



Financial Investigation of Trafficking in Human Beings

Sofia, 23-24 March 2023

EXCELLENCE IN EUROPEAN LAW¹

Speakers

- Galina Andreeva-Mincheva**, Deputy Public Prosecutor, Plovdiv District Prosecutor's Office, Plovdiv; JITs National Expert
- Tarana Baghirova**, Associate Country Visit Officer, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings (CTHB), Organization for Security and Co-operation in Europe (OSCE), Vienna
- Silviya Dimitrova**, Deputy Director, National Institute of Justice (NIJ), Sofia
- Ramin Farinpour**, Senior Lawyer, European Criminal Law Section, ERA, Trier
- Willem Jan de Graaf**, Public Prosecutor for Trafficking in Human Beings and Migrant Smuggling, Public Prosecution Office Amsterdam
- Suzanne Hoff**, International Coordinator, La Strada International, Amsterdam
- Dickon Johnstone**, CEO, THEMIS; Finance Sector Chair, UK Modern Slavery Training Delivery Group, Guildford
- Marco Mosele**, Judicial Cooperation Officer, JITs Network Secretariat, Eurojust, The Hague
- Michael Nagl**, Senior Manager FIU, Law Enforcement Outreach and Investigations (Central Europe), Western Union, Vienna
- Raquel Núñez López**, Team Leader, Central Unit for Combating Trafficking in Human Beings, National Police, Madrid
- Clémence Olivier**, Head of Legal Department, Agency for the Management and Recovery of Seized and Confiscated Assets (AGRASC), Paris
- Lora von Ploetz**, Head of Division AML Supervision of Payment Institutions, Agents and Crypto-Asset Service Providers, Federal Financial Supervisory Authority (BaFin), Frankfurt
- Álvaro Rodríguez Gaya**, Head of Operational Coordination, European Migrant Smuggling Centre (EMSC), Europol, The Hague (recording)
- Ernesta Rousseva**, Chief Expert, Secretariat of the National Commission for Combating Trafficking in Human Beings (NCCTHB), Sofia
- Atanas Rusev**, Director of the Security Programme, Center for the Study of Democracy (CSD), Sofia
- Dina Spule**, Senior Risk Analyst, Financial Intelligence Unit (FIU) of Latvia, Riga
- Ana Wallis de Carvalho**, Seconded National Expert to the Portuguese Desk, Member of the Anti-Trafficking Working Group, Eurojust, The Hague

Key topics

- Financial investigations, JITs, asset recovery and confiscation orders
- Cooperation between the judiciary, law enforcement, FIUs and financial service-providers
- Evidence-gathering and victim compensation

Languages
English, Bulgarian
(simultaneous interpretation)

Event number
323DT04

Organisers
ERA (Ramin Farinpour) in cooperation with the Bulgarian National Institute of Justice (NIJ), Bulgarian National Commission for Combating Trafficking in Human Beings (NCCTHB), Organization for Security and Cooperation in Europe (OSCE), the Dutch Study and Training Centre for the Judiciary (SSR), La Strada International and Western Union



Financial Investigation of Trafficking in Human Beings

Thursday, 23 March 2023

08:30 Arrival and registration of participants

09:00 **Welcome and introduction**
Silviya Dimitrova, Ramin Farinpour

I. SETTING THE SCENE: FOLLOWING THE MONEY

Chair: Ramin Farinpour

09:10 **Understanding the scope and nature of illicit financial flows and how to investigate them: facts and figures**

- Barriers to successful financial investigations
- Good and promising practices
- Guidance on financial investigations

Tarana Baghirova

09:45 **Uncovering the complexities of flows of illicit funds and victims of labour trafficking: the FLOW project**

- How to uncover labour exploitation and trafficking: successful investigations and cooperation between law enforcement authorities, labour inspectorates and the private sector
- Tools for businesses to end THB in local labour supply chains

Atanas Rusev

10:30 Discussion

10:45 Coffee break

II. THE ROLE OF FINANCIAL INSTITUTIONS

Chair: Ramin Farinpour

11:15 **Steps to be taken by a bank to uncover and counteract suspicious financial transactions**

- Typologies
- Red flags/indicators of THB (behavioural, know your customer (KYC) and transactional), suspicious transaction reports (STRs)
- De-risking, survivor inclusion

Lora von Ploetz

11:45 **Effective cooperation with authorities and other actors in relation to the disruption of THB financial flows**

Michael Nagl

12:15 Discussion

12:30 Lunch

III. THE ROLE OF FIU AND LAW ENFORCEMENT

Chair: Tarana Baghirova

13:30 **The role and responsibilities of an FIU**

- Analysis and identification of suspicious financial flows and suspicious transaction reports (STRs), reporting by obliged entities
- Access to and search of bank account information and other sources of illicit transactions
- Exchange of information with competent authorities and other FIUs

