



EU AGIS Conference

17th-18th November, 2005

“Forum to Improve Best Practice in the Prevention, Detection, & Investigation of Trafficking in Human Beings and to Examine Best Practice in Fighting & Preventing Corruption of Public Figures in the Administration of Immigration Regulations”

Improvement of Best Practice in the Prevention, Detection, & Investigation of Trafficking of Human Beings.

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1. Introduction

1.1 Purpose of this Report

The AGIS Conference was held in Westmanstown Sports and Conference Centre, Clonsilla, Dublin on the 17th and 18th of November 2005. One of the key themes of the conference was the prevention, detection and investigation of trafficking in human beings. The purpose of this report is to provide an overview of the information relating to human trafficking that was presented by representatives from immigration organisations in Ireland, the United Kingdom and Hungary at the AGIS conference. A number of workshops were also held during the conference with the aim of developing practical recommendations and generating best practice in the areas of prevention, detection, investigation and prosecution of human trafficking offences. The output of these workshops is also documented in this report.

1.2 Background

From Himalayan villages to Eastern European cities, people – especially women and girls – are attracted by the prospect of a well-paid job as a domestic servant, waitress or factory worker. Traffickers recruit victims through fake advertisements, mail-order bride catalogues, and casual acquaintances. Upon arrival at their destination, victims are placed in conditions controlled by traffickers while they are exploited to earn illicit revenues. Many are physically confined, their travel or identity documents are taken away, and they or their families are threatened if they do not cooperate. Women and girls forced to work as prostitutes are blackmailed by the threat that traffickers will tell their families. Trafficked children are dependent on their traffickers for food, shelter and other basic necessities. Traffickers also play on victims' fears that authorities in a strange country will prosecute or deport them if they ask for help.¹

Trafficking in human beings is a global issue. A recent article in Newsweek - "*Dark Trade: How the smuggling of everything from people to purses threatens the global economy*" - estimates the size of the market in cross-border human trafficking to be in the region of ten billion dollars². However, a lack of systematic research means that reliable data that would facilitate comparative analyses, and the design of counter-measures is scarce.

It has been recognised internationally that there is a need to strengthen the criminal justice response to trafficking through legislative reform, awareness

¹ United Nations Office on Drugs & Crime

² Newsweek, October 24, 2005

raising and training, as well as through national and international cooperation. The AGIS project is an example of international cooperation within the EU to share knowledge and develop best practice in order to tackle the causes of trafficking, prosecute those involved, and assist the victims of trafficking.

1.3 Definition of Trafficking

For the purpose of the AGIS conference participants adopted the definition of trafficking provided by the United Nations Convention on Trans-national Organised Crime (UNTOC) and its associated protocol, the Palermo Protocol. "Trafficking in persons" is defined in Article 2 of the Protocol. This is the first time that the international community has developed, and agreed to, a definition.

The Palermo Protocol is intended to "prevent and combat" trafficking in persons, and facilitate international cooperation against such trafficking. It provides for control and cooperation measures against traffickers. It also provides some measures to protect and assist the victims.

"Trafficking in persons" is intended to include a range of cases where human beings are exploited by organised crime groups, where there is an element of duress involved, and a trans-national aspect, such as the movement of people across borders, or their exploitation within a country by a trans-national organised crime group.

Article 3, paragraph (a) of the Palermo Protocol defines trafficking as follows:

*"Trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;"*³

³ United Nations Office on Drugs & Crime

2. Trafficking Legislation

2.1 Overview

This section provides an overview of the legislation pertaining to the trafficking of human beings in the countries of those presenting at the AGIS conference.

2.2 Summary of Legislation

In Ireland the law relating to trafficking draws upon many different sources, including the written constitution, statute law, and judicial decisions. An individual's personal liberty is protected constitutionally by Article 40.4.1 of Bunreacht na hEireann, the Irish constitution, which states that: "*No citizen shall be deprived of his/her liberty save in accordance with the law*".

In addition, there are a number of legislative acts that are relevant to the phenomenon of trafficking. These include:

- Illegal Immigrants (Trafficking) Act, 2000
- Employments Permits Act, 2003
- Refugee Act, 1996
- Immigration Act, 1999
- Immigration Act, 2003
- Immigration Act, 2004
- Irish Nationality & Citizenship Act, 2004
- Child Trafficking and Pornography Act, 1998

The legislation that currently deals specifically with human trafficking is the Illegal Immigrants (Trafficking) Act, 2000. Section 2 of the Illegal Immigrants (Trafficking) Act, 2000 states that:

(1) A person who organises or knowingly facilitates the entry into the State of a person whom he or she knows or has reasonable cause to believe to be an illegal immigrant or a person who intends to seek asylum shall be guilty of an offence and shall be liable

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding 12 months or to both.

However subsection (1) shall not apply

(a) to anything done by a person other than for gain

(b) to anything done to assist a person seeking asylum by a person in the course of his employment by a bona fide organisation for the purposes of that organisation including giving assistance to persons seeking asylum.

Section 3 of this act gives An Garda Síochána (the Irish police force) the power to detain certain vehicles if a person is arrested for an offence under section 2, and a vehicle is suspected of having been used by the person for the purposes of committing or facilitating the commission of that offence.

The Illegal Immigrants (Trafficking) Act 2000 will soon be updated as Ireland brings its legislation in line with the EU, in compliance with the Palermo Protocol. The current legislation caters mainly for smuggling in migrants, and refers to “*non-nationals*” rather than “*human beings*”. The new legislation will make a distinction between human trafficking and smuggling in human beings.

The Immigration Act 2003 introduced the concept of ‘Carriers Liability’ whereby carriers such as airlines and ferry companies are obliged to ensure that they do not carry illegal immigrants into the state, or carry passengers travelling on bogus travel documents. Sanctions are imposed on carriers who do not comply with this legislation.

