

PRACTICAL CASE ONE

CURRENT EU LEGAL FRAMEWORK THAT ALLOWS MEMBER STATES TO COOPERATE ACROSS INTERNATIONAL BORDERS AND FACILITATE JUDICIAL PROCEDURES IN CASES RELATED TO HUMAN TRAFFICKING

What could legal professional challenge in next cases?

1. Are the rights of the victim protected in the case?
2. Is the person involved in legal proceedings? Can her rights and interests be presented in proceedings?
3. Is the protection effective and for sufficient to prevent re-trafficking and for re- victimization?
4. Are witness protection programmes available? Are they accessible to victims of trafficking?

CASE A - IDENTIFICATION

The case concerned a Nigerian national who was trafficked for sexual exploitation in Spain.

The applicant has informed the authorities of her trafficking situation but she was not formally recognised as having this status until around nine months later when the Prosecutor initiated criminal proceedings for human trafficking.

The Court found that the nine months that had elapsed before the recognition of the applicant as a victim of trafficking could not be considered reasonable and this failure had negative consequences on the

personal circumstances of the applicant. Moreover, the delay by the domestic authorities recognise her personal circumstances marked a substantial default on the operational measures that the authorities could take to protect her.

The Court found also a number of shortcomings in the adequacy and diligence of the authorities in investigating her allegations. For example, a statement from the director of the NGO assisting her and stating that she was a victim of trafficking was not included in the case file for her initial complaint, which was dismissed.

There were also significant delays in the criminal proceedings.

The Court concluded that there was a lack of urgency about taking operational measures to protect the applicant and that Spain had failed to fulfil its positive obligations pursuant to Art. 4, ECHR, leading to a violation.

CASE B - IDENTIFICATION

IDENTIFICATION IN DETENTION

Girl trafficked for sexual exploitation identified in detention though cross-border cooperation.

Sorce: Centre for Equal Opportunities and Opposition to Racism, 2011 “Annual Report on Trafficking in and Smuggling of Human Beings. The money that matters”. (Brussels, October 2012), pp 98-101

Nigerian women and girls were recruited under false promises and brought to Spain to be sexually exploited. Traffickers used violence and voodoo rituals to keep the women subjugated, and forced them into prostitution to repay their travel costs.

During an investigation into Internet prostitution involving African women, the Spanish police detected this case. Through phone tapping the police discovered that one of the victims had been intercepted in Netherlands in possession of false documents and had been placed in a detention centre for irregular migrants.

Spanish judicial authorities sent a rogatory letter to their counterparts in the Netherlands in order to interview the victim.

As a consequence of effective cross-border cooperation, they managed to arrange for the victim to be contacted by a professional from a specialised reception centre for victims of trafficking. She was informed about the possibility of co-operating with the Spanish police and being granted victim status in the country.

Thanks to the effective multi-disciplinary cross-border cooperation amongst prosecutors, immigration authorities and NGOs in and between the two countries, the trafficked woman was transferred to Spain and assisted by a specialised reception centre for victims of trafficking.