment, in combination with the purpose of exploitation; specifically, encompassing sexual exploitation, exploitation of labour and exploitation for organ removal.⁸ Trafficking includes not only supplying, intermediating, selling, buying, or receiving human beings, but also forwarding, conveying, transporting, or delivering.⁹ Worth mentioning is that Article 182 SCC, in contrast to Article 3 of the 2000 UN Protocol to Prevent, Suppress and Punish Trafficking in Persons,¹⁰ does not specify the means by which the action has to be achieved or conducted; e.g., by threat or use of force, coercion, deception, or others.

The criminal intent (*mens rea*) defined in Article 182 SCC requires intention – meaning knowledge and willingness according to Article 12 SCC – regarding all elements of the criminal act.¹¹

III. Number of cases by year and outcome

A. General remarks

In general, it is extremely difficult to gather meaningful, representative and reliable data on trafficking in persons that would truthfully depict the reality in terms of actual cases and victims.¹² In Switzerland, there have been some rather sparse and meaningless attempts at estimating the number of victims. In 2001, the Federal Office of Police (fedpol) estimated the number to be between 1500 and 3000 per year, whereas the Interdepartmental Working Group on Trafficking in Persons in the same year estimated the number to be between 2200 and 3700.¹³ In 2005, the Federal Council estimated the number to be between 1500 and 3000.¹⁴

Furthermore, even the reliable data which is publicly available (e.g., statistics of the Federal Statistical Office), misses some important information, such as the outcomes of prosecutions by cantonal public prosecutors (summary penalty order, abandonment of proceedings, etc.).

tar-GODENZI, Art. 182 N 1; StGB Praxiskommentar-TRECHSEL/MONA, Art. 182 N 1.

⁶ Botschaft über das Fakultativprotokoll vom 25. Mai 2000 zum Übereinkommen über die Rechte des Kindes betreffend den Verkauf von Kindern, die Kinderprostitution und die Kinderpornographie und über die entsprechende Strafrechtsrevision des Tatbestandes des Menschenhandels vom 11. März 2005, BBl 2005 2807 ff., 2834 (zit. Botschaft Rechte des Kindes); BSK StGB II-DELNON/RÜDY, Art. 182 N 6; OFK StGB-DONATSCH, Art. 182 N 2; StGB Handkommentar-GODENZI, Art. 182 N 3.

⁷ Botschaft Rechte des Kindes (Fn. 6), BBl 2005 2834; BSK StGB II-DELNON/RÜDY, Art. 182 N 8; StGB Handkommentar-GODENZI, Art. 182 N 2; StGB Praxiskommentar-TRECHSEL/MONA, Art. 182 N 1.

⁸ BSK StGB II-DELNON/RÜDY, Art. 182 N 16 ff.; StGB Handkommentar-GODENZI, Art. 182 N 3 ff.; StGB Praxiskommentar-TRECHSEL/MONA, Art. 182 N 2 f.

⁹ Botschaft Rechte des Kindes (Fn. 6), BBl 2005 2834; StGB Annotierter Kommentar-FLATTICH, Art. 182 N 3; StGB Handkommentar-GODENZI, Art. 182 N 3; StGB Praxiskommentar-TRECHSEL/MONA, Art. 182 N 2; criticisingly BSK StGB II-DELNON/RÜDY, Art. 182 N 16.

¹⁰ Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime from the 15 November 2000.

¹¹ BSK StGB II-DELNON/RÜDY, Art. 182 N 32; StGB Handkommentar-GODENZI, Art. 182 N 9.

