

## **RACE in Europe Project Training: London, 28<sup>th</sup> – 30<sup>th</sup> May 2014**

### **Summary**

#### **Overview**

The RACE in EUROPE Project held its 3<sup>rd</sup> and final training seminar on Trafficking for forced criminal exploitation and begging in London from 28<sup>th</sup> – 30<sup>th</sup> May 2014. The Seminar, the 1<sup>st</sup> of its kind in the UK, brought together practitioners from a variety of professions and countries across Europe to hear presentations from experts, discuss emerging trends and solutions to the obstacles in prevention and justice of this type of trafficking. Below is a summary of the presentations, the key findings and best practice examples which emerged from discussions and workshops. For further information, copies of the presentation slides or more detailed notes on discussions please contact

#### **Attendance**

Trafficking experts came together from across 12 European countries, namely; the UK, Ireland, the Netherlands, Slovakia, Romania, Lithuania, France, Denmark, Norway, Poland, the Czech Republic and Austria. The experts represented a diverse range of professions; legal practitioners, social workers, law enforcement officers and front-line staff from NGOs.

#### **Expert Presentations**

##### **– ‘Non-Punishment under the EU Trafficking Directive 2011/36/EU’**

explained the objectives and scope of the EU Directive, paying particular attention to the definition of exploitation of criminal activities, the term ‘compelled’ and non-punishment. She explained non-criminalisation legal clauses and the importance of the case of and Others 2013.

##### **– EUROPOL – ‘Overview of the problem across Europe, the role of Europol in combatting this form of criminality’**

outlined the role Europol plays in the fight against human trafficking, detailing its experiences in cases of forced criminality and emerging trends such as sham marriages and property crime. She explained the main challenges in victim identification and reiterated the importance of coordinated multinational investigations in tackling this type of trafficking.

##### **– Anti-Slavery International – ‘The RACE Project and its Findings’**

presented the research findings of the RACE in Europe project, outlining the key findings from each of the project partner countries, reaffirming that trafficking for forced criminal exploitation and begging is far more prevalent and widespread

than previously understood and that victims are routinely punished for the crimes they are forced to commit.

**– Specialist Policing Consultancy – UK Case Study – ‘Child Trafficking for forced Criminality’**

explained the phenomenon of child trafficking for forced begging, theft and petty crime in the UK, especially of children of Roma origin and the UK police and joint operations attempts to rescue victims and punish perpetrators, including details of Operation

**– Metropolitan Police – ‘Operation Ladyburn’**

gave details of Operation Ladyburn in which a Romanian man was trafficked to the UK and forced to carry out all manner of criminal activities, suffering abuse and violence. outlined the role of the Metropolitan Police, the challenges with taking a proactive approach to investigations and explained how reports of forced labour, including criminal exploitation are rising.

**– National Drug Headquarters Criminal Police and Investigators Service – ‘Indoor Cannabis Cultivation in the Czech Republic’**

explained the reach of Vietnamese organised crime groups in the Czech Republic and their role in trafficking Vietnamese for forced labour in cannabis cultivation. He described the challenges the police have in identifying victims, exacerbated by a lack of cooperation between victims and the police. He touched upon emerging trends, such as the growth of crystal meth production.

**– Criminal Intelligence Service Austria – ‘Human Trafficking Crime: The Situation in Austria’**

detailed the success of a national centralised and coordinated approach to tackling trafficking, especially trafficking for forced begging. He gave examples of best practice, including a national helpline for police and the public and of the importance of collaboration with civil society organisations.

**– Dutch Police Academy – ‘Combatting the Exploitation of Children in Forced Criminality: The Dutch Approach’**

spoke about the high incidences of forced child begging and theft in the Netherlands and the efforts being taken by the Dutch Police to tackle this. He highlighted some recent successes in prosecutions for THB, largely as a result of a new multi-agency collaborative approach.

**Vietnamese Mental Health Services – ‘Safeguarding Victims: Case Study on Vietnamese Children’**

described the phenomenon of child trafficking in the UK, explaining that Vietnam is the top country of origin for child victims of trafficking, many being forced to cultivate cannabis. She explained the high risk of children being treated as criminals, the impact this has on victims and the high rates of children going missing.

explained the specialist care that victims need and the importance of a coordinated response with source countries.

<b>‘Legal Assistance to Victims of Trafficking for Forced Criminality’</b>
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outlined the rights of victims of trafficking including legal counselling, free representation, international protection and the right to compensation. She described the difficulties faced by child and adult victims of trafficking, including the lack of specialist lawyers, representation at trial and concentration of criminal jurisdiction. Child protection also plays an integral role when dealing with child victims of trafficking.