The Employments Permits Act 2003 criminalizes certain behaviours on the part of employers and employees. Prior to the introduction of this act there were no sanctions for employers who were exploiting immigrant workers.

Legislation relating to the confiscation of criminal assets is also utilised in suspected cases of trafficking. A number of measures have been adopted which limit the opportunities of criminals to enjoy the profits of their wrongdoing. This means that even if criminals cannot be apprehended and punished, at least they can be deprived of the benefit of their ‘ill-gotten gains’. These measures are focused around 2 key areas: money laundering laws, and laws providing for the seizure or forfeiture of the proceeds of crime. Specific legislation includes:

- Proceeds of Crime Act, 1996
- Criminal Assets Bureau Act, 1996
- Disclosure of Certain Information for Taxation and Other Purposes Act, 1996

The Child Trafficking and Pornography Act, 1998 specifically addresses the issue of trafficking with children. Section 3(1)(a) of this act penalises the “*entry into, transit through, or exit from the State of a child for the purpose of his or her sexual exploitation*”. The penalty for this crime is life imprisonment.

UK Legislation in the area of trafficking is primarily centred on the Sexual Offences Act 2003. There are 3 sections of this act which deal specifically with the trafficking of human beings:

- Section 57 Trafficking into the UK for Sexual Exploitation
- Section 58 Trafficking within the UK for Sexual Exploitation
- Section 59 Trafficking out of the UK for Sexual Exploitation

In Hungary, trafficking in human beings as a criminal offence was incorporated into the Penal Code (Section 175/B) in 1998, and came into force on the 1st of March 1999. According to this new section, any person who sells, purchases, gives or takes over someone else for payment, as well as who swaps, or for this purpose gets someone for another person, commits a crime punishable by imprisonment of up to 3 years.

3. Experiences of Trafficking

3.1 Overview

This section outlines the experiences of trafficking in Ireland, United Kingdom and Hungary.

3.2 Trafficking: The Irish Experience

Ireland has traditionally been a country of emigration. Apart from short periods of net immigration, the country has almost invariably experienced net migration outflow leading to a steadily declining population. Since the mid 1990s, however, Ireland has undergone rapid economic expansion. The recent economic growth has resulted in an influx of approximately 250,000 migrants over the past five years. While a large number of immigrants are returning Irish nationals, or EEA nationals, there has been a dramatic increase in non-EEA nationals entering the country, primarily as temporary workers.⁴

The Garda National Immigration Bureau (GNIB) was established in 2000 under the direction of the Assistant Commissioner for National Support Services. The GNIB has responsibility nationally for all law enforcement matters pertaining to immigration. The Bureau monitors the movement of non-nationals at all air and seaports throughout the State and along the border with Northern Ireland, with a view to the prevention of, and detection of, illegal immigration. GNIB investigates most breaches of section 2 of the Illegal Immigrants (Trafficking) Act, 2000.

The trafficking of human beings into Ireland does not currently appear to be a significant problem. This is partly attributable to a lack of direct flights from the countries of origin traditionally associated with trafficking. However, following the recent accession of a number of states into the EU people can now travel to Ireland with greater ease, and this may lead to increase in trafficking.

Since GNIB was set up approximately 85 trafficking-related investigations have been undertaken, and many of these have resulted in prosecutions.

⁴ International Organisation for Migration

However, a relatively small number of these prosecutions have led to convictions. This may be attributed to the fact that it can be difficult to achieve proof of trafficking, and also that some of the allegations have not stood up in court. In some cases, allegations of trafficking have arisen in the context of an asylum application, and these allegations were subsequently found to be unsubstantiated. Some cases of alleged trafficking have been found to involve smuggling rather than trafficking.

GNIB takes the lead role in trafficking investigations but works closely with Europol, Interpol, the International Organisation for Migration and a number of other Non-Government Organisations (NGOs). The Bureau also participates in investigations initiated by other European police forces. A recent example of this occurred in December 2001 when 13 non-nationals arrived at an Irish port in a container. 8 of them were found to be dead upon arrival. There was a significant international dimension to this case as the non-nationals had been put into the container in Belgium, in the belief that they would be taken to the UK. The container was then loaded onto a Dutch vessel. The non-nationals believed that the journey would take 21 hours but they actually spent 101 hours trapped in the container. GNIB worked with immigration organisations from the other countries involved to secure a prosecution that culminated in 8 people being convicted by the Belgian authorities.

3.3 Trafficking: The UK Experience

Illegal immigration into the UK has grown year on year. Increasingly sophisticated methods are being employed, with worldwide profits estimated at in excess of £8 billion. Law enforcement agencies now consider immigration crime to be on the same level of threat to the UK as 'Class A' drugs. In 2004 21 Chinese cockle pickers died after becoming trapped by rising tides in Lancashire's Morecambe Bay. This incident drew attention to the plight of migrant labourers working illegally.

A number of 'source' countries have been identified from which individuals trafficked to the UK are likely to originate. These include Eastern European countries such as Romania, Poland and Bulgaria, former Soviet Union member states such as Lithuania, Moldova, Latvia, Ukraine and Russia, African countries such as Nigeria, Cameroon, Ghana and Kenya, and Far Eastern countries such as Thailand, China and the Philippines. Many of the victims of trafficking face extreme poverty and/or social exclusion in their own countries. In some cases they come from dysfunctional families and may not be missed when they fall prey to traffickers.

Experience in the UK has shown that victims rarely come forward to report incidences of trafficking. A number of reasons for this reluctance have been identified. Victims often have limited awareness or understanding of their rights. Their knowledge of the operation of their host country is limited, and they may not know what options are available to them. Victims often have a

limited grasp of the language of the host country, which can make communication extremely difficult. Victims may fear reprisals by traffickers against themselves or their families. If the victim is the main economic provider for his/her family s/he may worry about the consequences of approaching the authorities, i.e. if s/he is deported who will provide for his/her family.