¹² United Nations Office on Drugs and Crime (UNODC), Global Report on Trafficking in Persons 2020, New York 2021, 20 (zit. Global Report on Trafficking in Persons); CAROLINE BAUR-METTLER, Menschenhandel und Zwangsprostitution in der Schweiz, Eine Analyse der Rechtsprechung und die Sicht betroffener Opfer und Prostituerter, Zürcher Studien zum Strafrecht (ZStStr), Bd./Nr. 72, Diss. Zürich 2014, Zürich 2014, 66; JOHANNES HOFMANN, Menschenhandel, Beziehungen zur organisierten Kriminalität und Versuche der strafrechtlichen Bekämpfung, Würzburger Schriften zur Kriminalwissenschaft, Bd. 4, Diss. Frankfurt a.M. etc. 2002, Frankfurt a.M. 2002, 88; LUISA LEUENBERGER, Menschenhandel gemäss Art. 182 StGB, Analyse des schweizerischen Straftatbestandes unter Berücksichtigung der internationalen Vorgaben, Diss. Bern 2018, Bern 2018, 14 f.; ANNATINA SCHULTZ, Die Strafbarkeit von Menschenhandel in der Schweiz, Analyse und Reformbedarf von Art. 182 StGB, Zürcher Studien zum Strafrecht (ZStStr), Bd./Nr. 105, Diss. Zürich 2020, Zürich 2020, 36.

¹³ Bundesamt für Polizei (fedpol), Bericht über die innere Sicherheit der Schweiz vom Juli 2001, 68; Bericht der interdepartementalen Arbeitsgruppe Menschenhandel über Menschenhandel in der Schweiz an das Eidgenössische Justiz- und Polizeidepartement vom September 2001, 17 (zit. Bericht interdepartementale Arbeitsgruppe Menschenhandel 2001).

¹⁴ Botschaft über die Genehmigung des UNO-Übereinkommens gegen die grenzüberschreitende organisierte Kriminalität, des Zusatzprotokolls zur Verhinderung und Bestrafung des Menschenhandels, insbesondere des Frauen- und Kinderhandels, und des Zusatzprotokolls gegen die Schlepperei auf dem Land-, See- und Luftweg vom 26. Oktober 2005, BBl 2005 6693 ff., 6705 (zit. Botschaft organisierte Kriminalität).

B. Numbers of investigations, accusations, and convictions by year

In the following table, the number of investigated and registered offences by the police, the number of accused persons, and the number of convictions associated with

events by years	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	total
investigated offences ¹⁵	45	78	61	46	58	125	125	85	99	67	789
accused persons ¹⁶	50	71	51	46	50	97	67	53	59	61	605
convictions ¹⁷	10	13	13	15	19	11	6	4	10	8	109
victim assistance (OHS Opferhilfestatistik) ¹⁸	81	116	190	145	111	158	164	186	193	254	1598
victim assistance (FIZ Fachstelle Frauenhandel und Frauenmigration) ¹⁹	193	209	198	226	229	233	228	221	255	303	2295

Table 1. Events of trafficking in persons by years.

C. Brief comment on statistics

Looking at the estimated number of victims per year (between 1500 and 3000)²⁰ compared to the average annual number of victim assistance by the FIZ (230) and the average annual number of official victim assistance (160) according to the Federal Statistical Office, the percentage of victims who seek and receive assistance is very low ($\approx 10\%$ or lower). On average per year, only 79 offences are investigated ($\approx 3.5\%$ in relation to estimated victims), only 61 people accused and only 11 convicted ($\approx 18\%$ in relation to accused). As highlighted by these numbers, it is no secret that there exists a huge dark figure of undetected, unreported, and unsolved cases of trafficking in persons.²¹

¹⁵ Bundesamt für Statistik (BFS), Polizeiliche Kriminalstatistik (PKS), Strafgesetzbuch (StGB): Straftaten und beschuldigte Personen [2009 – 2021] vom 28. März 2022 (zit. Kriminalstatistik BFS).

¹⁶ Kriminalstatistik BFS (Fn. 15).

¹⁷ Bundesamt für Statistik (BFS), Strafurteilsstatistik (SUS), Erwachsene: Verurteilungen für ein Vergehen oder Verbrechen nach Artikeln des Strafgesetzbuches (StGB), Schweiz und Kantone [2008 – 2021] vom 16. Mai 2022.

¹⁸ Bundesamt für Statistik (BFS), Opferhilfestatistik (OHS), Opferberatungen nach Straftat [2000 – 2021] vom 9. Juni 2022.

¹⁹ Fachstelle Frauenhandel und Frauenmigration (FIZ), Jahresberichte 2018 und 2020.