<b>NIDOS – ‘Guardianship System in the Netherlands’</b>
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explained the importance of a system of legal guardianship for child victims of trafficking and the role NIDOS plays in the protection of victims, the steps taken to prevent their re-trafficking (removal of phones, accompaniment outside of accommodation) and the range of after care services, such as psychotherapy, provided.

<b>Legal Assistance to Victims of Trafficking for Forced Criminality’</b>
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described her experience providing legal representation to Vietnamese victims of trafficking prosecuted for offences relating to cannabis cultivation. Through research she has identified 140 potential victims who’ve been convicted since 2011. She explained the high number, nearly 60% of victims who go missing.

<b>Migrant Rights Centre Ireland – ‘Slavery in Cannabis Production’</b>
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expanded on the experience of the Vietnamese victims of trafficking prosecuted in Ireland, drawing on research undertaken by MRCI and their involvement in recent cases, having worked on 23 potential cases since January 2014. She detailed recent High Court case developments and made the argument that the responsibility for identification should fall with criminal practitioners as opposed to law enforcement officials.

<b>– Anti-Slavery International – ‘The Non-Punishment Provision in Practice’</b>
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led participants through the 7 stage identification model for the UK crown prosecution service and the potential for rolling this model out across Europe. She argued that non-prosecution measures; a mix of legislation and policy and that relying on prosecutorial discretion is inadequate.

### **Specialist Policing Consultancy – ‘International Cooperation and Joint Investigation Teams’**

outlined his experiences of, and the benefits to the use of Joint Investigation Teams in tackling human trafficking crimes. He explained when a JIT was most suitable, the process of setting up a JIT and the role EUROJUST and EUROPOL play in facilitating JITs.

## **Discussions and Workshops**

### **Workshop: What is the Problem?**

- 1: Have you encountered cases of trafficking for forced criminality or forced begging and is it officially recognised in national statistics and/or official reports?
2. Is there any work being done in your country to counter this type of trafficking?
3. What are the key issues and/or trends in your country?
4. Are trafficking victims being criminalised for the crimes they are forced to commit?

### **Ireland**

Statistics are collected through the NRM but none are collected on criminal exploitation. There is a need for an independent rapporteur and for the police to take a proactive approach. A recent high court case has meant that 73 cases are being reviewed for signs of trafficking.

### **Netherlands**

Focus in NL has been on labour and sexual exploitation but increased awareness of other kinds in recent years – in 2013 new legislation introduced which includes forced criminality. An independent national rapporteur has a lot of influence. New trends include Bulgarians exploited in illegal cigarette production and Polish exploited by traveller communities.

### **UK**

NRM and UKHTC have serious issues with identification and many don't get referred, Forced criminality often comes under forced labour and so it is difficult to ascertain the scale of the issue. Investigations by the police are reactive and rely heavily on the victims. There is a new trend of forced sham marriage. Victims are routinely criminalised.

## France

At the moment there is no centralised body collecting statistics on THB. Trends include forced begging and theft, often of minors and often on public transport. Investigators face many challenges as often children are trained to hinder the process, disrupt age assessments etc. In these instances it's much easier to consider the victim a perpetrator.

## Lithuania

Official statistics from 2013 recognise 24 people trafficked for forced criminal exploitation. A major issue identified is the lack of cooperation between source and destination countries and often police are unaware of the exploitation or assistance given to returning children. There is a high risk of re-trafficking and criminalisation of victims.

## Denmark

Noticeable increased incidence of forced criminalisation, especially forced drug smuggling. In Denmark, drug smuggling is considered too serious a crime to consider trafficking – victims are immediately criminalised. State is not proactive – rely on NGOs and prison outreach. Little coordinated approach.

## Norway

No official NRM – have a coordination unit for victims but acts more like an advisory group than a source for data collection. It is up to every organisation to volunteer statistics. In 2013, 22 out of 349 THB cases were for forced criminality. Trends include children from North Africa forced to sell drugs and steal, Roma in forced theft. Organised criminals behind it all – no proactive response from the authorities.

## Poland

Don't have a full model of NRM – under consideration at the moment, hopefully in place by late 2014. There are many cases of forced criminality and begging and the main focus is from law enforcement. Trends include drug trafficking, sham marriage and forced begging. Debt bondage and multiple exploitation is common. From May onwards, 3<sup>rd</sup> country nationals are given a 3 month stay so they aren't subject to immigration controls and can assist in prosecutions.

## Czech Republic

There is no distinction between cases of forced labour and so no formal recognition of criminal exploitation. Forced labour of Vietnamese in cannabis cultivation is the biggest issue. There's an emerging trend of crystal meth production and victims are being criminalised. It is challenging to make contact with potential victims noticed in media cases.