Victims who find themselves in this difficult situation may experience a number of physical and psychological symptoms. Physical symptoms include:

- Malnutrition
- Lack of sleep
- Lack of safety
- Lack of hygiene
- Risk of STD
- Risk of physical harm

Psychological symptoms include:

- Dependency
- Shame
- Humiliation
- Uprooting
- Self guilt
- Recurrent thoughts
- Fear of recognition

Immigration organisations in the UK have identified a number of factors that must be considered when making initial contact with a victim. These can be categorised into victim factors and operational factors. Victim factors include:

- Distrust/fear of the police
- Need for reassurance/need to be believed
- Need for protection from pimps, traffickers, punters, other women etc.
- Child protection needs
- Communication needs
- Information needs
- Need for medical assistance
- Needs related to alcohol or substance abuse
- Mental health needs
- Clothing
- Security of personal possessions
- Childcare

Operational factors include:

- Risk assessment/Officer safety
- Victim safety

- Crime scene management
- Handling punters/pimps etc.
- Watching for non-verbal signals to victims
- Working through the language barrier
- Dealing with chaotic behaviour/Post Traumatic Shock Disorder (PTSD)
- Dealing with alcohol/substance misuse issues
- Deciding location and finding space for the initial interview
- Availability of local specialist support
- Transporting victims to site of debrief
- Keeping victims together or apart?
- Identifying and dealing with victims with immigration issues

The UK has adopted a victim-centred approach as it has been recognised that victims are individuals not commodities, their rights must be protected and the State has a duty of care towards them. If victims of trafficking are dealt with in an appropriate and compassionate manner they may provide useful intelligence regarding persons involved in trafficking and may even be willing to testify in court. There are significant risks associated with a failure to deal appropriately with victims. Primary amongst these is the re-victimisation of the individual. The victim may feel that not only has s/he been victimised by traffickers, s/he is now being victimised by the authorities.

A negative experience with the police/immigration officials etc. simply confirms what victims have been told by traffickers, and will make them reluctant to trust those in a position of authority again. Valuable information and intelligence may also be lost if victims are not dealt with in an appropriate manner. This can damage opportunities to develop credible and robust prosecution cases against traffickers. There is also increased potential for the re-trafficking of existing victims and the recruitment of multiple new victims. All of these negative consequences generate adverse publicity and put even greater pressure on those tackling the problem of human trafficking.

3.4 Trafficking: The Hungarian Experience

Hungary is a transit, source, and destination country, primarily for women and girls trafficked from Russia, Romania, Ukraine, Moldova, Bulgaria, and the Balkans to Europe and North America for the purpose of sexual exploitation. Traffickers often target adult female orphans recently released from state institutions, rural young women, and, to a lesser extent, ethnic Roma women. Internal trafficking occurs from areas of high unemployment in eastern Hungary to western Hungary. According to NGOs and the media, Hungary may have thousands of women coerced by traffickers into sexual exploitation as a part of a large illegal commercial sex industry⁵.

⁵ U.S. State Dept Trafficking in Persons Report, June 2005

Illegal migration peaked in Hungary in the mid 1990s, when the number of people apprehended along the borders ranged between 27 and 30 thousand each year. These numbers subsequently dropped off, partially due to lifting of the visa requirement for Romanian citizens travelling to EU countries. The number of illegal migrants intercepted at the borders has now stabilised at approximately 8 to 10 thousand people per year.

When illegal migration was at its peak, only 20-25% of cases involved facilitation of the border crossing by another group or individual. Now, in excess of 90% of attempts to cross the Hungarian border illegally involve facilitation of some kind. In recent years connections between illegal migration and other forms of criminal behaviour have become increasingly common. Illegal migration is now frequently linked to the trafficking of human beings, violation of personal freedom, forgery of official documents, and the smuggling of drugs, cigarettes and cars.

Since 1997 the Hungarian Border Guards have been tackling immigration related offences. The Border Guards act as a criminal investigative authority in cases of human trafficking and smuggling, forgery of official travel documents, violation of entry and stay conditions, harbouring of illegal immigrants and criminal damage to border markings.

The prevention and investigation of human smuggling and trafficking are given high precedence by the Border Guards. In areas where poverty is high, and living conditions poor, traffickers often exploit vulnerable people. They lure victims with the prospect of attractive work opportunities, and the promise of escape and prosperity. Recruitment methods include posters, newspaper articles and personal referral. In some cases testimonials from others who have successfully entered Western Europe will be used to encourage others to attempt the journey.

In recent times traffickers have reacted to tighter controls by using legal (or seemingly legal) means of entry but illegal means of departure. For example, people travelling on Ukrainian passports may legally enter Hungary. While in Hungary they obtain false documentation and then travel illegally to another EU country. Traffickers may also change their routes in attempt to avoid apprehension and in some cases change crimes, e.g. they may take up drug smuggling etc. Currently, many border-related immigration offences are committed at future inner borders, primarily the border with Austria.

4. Responses to Trafficking

4.1 Overview

This section sets forth the response of each participating country to the problem of trafficking.

