

The trafficked and the new undocumented after Brexit

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Exploitation

Who?

When?

The new undocumented

Public Policy

No right to reside

Misuse of rights

Detention

2017 January to March:

29% (1515)

746 A8

594 A2

2010 (All year):

2.7% (78)

78 persons

‘unconstitutional and arbitrary...manifest incompetence...high-handed and outrageous...misconduct’

Muuse [2010] EWCA Civ 453

‘offensive and intensely humiliating...so degrading that it offended his personal dignity’

Santos [2016] EWHC 609 (Admin)

HMG Technical Note: Citizens' Rights: Administrative Procedures in the UK

“...the applicant does not fall within the scope of the agreement either because they were not resident before the specified date or because they did not meet the conditions as prescribed in the Withdrawal agreement or because the applicant is refused on criminality or security grounds”

“We will not re-run public policy assessments where they have already been carried out and removal action was judged inappropriate, without good reason”

“pre-exit criminality may be taken into account”

Zambrano

Chen

Surinder Singh

+

No application

Temporary workers

The UK Government's stated intention to leave the jurisdiction of the Court of Justice of the European Union seems to pose an existential threat to continued participation by the UK in European security and criminal justice mechanisms, including those that enable us to combat modern slavery

Anti Trafficking Monitoring Group Brexit and the UK's fight against Modern Slavery

- Framework Decision 2009/315/JHA (European Criminal Records Information System)
- Schengen Information System II
- European Arrest Warrant
- Europol
- Eurodac
- Eurojust

- 2010/64/EU interpretation and translation in criminal proceedings
- 2012/13/EU information in criminal proceedings
- 2013/48/EU access to a lawyer in criminal proceedings/European arrest warrant proceedings, right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty
- 2016/800 procedural safeguards for children who are suspects or accused persons in criminal proceedings
- 2016/343 strengthening of certain aspects of the presumption of innocence and right to be present at the trial in criminal proceedings

Directive (EU) 2016/1919 of
the European Parliament and of
the Council of 26 October 2016
on legal aid for suspects and accused
persons in criminal proceedings and
for requested persons in European
arrest warrant proceedings

- Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities
- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

- *The new text still does not contain any measures that would significantly change the way the UK fights trafficking. However, the UK has always been a world leader in fighting trafficking and has a strong international reputation in this field. Applying to opt in to the directive would continue to send a powerful message to traffickers that the UK is not a soft touch, and that we are supportive of international efforts to tackle this crime*

Damien Green MP

Member States shall ensure that victims of trafficking in human beings have access without delay to legal counselling, and, in accordance with the role of victims in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal representation shall be free of charge where the victim does not have sufficient financial resources

Directive 2011/36/EU Article 12(2)

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