## Austria

See presentation from [redacted] on the situation in Austria

## Slovakia

Only statistics on forced labour and sexual exploitation. More and more men are being trafficked – now around 50% of victims, often multiple exploitation such as benefit fraud. Not yet understood if victims are being criminalised.

## Romania

Do have an official NRM which identified 900 victims in 2013, 404 of which were for forced labour. In February 2014 the criminal court made special provisions for slavery, trafficking and forced begging.

### Workshop: Elements of Good Practice

1. Law enforcement: focus on national and international policing practice and cooperation
2. NGO's who work primarily with adults to focus on victim identification and support
3. NGO's who work primarily with children to focus on victim identification and safe accommodation and repatriation

## Law Enforcement

**Assets:** Measures to seize the assets of traffickers is problematic. Many proceeds are in 'clan' properties and cannot be easily accessed.

**Cooperation:** [redacted] proposes that officers work cooperatively, are commissioned with (almost) executive powers across borders – can be very successful. At the moment 8 Romanian officers are operating in the UK and funded by the EC. Often will come down to funding. There are many aspects to consider: security, proximity, diplomatic statuses. Is it possible to work solely on trafficking issues? Perhaps this is unrealistic. How can you constitutionally give executive powers? Prim treaty was signed in 2005 – 3 conditions: 1) ask for no weapons 2) law of host country 3) in combination with host police. Only work together but is still an extended power from JITS

Forces should cooperate with European counterparts.

**Intelligence:** Often there is insufficient information shared with frontline officers. There should be a central unit in each country that deals specifically with trafficking.

Legislation and data storage differ with each country, this makes it challenging to coordinate approaches.

**GRETA:** See the situation differently: not as positive. Cooperation and Seizure of assets is a major issue that needs addressing.

#### NGOs who work with Adults

There is a variety of experiences between NGOs in the training and identification tools that they offer and/or receive.

**Good Practice:** IOM in Slovakia have been involved in the extensive training of practitioners and Fairwork in the Netherlands are in the start-up phase of a training project. IOM are also creating a platform for information sharing. HopeNow have former victims volunteering at the organisation. Adding victim's perspective to trainings is good practice. In the Czech Republic the Ministry of the Interior is running special protection and support training.

**Issues:** In the UK there needs to be a review of the NRM. There is a need to share court judgements and legal analysis. In the Netherlands practitioners would like to see change from investigation authorities granting resting and recovery period.

#### NGOs who work with Children

**Identification:** Cannot be done without the establishment trust. In UK you have a window of between 1 and 2 days to identify a victim before they go missing – minors are rarely identified as victims. Interpreters have to be neutral and know regional accents etc. TIME the most crucial aspect in identification. In Austria – children often afraid of police and authorities, must have the opportunity to build trust which will only be achieved in a child-friendly environment.

**Age assessment:** This is a major issue. Cultural differences – age not always recognised. For example, if you come from Eritrea it's commonplace to say you're much older. Need to be able to objectively and adequately assess age. Opportunity to X-Ray – etc. but sometimes not appropriate. Best interest of the child imperative.. WHO does it? Social services are under resourced and should be more independent. In Austria the age is not so important but services are provided based on behaviour and ability. *If you need help – you need help* shouldn't matter if you're 16 or 18 – but this is an idealised situation. 'If in doubt the person should be treated as a child until proven otherwise.' Int'l law (KS) definition of child trafficking is different than definition of adult THB.

**Re –Trafficking:** There is a place for minors in Sussex (UK) but often they are re-trafficked. Children go missing! A system of legal guardianship, like that of NIDOS is an example of good practise and helps considerably to prevent re-trafficking. In Austria, care can be extended to law until 18 can keep them in centre but can be extended to 20 years.

**Issues:** It is difficult for police to get around the fact that victims lie – as soon as someone lies to you, they’re on the other side – hard mentality to get over. Some are arrested using a fake passport – police then use the age on their fake passport – this means that they can’t then access the services they’re entitled to. Entitled to more rights as a child and so there is suspicion that victims will lie in order to access these rights.

#### **Additional Outcomes**

- All actors within the criminal justice system need training on how to identify victims. Many other are involved in the prosecutions. – I.e. labour inspection, tax authorities, trading standards.
- NON-PUNISHMENT AND NON-PROSECUTION – key issue that needs to be addressed. More research on this required and then specialised training and awareness raising. Major obstacle to justice for victims.
- International cooperation imperative
- Proactive approach: this is required by all actors and should not be the responsibility of the victim to self-identify and defend their status as victims.
- Should not rely on testimonies to prosecute
- Need increased use of international bodies such as Eurojust and Europol
- Need to push for increased reporting and data collection of the number of victims identified.
- Specialisms are key to effectively tackling this crime. I.e. specialised judges, prosecutors, social services, police units
- Impact on victims needs to be taken into account at all stages