4.2 Trafficking: The Irish Response

The GNIB approach to trafficking is based on the principle that prevention is more efficient than detection, and as such, the motives of those engaging in trafficking must be identified and targeted. The importance of a victim-centred approach has also been recognised. A training course has recently been developed by the Garda Professional Development Unit with the aim of equipping Gardaí with the skills to effectively identify and assist victims of trafficking. This course will be made available to all members of An Garda Síochána. The Bureau has a number of operations in place that aim to:

- Disclose the extent of trafficking in Ireland
- Prevent trafficking
- Detect breaches of the Illegal Immigrants (Trafficking) Act, 2000 and other related legislation

To date, 3 major operations have been conducted to specifically target offences relating to trafficking. These are 'Operation Hotel', 'Operation Quest', and 'Operation Poppy'. Operation Hotel was launched in February 2004. This operation focused on the trafficking of females from Eastern Europe to work in the sex industry in Ireland. Operation Quest involved the investigation of allegations that non-EEA nationals were being brought into the country illegally to work as prostitutes. As part of this operation a number of raids were made on lap-dancing clubs in Dublin and over 150 female non-EEA nationals were questioned to establish their identity and immigration status. Only a small minority of those questioned claimed that they had been sexually exploited. Most had travelled to Ireland of their own free will. Launched in October 2005, Operation Poppy was concerned with the trafficking of Romanian nationals through European hub airports. To date, no suspects have been identified but investigations are ongoing.

Ireland has developed a comprehensive range of laws since 1995, to outlaw the phenomenon of child trafficking. A complementary updating of civil law for child protection has taken place, and is under review in light of European and international developments. If there is a suspicion that a child is travelling with adults who are not his/her parents GNIB can take custody of the child. If necessary, a process involving DNA evidence will be instigated in cases where there is a dispute regarding the child's parentage. If there is a suspicion that a child is the victim of trafficking, or if s/he arrives in Ireland as an

unaccompanied minor, GNIB will place the child in the care of the appropriate Health Board. In many cases these children will make asylum applications.

A number of recent developments have enhanced the ability of the GNIB to detect and investigate immigration crime. The Irish government has recently produced a discussion document outlining its policies with regard to immigration issues, with a view to stimulating public debate on the complex issues concerned, prior to introducing its legislative response. In addition, the Irish Naturalisation and Immigration Service (INIS) has recently been established. The INIS provides a “one stop shop” service to migrants, and there is now a virtual link between the Irish work permit system and the INIS. The Visa Section of the Department of Foreign Affairs will transfer to the INIS and a new Immigrant Integration Unit will be formed.

Section 8 of the 2003 Immigration Act enhanced the ability of all state agencies to exchange information. As a result, An Garda Síochána now has greater access to fingerprint databases maintained in respect of certain categories of non-nationals. All fingerprints and bio-data taken after the commencement of the Immigration Act 2003 can be shared with An Garda Síochána. There are proposals in place to create a fully integrated fingerprint solution, which would consolidate fingerprint data from immigration, asylum, EURODAC and criminal databases. The introduction of mobile fingerprinting technology is also under consideration.

In September 2004 an enhanced investigation facility was introduced at Dublin Airport. Dublin Airport is the main port of entry for persons attempting to enter the State illegally, and the aim of the new facility was to provide an immediate investigative response to detected illegality. This has led to a higher detection rate of trafficking offences. The Intelligence Unit within GNIB has also been expanded.

The Interpol ‘I 24-7’ system has been deployed to Irish ports of entry. This system provides immediate access to Interpol databases, which contain details of bogus travel documents from all over the world. This allows Immigration Officers to quickly validate the authenticity of a passport if they suspect that it may be a forgery.

The GNIB Information System (GNIB-IS) is continuously updated to enhance information capture and sharing. Recently, a new interface has been added which facilitates the sharing of adverse immigration information between GNIB and the UK Immigration Service.

Recognising the importance of cooperation and information-sharing between law enforcement agencies and Non-Government Organisations in the area of trafficking GNIB has appointed a number of personnel to act as points of liaison. A number of Airline Liaison Officers have also been appointed. Airline Liaison Officers (ALOs) are deployed to hub airports where they are responsible for monitoring whether passengers have complied with the immigration requirements of the country of destination and providing advice to

carriers. Carriers may then decide to deny boarding to those who have not complied with requirements. The introduction of ALOs in other countries has led to a marked decrease in illegal migration.⁶

4.3 Trafficking: The UK Response

The UK has recognised the need for a holistic and integrated approach to trafficking. Central to this approach is a multi-disciplinary, multi-agency co-ordinated response with action taken at local, national, regional and international levels. Close cooperation between all major players - law enforcement agencies, inter-governmental and Non-Government Organisations (NGOs) is also required. With this in mind, the UK has adopted an inter-agency, intelligence-led strategy aimed at reducing the harm caused by human trafficking by:

- Raising the risk criminals must take
- Rendering their illegal business unprofitable, and,
- Reducing the opportunities for them to exploit communities.

'Reflex' is the national multi-agency task force established in 2000 to tackle organised immigration crime. The 3 main priorities of Reflex are:

- Volume facilitation of illegal migrants
- Human trafficking (sexual and labour exploitation and the trafficking of minors)
- Targeting the criminal infrastructures that facilitate illegal entry and exploit the illegal population once in UK

The National Criminal Intelligence Service (NCIS) has the lead within Reflex for the coordination of Intelligence relating to Organised Immigration Crime. The National Crime Squad (NCS) is the enforcement lead, and the UK Immigration Service (UKIS) takes the lead in intervention activities.

Central to the UK's fight against trafficking is effective cooperation between law enforcement agencies and NGOs. A comprehensive response to the problem of trafficking cannot be provided unless these agencies work together. There are a number of advantages to this type of cooperation as each party has key strengths, for example law enforcement agencies:

- Have the legal powers and resources to remove victims from exploitative situations
- Play a key role in identifying victims and referring them to NGOs
- Have the responsibility of protecting the victims

⁶ International Organisation for Migration

NGOs, on the other hand:

- Are able to build trust with trafficked persons
- Can obtain vital information in relation to traffickers from victims
- Have the specialist skills to treat, counsel and accommodate victims that may become witnesses

Law enforcement agencies and NGOs can capitalise on each other's strengths by working together to:

- Identify victims of trafficking
- Refer cases to each other where appropriate
- Protect victim's human rights
- Encourage witness collaboration for identification, investigation and prosecution of traffickers

A number of initiatives aimed at targeting individuals and organisations involved in trafficking, or the exploitation of migrants have recently been implemented in the UK. These include:

- Operation Pentameter, and,
- The Gangmasters Licensing Authority

The aim of Operation Pentameter is to deliver a coordinated programme of activity that enables the UK law enforcement community and its partners to demonstrate that the UK is a hostile environment for those engaged in trafficking activity, particularly those engaged in sexual exploitation. Pentameter involves all UK forces, the Home Office, NCS, NCIS, CPS and UKIS. Operation Pentameter complements and supports the aims and objectives of:

- Reflex (The National Multi-Agency Task Force established to tackle organised immigration crime)
- The EU Action Plan on Trafficking
- The draft UK Action Plan on Trafficking.

