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## Challenges Related to Double Criminality in Transnational Human Trafficking Cases

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### Abstract

The principle of double criminality represents a fundamental requirement in international criminal cooperation, particularly in extradition and mutual legal assistance procedures. In the context of transnational human trafficking, however, the application of this principle generates significant legal and practical challenges. Differences in national legal frameworks, variations in the definition of trafficking offences, and divergent thresholds for criminal liability often hinder effective cross-border cooperation. While international instruments, such as the Palermo Protocol, have contributed to a degree of normative harmonization, domestic criminal laws continue to reflect distinct legal traditions, policy priorities, and evidentiary standards. As a result, conduct that constitutes human trafficking in one jurisdiction may not be criminalized in an equivalent manner in another, thereby obstructing prosecution, extradition, or judicial assistance.

These challenges are further amplified by the complex and evolving nature of trafficking activities, which frequently involve exploitation forms that are interpreted differently across legal systems, including forced labor, sexual exploitation, or exploitation of vulnerability. In addition, discrepancies in the criminalization of preparatory acts, attempt, participation, or the liability of legal persons complicate the assessment of double criminality. The strict application of this principle may ultimately undermine victim protection, delay justice, and facilitate impunity for traffickers operating across borders.

This paper argues for a more flexible and functional interpretation of the double criminality requirement in transnational human trafficking cases, emphasizing the need to focus on the underlying criminal conduct rather than formal legal classifications. It also highlights the importance of continued legal harmonization, judicial dialogue, and the development of cooperative mechanisms that balance state sovereignty with the imperative of combating serious transnational crime and safeguarding human rights.

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