Enhanced Cooperation between Actors Involved in Combating Trafficking in Human Beings for Labour Exploitation: Yes or No?

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Enhanced cooperation

- buzz words: comprehensive/multidisciplinary/integrated action/policy/approach
- = cooperation of several actors ‘involved in’ or ‘relevant for’ combating THB
  - different types of ‘combating’: by law enforcement (LE) and other means
  - also prevention? (analogous complications)
  - more cautious phrasing recommendable, e.g. integrated policies ‘on’
  - if integration of different finalities of work is conceivable alltogether
- in practice: no guarantee whatsoever for integrated or complementary action
- Y if complementarity of roles/functions & N if blurred boundaries?
- risk of (mutual) instrumentalization
  - for law enforcement purposes
  - for border control purposes
  - of the HR discourse
  - for other agenda’s
- violation rule of law, trias politica, data protection rules, procedural guarantees
  if systematic or institutionalized or ‘bulk’ information exchange or sharing
Actors

› governmental
  › merely or primarily administrative governmental actors (no LE finality)
    › provinces, communities, city council, fire & other inspection services, etc
    › NL: ‘barrier model’, BIBOB, RIEC’s etc?
  › border guarding/immigration actors (cfr G. Vermeulen, EJML, 2007)
    › high risk of counterproductiveness – quote EDPS on new Eurodac regulation
  › labour/social security actors
    › yes, but (secondment within the EU, illegal workers)
› non-governmental (instrumentalization by or of)
  › victim support organisations, development cooperation ngo’s etc?
  › also other, like: air carriers (PNR profiling), trade unions etc
› private, other than non-governmental (profit-oriented actors)
  › employers, travel agencies, escort agencies, brothel owners
  › cfr G. Vermeulen (ed.), EU quality standards ..., 2007, 443 p. (no open access)
› public-private cooperation
› multidisciplinary, integrated data collection possible: Montrasec (hereafter)
Montrasec

- monitoring trafficking in human beings and sexual exploitation of children
- data collection model (variables and functioning architecture)
- including perpetrator/facilitator related fields
  - next to victim and event related field
  - in a potentially many-many relationship
- live input possibility for any actor
- real-time statistics on any level (actor, MS, EU)
  - immediate return on (data input) investment
- integration through 2-level built-in hashing
  - proofed by data protection board and EDPS
- fully compatible with 27 MS definitions and definitions/data models of Europol, Eurojust, Frontex, IOM, UNODC, ILO etc
- open access link
Relevance of criminal record information

- content-wise: convictions and disqualifications
- legal instruments adopted
  - FD 2009 organisation & content + 2009 ECRIS decision
  - FD 2008 taking account of earlier EU convictions in new proceedings
- further instruments required/underway
  - EU certificates of ‘functional’ non-prior conviction for access to certain vulnerable sectors or eligibility for certain activities
    - functional = pertaining to certain, ‘relevant’ offences only
    - mandatory for relations with government agencies
    - allowed for certain merely private relationships > self-regulation?
  - at national level: perfectly possible (also in the light of EU procurement law)
    - to require such certificates, e.g. in procurement or licensing
    - to promote the use of such certificates at the level of certain private actors
    - public-private cooperation
- follow-up on IRCP 2011 study in EU27 for EC|DG Justice (JUST/2010/JPEN/PR/1010)
- Study on disqualifications as a sanctioning measure in the MS’ national systems