Operation Pentameter evolved from previous work under the UK's EU presidency, during which tackling human trafficking was made a priority. Human trafficking was also an issue for the discussions at last year's G8 conferences and is currently the subject of a government consultation.

The Gangmasters Licensing Act, established in 2004, signalled the beginning of the end of exploitation for at least 60,000 workers in the UK who are paid below minimum wage, forced to pay highly inflated accommodation fees, and can even be made to pay for basic safety equipment. This act was passed in the wake of the drowning of 21 Chinese cockle pickers in Morecambe Bay in February 2004.

The Gangmasters Licensing Act established:

- A Gangmasters Licensing Authority to operate a licensing scheme, set licensing conditions and maintain a register of licensed gangmasters;
- New offences, including operating without a licence, engaging the services of an unlicensed gangmaster and using false documentation;
- Maximum penalty of ten years in prison.

The act applies to the whole of the UK, and covers agricultural and horticultural work, shellfish gathering and the processing or packaging of any products derived from these industries. It extends the full protection of the law, including minimum wage and health and safety legislation, to any individual worker undertaking work to which its provisions apply.

The Gangmaster Licensing Authority consists of key industry stakeholders and representatives from government and enforcement agencies. The authority is responsible for setting the conditions of gangmaster licences after consultation, processing licence applications, setting and collecting licence fees, and establishing a public register of licensed gangmasters. The Authority also proactively enforces the licence conditions and has the ability to investigate and enforce the arrestable offences created under the Gangmasters Licensing Act.

4.4 Trafficking: The Hungarian Response

Trafficking is criminalized in Hungary with relatively severe penalties. In 2004, Hungarian courts initiated 21 trafficking prosecutions, and convicted 38 traffickers pursuant to prosecutions initiated in previous years. Hungarian law enforcement specialists have developed specialised training for police on trafficking investigations and victims' needs. The Hungarian International Trafficking Unit, established in July 2004, has assisted several international trafficking investigations with law enforcement agencies from Denmark, Italy, Sweden, Norway, Germany, and Austria. The Hungarian Government has also established an effective inter-ministerial, anti-trafficking working group as well as an International Trafficking Unit under the National Police⁷.

The aim of the anti-trafficking working group is to raise the level of trafficking awareness throughout the government and improve the coordination of Hungary's anti-trafficking efforts. The government has sponsored trafficking awareness programs for secondary school students. At the Hungarian Ministry of Interior's Crime Prevention Academy, the government trained officials from trafficking source countries in counter-trafficking techniques.

At 'ground level' the Hungarian Border Guards employ a number of overt and covert methods to tackle the problem of human trafficking. 'Overt' methods

⁷ U.S. State Dept Trafficking in Persons Report, June 2005

include the Interrogation of suspects, and the searching of houses of suspects. 'Covert' methods include surveillance and the use of informers and under-cover agents. Currently, there are plans in place to expand⁸ the investigative capacity of the Border Guards in a number of key areas. These include:

- Contravention of personal freedom (e.g. migrants being held captive)
- Trafficking with human beings
- Participating in organised conspiring
- Document abuse (e.g. the sale of passports)
- Forgery of official documents (the Border Guards currently have authority in relation to forged travel documents but this is to be widened to include all official documents).
- Gun-running

Hungarian experience has highlighted the need for an independent investigating body that specialises in crimes that go beyond the borders of the state, for example human smuggling, trafficking of human beings, document forgery etc. This organisation requires extensive access to sources of information and should maintain its own databases of information. In addition to overt investigative methods this organisation should, with the permission of a Judge or Public Prosecutor, have the capability to perform covert intelligence-gathering activities, over a period of years if necessary. This organisation would cooperate closely with other investigating bodies in the country, Public Prosecutors, the Courts and investigative organisations in other countries. This organisation should also conduct ongoing strategic analysis of information pertaining trafficking.

The Hungarian Border Guards have identified 3 areas for improvement in their prevention and investigation of cross-border organised crime. These are:

1. Joint Investigative Groups

A set of recommendations should be developed to guide the creation and operation of joint investigative groups that have the capability to investigate crimes that involve other states. These recommendations should encompass:

- Leadership
- Management
- Scope of authority
- Competence
- Operating methods
- Composition
- Technical equipment required
- Appropriate professional and legal supervision

⁸ The Parliament has already accepted the regulation and it will come into effect on 1st July 2006.

2. Operations

A set of principles and recommendations should be developed to define appropriate investigative methods for operations involving investigative groups from several countries. The following points should be taken into consideration:

- Competent authorities
- Knowledge of legislation
- Support from external agencies

3. International coordination

Existing member states of the European Union, and those wishing to join should be encouraged to cooperate in matters pertaining to border policing. All states should utilise the Europol and Interpol systems, and other forms of cooperation should be developed.

5. Conclusions

5.1 Overview

This section draws together key conclusions from the conference presentations and the workshop sessions. Conclusions are presented under 4 headings: Prevention, Detection, Investigation, and Prosecution. A full transcription of the workshop output can be found in appendix 3. Details of workshop participants can be found in appendix 1, and the introduction to the workshop session in appendix 2.