²⁰ Botschaft organisierte Kriminalität (Fn. 14), BBl 2005 6705.

²¹ BAUR-METTLER (Fn. 12), 68; ULRIKE MENTZ, Frauenhandel als migrationsrechtliches Problem, Europäische Hochschulschriften Recht, Bd. 3150, Diss. Frankfurt a.M. etc. 2001, Frankfurt a.M. 2001, 44; CLAUDIA POST, Kampf gegen den Menschenhandel im Kontext des europäischen Menschenrechtsschutzes, Eine rechtsvergleichende Untersuchung zwischen

trafficking in persons according to Article 182 SCC shall be depicted by year. For reference and comparison, the numbers of cases of victim assistance, namely consulting services for victims, shall be depicted as well.

Furthermore, a general trend of an increasing number of investigated cases can be identified,²² which either demonstrates an improvement in detecting cases and/or increased incidence.

IV. Types of cases prosecuted

A. Quasi-statistical approach

To gain an overview of the phenomenology of human trafficking in Switzerland, the content of the five most recent decisions of the Swiss Federal Court with respect to trafficking in persons – with the aim of obtaining a relatively randomised yet sufficiently homologous and representative sample in regard to the facts of the cases as a means of illustration – shall briefly be examined by means of a quasi-statistical overview.²³

Of the five cases, three certainly involved cross-border trafficking, whereas the two others most probably did. All the cases involved sexual exploitation in Switzerland and all the victims were female with nationalities of Romania, Hungary, and three unmentioned nationalities. Four cases resulted in at least one conviction of trafficking in persons, one resulted in an acquittal.

Deutschland und Russland, Studien zum Völker- und Europarecht, Bd. 49, Diss. Hamburg 2008, Hamburg 2008, 46; SCHULTZ (Fn. 12), 36 f.

²² SCHULTZ (Fn. 12), 44.

²³ BGer 6B_128/2013 (7. November 2013); 6B_469/2014 (4. Dezember 2014); 6B_590/2015 (7. September 2015); 6B_1168/2017 (10. September 2017); 6B_4/2020 (17. Dezember 2020).

In four out of five cases, multiple perpetrators were involved, having resulted in two or more convicts. In four out of five cases, a female perpetrator was involved (40% of the total of convicts were female). The convicts predominantly occupied the role of intermediary or recruiter according to Article 182 Paragraph 1 SCC. Three out of five cases involved a conviction of multiple trafficking in persons, at least two involved a conviction of qualified (commercial) trafficking in persons according to Article 182 Paragraph 2 SCC. In three out of five cases, trafficking in persons was accompanied by violent crimes or offences against property. And at least three out of five cases exhibited the involvement of multiple victims.

B. Comments

As the above-mentioned cases indicate, Switzerland is mainly a destination country and to a lesser extent a transit country of trafficking in persons, where the type of trafficking mainly consists of cross-border trafficking but also to a lesser extent of domestic trafficking including so called *domestic rotation*, describing a system of moving and exchanging victims, typically in the sex industry, between multiple locations within national borders.²⁴ The above-mentioned cases illustrate and are in line with the more general findings that the most frequent type of exploitation is sexual exploitation and that the majority of detected victims are female.²⁵ The above-mentioned cases furthermore corroborate the general findings that victims mostly come from Romania, Hungary, and Bulgaria and less frequently from Thailand, China, Brazil, and Nigeria.²⁶ The mentioned cases also confirm the general tendency that perpetrators and victims often have the same

nationality.²⁷ Furthermore, the cases illustrate – judging by the number of involved perpetrators and by the geographically far-ranging personal networks of the perpetrators, sometimes including members of networks of organised crime – that trafficking in persons requires a relatively high degree of organisation and is often accompanied by other offences.

In these cases, it can be read between the lines that the female victims were young, hopeful, naïve, manipulable, uninformed, and trying to escape miserable economic situations. Recruiting perpetrators capitalised on these traits and lured the victims with false promises and hopes to manipulate and ultimately exploit them.