5.2 Prevention

There is a common belief amongst law enforcement agencies that the prevention of trafficking is more efficient than detection, and thus significant time and effort has been devoted to understanding and targeting the motives of those who engage in trafficking. One of the key elements of any prevention strategy is removal of the incentives for traffickers by targeting their assets, and increasing the risk involved in trafficking such that it outweighs any potential gain. Cooperation between states is essential in this area as they can work together to 'close down' the routes used by traffickers. Destination countries also have a role to play in reducing the demand for the services typically provided by trafficked individuals.

In 'source' countries raising awareness of the dangers of trafficking amongst potential victims can make recruitment considerably more difficult for traffickers, and empowers those approached by traffickers to come forward. Cooperation from Non-Government Organisations can be hugely beneficial in this area as their relationship of trust with potential victims allows them to address some of the 'pull' factors as perceived by individuals in source countries.

5.3 Detection

One of the most frequently referred to success stories in the area of trafficking detection is the introduction of Airline Liaison Officers (ALOs). ALOs deployed to hub airports around the world play a significant role in the detection of trafficking-related offences, and provide an excellent example of inter-state cooperation and information sharing.

Access to information, and the ability to share this information quickly and efficiently, is essential to effective detection of trafficking offences. For example, in Ireland there are proposals in place to create a fully integrated fingerprint solution, which would consolidate fingerprint data from immigration, asylum, EURODAC and criminal databases. Access to databases containing details of bogus travel documents (for example Interpol's I 24-7 system) at ports of entry can greatly assist in the detection of incidences of trafficking.

5.4 Investigation

Robust intelligence gathering and analysis processes are essential for effective investigation. Here, once again, inter-state and inter-agency cooperation is of the utmost importance. Workshop participants considered free exchange of intelligence on forensics, vehicles etc. between EU member states to be essential to combating trafficking. Liaison networks have been found to greatly increase the flow of information between states, and enhance the cooperation between state agencies. It was felt that the establishment of a liaison network of EU investigators would be hugely beneficial to the investigation of trafficking cases.

Inter-state investigations would also benefit from the introduction of a standard investigative protocol. An EU-approved and sponsored training programme, possibly organised under CEPOL, would be an excellent way of encouraging a common approach to the investigation of trafficking.

Once again, Non-Government Organisations have an important role to play in this area. Law enforcement agencies and NGOs can capitalise on each others strengths by working together to identify and support victims of trafficking, and encourage witness collaboration.

5.5 Prosecution

There was general agreement that prosecution is a key (but not sole) weapon in the fight against trafficking. Seizure of assets was seen as an equally powerful method of combating trafficking, and in some cases a more expedient and straightforward sanction. This is especially true in cases where witness cooperation is difficult to obtain.

Standardisation of the legislation pertaining to trafficking across EU member states would greatly assist the prosecutorial process. While it is recognised that this would be a complex process, the potential benefits of a common legislative approach were felt to out-weigh the difficulties in achieving it. The difficulties of cooperating to achieve prosecutions are exacerbated when different states operate under different legislation. Eurojust was identified as a key facilitator of inter-state investigations and prosecutions.

The victim is central to the prosecutorial process and there is widespread agreement that sufficient care must be taken to ensure that victim's welfare is given top priority. Recognising this, a number of countries have introduced training courses for staff members who interact with victims of trafficking.

Victims are often reluctant to testify against traffickers, as they fear reprisals against themselves or their families. Positive interactions with law enforcement agencies encourage victims to feed back their experiences to their community and this can lead others to come forward and provide valuable intelligence. Good working relationships between law enforcement agencies and NGOs can help to facilitate this process.

Wherever possible, prosecutors should attempt to find ways to obviate the need for a victim's testimony, as this would reduce the risk of traffickers intimidating victims, witnesses and their families. This type of intimidation can be a major threat to securing convictions. In certain cases some form of 'witness protection scheme' may be appropriate. However, this should be positioned as a comprehensive support system rather than 'protection'.

Appendix 1: Best Practice Workshop Participants

EU AGIS CONFERENCE DUBLIN 2005 Day One

Workshop Thursday 17th November 2005
 Chaired by Detective Superintendent Thomas Dixon



GROUP ONE	GROUP TWO	GROUP THREE	GROUP FOUR
Beech suite	Mulberry Suite	Willow Suite	Sycamore Suite
Prevention	Detection	Investigation	Prosecution
Chairperson Philip Ryan	Chairperson Jozsef Nahalko	Chairperson Gerard Cadden	Chairperson John O'Driscoll
Facilitator Angela Willis	Facilitator Mick Cryan	Facilitator Hazel Bourne	Facilitator Peter Zambo
PARTICIPANTS			
Paul Fountain	Brendan Burke	Simon O'Connor	John Gilligan
Niall Mc Kiernan	Pat Lordan	Paud Curran	John Foudy
Frank Mc Grath	Ciaran Walsh	Sean Cullen	Peter Cullen
Michael Kennedy	Joe Deignan	Neil Curran	Martin Donohue
Richie Mc Grath	Seamus Boland	Ray Jackman	Gerry Connor
Eamon Hession	Paul Burns	Steve Gray	Alistair Woolley
Peter Weerdenburg	Tamara Meelo	Gererd Overmars	Wal Ingham
Nick Kinsella	Sujitha Trowsedale	Tony Davis	Steve Peck
Peter Gallagher	Reinis Janevics	Simon Duignan	Gabor Balogh
Frankisek Salavec	Andrea Mlcochova	Attila Gyongyosi	Agnes Kertesz
Vlastimil Rehak	Giedrius Strikulis	Edvardas Cerniauskas	Adelina Otera

Appendix 2: Best Practice Workshop Introduction

EU AGIS CONFERENCE DUBLIN 17th & 18th NOVEMBER 2005

DAY ONE WORKSHOP



PREVENTION, DETECTION & INVESTIGATION OF TRAFFICKING IN HUMAN BEINGS

The purpose of the workshop is to improve best practice in the prevention, detection and investigations of trafficking in human beings.