While the majority of detected victims are female, women also play a significant role as perpetrators in connection with sexual exploitation,²⁸ as they often occupy positions of and are respected as «persons of trust» (portraying the image of a «perpetrator from within»), creating a relationship of dependence and a position of power over the often female victims.²⁹

Criminal proceedings with regard to trafficking in persons are considered extremely demanding, mostly because it is very difficult to identify the victims and to gain their cooperation in bringing the crime to the attention of the police and the authorities in the first place and in providing witness testimonies in criminal proceedings.³⁰

²⁴ Bericht des Bundesrates über Prostitution und Menschenhandel zum Zweck der sexuellen Ausbeutung in Erfüllung der Postulate 12.4162 Streiff-Feller, 13.3332 Caroni, 13.4033 Feri und 13.4045 Fehr vom 5. Juni 2015, 70 (zit. Bericht Menschenhandel); Global Report on Trafficking in Persons (Fn. 12), 133 ff.; UNODC, Trafficking in Persons, Global Patterns from April 2006, 19 f.; ANNETTE LOUISE HERZ, Menschenhandel, Eine empirische Untersuchung zur Strafverfolgungspraxis, Diss. Freiburg i.Br. 2005, Freiburg i.Br. 2005, 228 f.; LEUENBERGER (Fn. 12), 39; SCHULTZ (Fn. 12), 47.

²⁵ Statistiken zum Jahresbericht des Bundesamtes für Polizei (fedpol) vom Mai 2015, 9; Global Report on Trafficking in Persons (Fn. 12), 133 f.; LEUENBERGER (Fn. 12), 42; JOËLLE MORET/DENISE EFIONAYI-MÄDER/FABIENNE STANTS, Menschenhandel in der Schweiz: Opferschutz und Alltagsrealität, SFM Studies 52/2007, 53; SCHULTZ (Fn. 12), 47.

²⁶ Bericht Menschenhandel (Fn. 24), 70; Statistiken zum Jahresbericht des Bundesamtes für Polizei (fedpol) vom Mai 2015, 10; SCHULTZ (Fn. 12), 48.

²⁷ Bericht Menschenhandel (Fn. 24), 70; LEUENBERGER (Fn. 12), 42 f.; MORET/EFIONAYI-MÄDER/STANTS (Fn. 25), 54; SCHULTZ (Fn. 12), 48.

²⁸ Cf. the unusually high number of female convicts in relation to male convicts of Article 182 SCC, Bundesamt für Statistik (BFS), Strafurteilsstatistik (SUS), Erwachsene: Verurteilungen und Verurteilte für ein Vergehen oder Verbrechen nach den Artikeln des Strafgesetzbuches (StGB), nach Verurteilungsjahr [2008 – 2021] vom 16. Mai 2022.

²⁹ See also BGE 129 IV 81; OGer ZH SB130481 (23. Januar 2015); «Bezirksgericht Winterthur: 17 Jahre Freiheitsstrafe für Menschenhandel und Bankraub», NZZ vom 21. Juni 2013, 15; «Missliche Zustände im Schwamendinger Mini-Bordell», NZZ vom 21. Januar 2015, 15; «Es war Menschenhandel», NZZ vom 28. Januar 2015, 13.

³⁰ WOLFGANG S. HEINZ, Menschenhandel und Menschenhandel, Kriminologische und kriminalpolitische Aspekte, in: Otto Triffterer (Hrsg.), Gedächtnisschrift für Theo Vogler, Heidelberg 2004, 127 ff., 138; CORNELIA HELFFERICH/BARBARA KAVEMANN, Opfer von Menschenhandel zum Zweck der sexuellen Ausbeutung, Verläufe von Viktimisierung und Voraussetzungen für die Kooperationsbereitschaft mit der Polizei, Neue Kriminalpolitik (NK) 3/2011, 111 ff.; CORNELIA HELFFERICH/BARBARA KAVEMANN/HEIKE RABE, Determinanten der Aussagebereitschaft von Opfern des Menschenhandels zwecks sexueller Ausbeutung, Eine qualitative Opferbefragung, Köln 2010, 42; CORNELIA HOTZ-HÜRLIMANN, Menschenhandel zwecks sexueller Ausbeutung, Die Strafverfolgung von Menschenhändlern im Spannungsfeld zwischen Beweissi-

Victims are under huge amounts of mental pressure, psychological stress, confusion and fear.