You are asked to discuss the topics relevant to your group and come up with recommendations to improve best practice.

The workshop that you are involved in is aimed at examining the following issues:

Group One

PREVENTION – What can individual States do to prevent trafficking? What role is there for cross-border cooperation in preventing trafficking? Is there any effective means of reducing the numbers of illegal migrants seeking to leave donor countries? What best practices have been identified in relation to the prevention of human trafficking?

Group Two

DETECTION – What are the most effective methods of detecting individuals being trafficked? How can individual States detect trafficking groups working within their borders? What is the most effective method for EU partners to identify international groups involved in trafficking?

Group Three

INVESTIGATION – What role is there for EU countries in the investigation of trafficking in human beings? Is more cooperation required between government agencies in the investigation of human trafficking? Are witness protection schemes necessary for victims of trafficking where criminal investigations have commenced?

Group Four

PROSECUTION – Is prosecution the best method of reducing the effectiveness of groups involved in trafficking? What legislation and guidelines are required to effectively prosecute the suspects? What other non-prosecutorial methods can be used to reduce trafficking in human beings? What is the experience of successfully prosecuting traffickers?

Appendix 3: Best Practice Workshop Output

Workshop 1: Prevention

Q. What can individual states do to prevent trafficking?

The group identified a number of key initiatives that could be implemented to prevent trafficking. These are:

- **Remove the incentives** for traffickers by targeting their assets and making the risks too great such that the risk of trafficking outweighs any gain associated with it.
- **Raise awareness** of the dangers of trafficking in countries that traditionally provide the victims of trafficking. It is important that potential victims are made aware of the risks of trafficking and are educated in the methods used by criminal gangs to recruit victims.
- Develop a network of **Liaison Officers** across the European Union to speed up the transfer of intelligence between member states.
- Make greater use of **unofficial informants** or crime lines to gather intelligence on criminal gangs involved in trafficking.
- Improve the **coordination and analysis of intelligence** gathered, and ensure that intelligence is disseminated appropriately.
- Increase **cooperation** between government departments, law enforcement agencies, NGOs and EU member states.
- The **exchange or secondment** of personnel where a specific problem has been identified.

Q. What role is there for cross-border cooperation in preventing trafficking?

The group recognised that cooperation is essential in the effective prevention of human trafficking. Group members agreed that no one state is capable of tackling the issue in isolation, and that the sharing of intelligence and information is imperative if the EU states are to prevent trafficking within their borders.

Common Approach

The group felt that it is important that all states share a common agenda and approach to dealing with human trafficking. It would be extremely beneficial to adopt an EU-wide consensus and strategy on how best to tackle the issue of human trafficking. Informal networks between member states should be encouraged, as they can be a vital resource in the prevention of trafficking.

Harmonisation of Legislation

The harmonisation of EU legislation was cited as an important issue. The difficulties of cooperative working are exacerbated when different states operate under different legal systems and different legislation. The group felt a pan-European response to the problem of trafficking is required and as such formalisation of the process of sharing of best practice amongst EU members states would be extremely useful.

Reduce the Demand

Both source and destination countries have a role to play in the prevention of trafficking. Destination countries should attempt to reduce the demand for the services typically provided by trafficked individuals. This could be addressed, at least in part, by raising awareness amongst those using the services of the abuses inflicted on the victims of trafficking.

Raise the Risks

Cooperation is also required where the route taken by traffickers incorporates movement through a number of states. It is vital that traffickers are targeted by all states involved, even if they are just passing through enroute to a destination country. This would raise the potential risks faced by traffickers and might contribute towards reducing the numbers of those willing to participate in this form of criminality.

Role of Non-Government Organisations

The group also considered the role of Non-Government Organisations (NGOs) in the fight against trafficking. NGOs involved in the care of victims of trafficking could be a valuable source of information. Obviously the issue of confidentiality must be taken very seriously, and there must be an awareness of potential problems that could occur. However, group members felt that the potential benefits that could be achieved by obtaining such information made it imperative that some system should be established to encourage NGOs to cooperate fully with law enforcement agencies.

Q. Is there any effective means of reducing the numbers of illegal migrants seeking to leave donor countries?

The group considered a number of key points relating to this question. Each of these is discussed below.

Strategy

The group felt that an effective strategy, aimed at reducing the number of people seeking to leave donor countries was crucial. The belief that life would be better in another country can make people vulnerable to traffickers and addressing this belief is a key factor.

Raise Awareness

There was agreement that raising awareness amongst potential victims of the dangers of trafficking should be an EU goal. Education programmes targeting vulnerable groups in donor countries should be put in place. The potential risks and hazards associated with travelling to a destination country, and the methods of exploitation employed by traffickers should be widely publicised.

Victim-Centred Approach

It is important that the plight of victims of trafficking is addressed in a sensitive manner. All investigations should be victim-focused to ensure that the victims of trafficking have a positive interaction with law enforcement agencies. Such experiences can be fed back in a positive way to source countries to discourage further individuals becoming victims, and to encourage those being exploited to come forward and seek assistance.

It must be recognised that some victims make an informed decision to become involved in prostitution as a means of securing a livelihood for their families. Such individuals need to be protected from the organised crime groups that seek to exploit them.

Where possible States should attempt to find ways to obviate the need for a victim's testimony. This would reduce the risk of traffickers intimidating victims, witnesses and their families. This type of intimidation was seen as a major threat to securing convictions.