V. Possible measures

A huge challenge in the fight against trafficking in persons lies in the detection and identification of victims and in gaining their cooperation. Victims of trafficking in persons live in constant fear of the oppression of their exploiters on the one hand and of the detection through authorities and linked negative consequences (e.g., expulsion back to the misery they fled from) on the other hand, which leaves them hesitant to reveal their situation. One major goal must therefore be to create an environment of trust for affected victims, helping them to reveal their situations and to cooperate with authorities.

When looking at possible measures to improve the fight against trafficking in persons, we may distinguish between measures concerning the level of the state and policy on the one hand and measures concerning the level of civil society on the other hand.

A. Measures concerning the level of state and policy

Looking at measures concerning the level of state and policy, the first two reports of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in their multi-stage monitoring of the execution of the Convention on Action against Trafficking in Human Beings shall be referenced.³¹ Switzerland reacted to the first of those two reports with a National Action Plan against Trafficking in Persons.³²

In these reports, reoccurring subjects and postulations for policy change are, for example, improvement of edu-

cation and training for relevant professions (e.g., prosecutors, judges, or labour inspectors) and a lack of homogeneity in identification and treatment of victims with respect to different cantons.

Another significant issue addressed in the reports, and which shall also be in focus here, is the inherent conflict between the interests of non-criminalisation of victims and victim assistance on the one hand and the right of residence – and therewith often associated criminalisation of victims of trafficking in persons due to their illegal residence status – on the other hand. This conflict is most significant because it constitutes one of the main reasons for the inertness of the detection of the cases of trafficking in persons and of the identification of victims. Victims are often hesitant to reveal their situation and to cooperate with authorities exactly because they fear to be expelled back to the country they came from.

Article 13 of the 2005 Council of Europe Convention on Action against Trafficking in Human Beings guarantees a minimal recovery and reflection period of 30 days before an expulsion order can be enforced.³³ Article 14 of the Convention states the cases in which a residence permit must be granted: serious personal hardship or cooperation with the competent authorities in a criminal procedure.³⁴

Those measures are insufficient to create an environment of trust for affected victims to reveal their situations and to cooperate with authorities. In Switzerland already as far back as 2001, there has been the postulation to adapt the national law to entail a right of residence for a fixed period of three months, setting even higher standards and higher expectations than the regulations in effect today.³⁵ As it seems, we have not made significant progress since then. An effective non-criminalisation of victims of trafficking in persons and the possibility of an environment of trust requires a right of residence over an extended period of time. To name one example: the United States of America created a new visa classification with the possible right to admission for *permanent residence* for victims of trafficking in persons with the explicit goal of encouraging victims to cooperate with authorities and to improve the detection of cases of trafficking in persons.³⁶

Hence, the postulation for a right of residence over a longer period of time needs to be revived and restated.

cherung und Opferschutz, in: Angela Cavallo et al. (Hrsg.), *Liber amicorum für Andreas Donatsch, Im Einsatz für Wissenschaft, Lehre und Praxis*, Zürich 2012, 335 ff., 348; JOACHIM RENZIKOWSKI, *Frauenhandel, Freiheit für Täter, Abschiebung für die Opfer*, *Zeitschrift für Rechtspolitik (ZRP)* 1999, 53 ff., 54; SCHULTZ (Fn. 12), 55; Bericht interdepartementale Arbeitsgruppe Menschenhandel 2001 (Fn. 13), 49 f.

³¹ Cf. Art. 36 ff. Übereinkommen zur Bekämpfung des Menschenhandels vom 16. Mai 2005 (SR 0.311.543); Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Switzerland, First evaluation round from 14 October 2015; Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Switzerland, Second evaluation round from 9 October 2019.

³² Nationaler Aktionsplan gegen Menschenhandel 2017–2020 vom 30. November 2016.

³³ Cf. Art. 35 Verordnung über Zulassung, Aufenthalt und Erwerbstätigkeit vom 24. Oktober 2007 (VZAE; SR 142.201).

³⁴ Cf. Art. 36 VZAE.