The group suggested that profiling should be used at the points of entry to the EU, and at the borders of destination countries. Again, the approach should be victim-centred in order to encourage cooperation by potential victims encountered at the border.

Remove the Incentives

The risks taken by those involved in human trafficking need to be raised to a point where it is no longer attractive to those involved in this area of criminality. The incentive to commit such crimes must be removed. States should examine the ways in which such people are exploited in their societies and seek ways to provide a credible alternative to the use of trafficked individuals.

Investigation

States should seek to conduct proactive investigations. Such investigations should utilise intelligence obtained by the methods highlighted above, and cooperation by source countries should be encouraged in order to ensure that all individuals involved face a similar risk. Law enforcement agencies must

find ways to move from investigating targets of opportunity, to investigating targets of choice. This can be achieved by adopting a more systematic approach to the use of intelligence thereby enabling investigators to become more aware of the criminal gangs operating within and outside the EU. The use of covert human intelligence sources, infiltration of criminal groups by law enforcement personnel should also be considered. These methods can disrupt criminal networks and assist with the successful prosecution of the main individuals involved.

Non-Government Organisations

Law enforcement agencies and NGOs should engage with the organisations that interact with potential victims, for example schools, clubs etc. There should be greater coordination with NGOs working in source countries, as their support is required to counter the 'pull' factors as perceived by individuals in source countries.

Workshop 2: Investigation

Q. What role is there for EU countries in the investigation of trafficking in human beings?

The group raised a number of points in relation to this question. These are outlined below.

Common Definition

In order to facilitate a unilateral approach to tackling trafficking participating states must agree on a common definition of 'Trafficking'. The definition provided by the United Nations Convention on Trans-national Organised Crime (UNTOC) and its associated protocol, the Palermo Protocol, was thought to be a workable definition.

Standardisation of Legislation

There was a belief amongst group members that a standardization of trafficking legislation in member states would be most beneficial. It was appreciated that this could be a complex process but the benefits of a common legislative approach were thought to outweigh the significant difficulties in achieving this.

Joint Investigations

There should be a joint protocol amongst member states with regard to joint investigations. It was thought this would simplify cross-border investigations and enhance cooperation between states. The group felt that EU approved and sponsored training programme, possibly organised under CEPOL, would be an excellent way to encourage a common approach to the investigation of trafficking in human beings.

Free Exchange of Intelligence

A free exchange of intelligence on forensics, vehicles etc. between EU member states was considered to be essential in combating trafficking groups. All states require access to all available intelligence as criminal groups operate across borders and throughout the EU.

Q. Is more cooperation required between government agencies in the investigation of human trafficking?

The importance of full cooperation between all government agencies involved in dealing with the perpetrators and victims of trafficking was acknowledged. All agencies should be encouraged to work systematically to counter the threat posed by organised crime groups working in this area.

Non-Government Organisations

The mandatory reporting of victims of trafficking by NGOs to a central point was discussed. The workshop was divided over the benefits mandatory reporting was perceived to provide, over the possible loss of cooperation from NGOs who considered this a breach of their client's confidentiality. It was considered that mandatory reporting would provide more intelligence on the activities of crime groups involved in trafficking and would also enhance the opportunities for identifying victims at an early stage, which would assist with the investigation of these crimes.

Participants were aware that this could lead to a decline in cooperation from NGOs. It was agreed that this is an issue that would require more consultation; but one that could produce great benefits if a workable system was developed.

Liaison Network

A liaison network of EU investigators should be established to assist with cross border investigations. Such liaison networks in other areas have greatly increased the flow of information between member states, and enhanced the cooperation between state agencies.

There should be an increased role for EUROJUST in the investigation of trafficking in human beings. It was considered that currently the services provided by EUROJUST were being under-utilised.

Q. Are witness protection schemes necessary for victims of trafficking where criminal investigations have commenced?

It was generally agreed that a witness protection scheme of some kind was necessary. However, this scheme should be positioned as a support system rather than a witness protection program. Experience of dealing with victims of trafficking, who acted as witnesses, showed that they needed significant support to overcome the trauma of their experience. Thus, the primary aim of any such scheme should be to ensure that experience of providing a witness testimony is a positive one, thereby encouraging more witnesses to provide testimony.

The importance of allowing victims to have a 'reflection period' was acknowledged. This allows the victim to assess the events that have taken place, and decide for him/herself the best approach to the problem.

Workshop 3: Prosecution

Q. Is prosecution the best method of reducing the effectiveness of groups involved in trafficking?

There was general agreement amongst group members that prosecution of offenders is an important weapon in the fight against crime groups involved in trafficking. It was considered important that legislation throughout the EU should be compatible in order to facilitate the prosecution of international crime group members. However, prosecution was felt to be only one method of tackling this area of criminality, and there was some debate as to whether it was the best method.

Raising the awareness of the problem in donor countries, and educating potential victims on how to avoid placing themselves in a situation where they could be vulnerable to traffickers, was also seen as a very effective way of tackling trafficking.

The seizure of assets was also highlighted as important method of combating trafficking, as it is an effective way of stopping crime groups enjoying the benefits of their criminal activities. It is often a more expedient and straightforward sanction than prosecution, particularly when witness cooperation can be difficult to obtain.

Q. What legislation and guidelines are required to effectively prosecute suspects?

Workshop participants agreed that legislation in member states should be compatible. It was felt that EUROJUST should be encouraged to become more involved in the coordination of investigations and prosecutions of organised crime groups. Establishing a network of liaison officers across the EU would facilitate the investigation and prosecution process.

Q. What other non-prosecutorial methods can be used to reduce trafficking in human beings?

The group identified a number of methods that could be used in addition to prosecution. These include:

- Asset recovery
- Raising awareness of trafficking and educating potential victims.
- Reducing the demand in destination countries, thereby reducing the profitability of trafficking.