³⁵ Bericht interdepartementale Arbeitsgruppe Menschenhandel 2001 (Fn. 13), 53.

³⁶ Cf. the T visa under the US Trafficking Victims Protection Act of 2000 (TVPA).

Of course, to effectively install an environment of trust, there are further and complementary measures required, as for example the education and information of possible victims in susceptible milieus of their rights or the right to interim accommodation. The right of residence would merely constitute the «foundation of an environment of trust».

B. Measures concerning the level of civil society

There are many highly dedicated, impactful, and effective NGOs at work in Switzerland, combatting trafficking in persons by providing shelters, counselling, information, and advocacy. To exemplarily name two NGOs having acted as focal points for other NGOs and having figured as main contact points for victims of trafficking in persons for several years: the «FIZ Advocacy and Support for Migrant Women and Victims of Trafficking», based and mainly active in Zurich, and the «Au Coeur des Grottes», based and mainly active in Geneva.³⁷

The Federal Council has created the legal basis for financial support by the Swiss Confederation to NGOs combatting trafficking in persons in 2013.³⁸ Since then, it has been supporting many existing NGOs by federal subsidies while encouraging or enabling further initiatives and projects.

The support for NGOs and private agents ought to be further upheld and extended as they are an indispensable part in the fight against human trafficking. They are creating an environment of trust for affected victims by constituting «safe havens», providing a non-governmental point of contact, complementing state measures and addressing the needs of victims out of solidarity and not out of governmental duty.

There have been seminal conducive efforts and tendencies in the recent years to increase interconnectivity and collaboration between the rather regionally structured and active NGOs; e.g., improving efficiency in the fight against trafficking in persons by unifying their voices and coordinating their efforts. With this purpose, the initiative «Plateforme Traite – Schweizer Plattform gegen Menschenhandel» was launched in 2020, uniting and coordinating the efforts of four NGOs in the fight against

trafficking in persons (Antenna MayDay, ASTRÉE, Centre social protestant CSP and FIZ Advocacy and Support for Migrant Women and Victims of Trafficking), covering every linguistic region of Switzerland.

Those efforts of increased interconnectivity and coordination between the regional NGOs ought to be supported, extended, and strengthened to build a strong network of joint streamlined efforts and endeavours of non-governmental support with a united voice as societal complement, addition, and link between victims and authorities. It might be beneficial or desirable to install a common, coordinating national umbrella organisation or initiative in order to coordinate the services according to needs across cantons, to harmonise the access to services nationally and in coordination and exchange with cantons, to maximise efficiency, to unify efforts and postulations under a common voice and to share and broaden experience and expertise.

VI. Conclusions

The data which can be gathered on the occurrence of trafficking in persons still has many gaps. It does not depict the reality very accurately and leaves a huge dark figure. The reasons for this lie in the very nature of the crime of operating in the shadows.

One huge challenge in the fight against trafficking in persons lies in the detection and identification of victims and in gaining their cooperation, as victims often are hesitant to reveal their situation.

The main goal in the fight against trafficking in persons must therefore be to elucidate this dark figure and to detect victims. To help victims reveal their situation and to improve cooperation with authorities, an effective environment of trust ought to be installed, the foundation of which has to be an extended right of residence. Furthermore, NGOs and other agents of civil society ought to further be supported and strengthened in their function of complementing state measures whilst efforts of increased interconnectivity and coordination between rather regional NGOs ought to be strengthened and extended.

«Every society has its blind spots.

Human trafficking is one such blind spot in our society.»

– Federal Councillor Simonetta Sommaruga³⁹

³⁷ Cf. Fachstelle Frauenhandel und Frauenmigration (FIZ), Jahresbericht 2021; cf. Au Coeur des Grottes, Rapport d'activité 2020.

³⁸ Cf. Verordnung über Massnahmen zur Verhütung von Straftaten im Zusammenhang mit Menschenhandel vom 23. Oktober 2013 (Verordnung gegen Menschenhandel; SR 311.039.3).

³⁹ Rede von Simonetta Sommaruga anlässlich der Tagung vom 18. Oktober 2012, Europäischer Tag gegen Menschenhandel.