Dina Spule

14:00 **Law enforcement financial investigations of THB**

- Intelligence and investigatory tools
- Identifying and tracing proceeds of crime, gathering evidence
- Cooperation with other competent (cross-border) authorities

Raquel Núñez López

14:30 Discussion

14:45 **Europol's work and assistance in investigating and counteracting THB, its financing and tracing its financial flows and profits**

- Assessing the current state of knowledge of the THB financial business model and tracking various modus operandi in relation to its proceeds
- Financial investigations and asset recovery, Joint Investigation Teams (JITs)

Álvaro Rodríguez Gaya

15:30 Discussion

15:45 Coffee break

Objective

This second seminar in a series of three co-financed by the European Commission will focus on disrupting the financial business model of THB, following the money and untangling the business chain.

Mutual recognition of confiscation orders will play a central role in the seminar, as will the work in the field of Europol and Eurojust in assisting Member States to follow through with these orders, also within Joint Investigation Teams (JITs). This will be followed by a closer look at police and judicial cooperation in THB financial investigations and confiscating assets, including red-flag indicators in various areas, such as money service businesses.

Moreover, levels of cooperation between these actors and financial service providers and FIUs will also be examined, as will the enhancement of victim compensation. Evidence-gathering to increase prosecutions and convictions, especially within the context of the criminal liability of natural and legal persons, will be analysed.

Workshops will form a part of the seminar.

Who should attend?

Judges, prosecutors, law enforcement officers, financial investigators, compliance officers, civil society/NGOs from eligible EU Member States (Denmark does not participate in the Internal Security Fund - Police 2014-2020) and eligible Candidate Countries (Albania and Montenegro).

Venue

National Institute of Justice (NIJ)
14, Ekzarh Yossif str.
Sofia
Bulgaria

Participation fee and reimbursement of costs

Participation fee: €120, including documentation, lunch and a joint dinner

Travel costs up to €300 will be reimbursed by ERA upon presentation of the original receipts, tickets, boarding passes or invoices after the seminar.

Two nights' hotel accommodation up to €125/night will be reimbursed by ERA upon receipt of the original invoice.

IV. SIMULTANEOUS WORKSHOPS

- 16:15
- **Public-private partnerships in countering THB financing, the role of financial institutions and technological tools to assist them in identifying THB risks**
Dickon Johnstone, Michael Nagl, Lora von Ploetz
 - **FIU, law enforcement and judicial cooperation in THB financial investigations**
Willem Jan de Graaf, Raquel Núñez López, Dina Spule
 - **Setting up and managing a JIT**
Galina Andreeva-Mincheva, Marco Mosele
 - **Confiscation of THB proceeds, assisting and compensating victims**
Suzanne Hoff, Clémence Olivier, Ernesta Rousseva
- 18:15 End of first day
- 20:00 Joint dinner

Friday, 24 March 2023

- 09:30 Workshop reports

V. THE ROLE OF THE JUDICIARY AND ASSET RECOVERY OFFICES

Chair: Ramin Farinpour

- 09:45 **The role and responsibilities of the judiciary in THB financial investigations**
- Securing evidence for evidentiary purposes in court, criminal liability of natural and legal persons
 - Freezing and confiscation orders
 - Cross-border cooperation and JITs
 - Victim compensation
- Willem Jan de Graaf*
- 10:15 **How an asset recovery office can effectively contribute to THB financial investigations and ensuring victim compensation**
- Identification and tracing, freezing and seizure
 - Management of frozen and seized assets, victim compensation
 - National and cross-border cooperation
- Clémence Olivier*
- 10:45 Discussion
- 11:00 Coffee break
- 11:30 **Eurojust's work and assistance in relation to THB financial investigations, freezing and confiscation of assets**
- Joint Investigation Teams (JITs)
- Ana Wallis de Carvalho, Marco Mosele*
- 12:15 Discussion

VI. COMPENSATION

Chair: Ramin Farinpour

- 12:30 **Ensuring victims' access to compensation**
- Access according to EU Law
 - Procedures for obtaining compensation
 - Best practices and way forward
- Suzanne Hoff, Ernesta Rousseva*
- 13:15 Discussion
- 13:30 End of the seminar

For programme updates: www.era.int
Programme may be subject to amendment.

Your contact persons



Ramin Farinpour
Senior Lawyer
E-Mail: rfarinpour@era.int



Susanne Babion
Assistant
E-Mail: sbabion@era.int
Tel.: +49 (0) 651 9 37 37 422

CPD

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Financial Investigation of Trafficking in Human Beings

Sofia, 23-24 March 2023 / Event number: 323DT04



Terms and conditions of participation

Selection

1. Participation is open to judges, prosecutors, law enforcement officers, financial investigators, compliance officers, civil society/NGOs from eligible EU Member States (Denmark does not participate in the Internal Security Fund - Police 2014-2020) and EU Candidate Countries (Albania and Montenegro).
2. The number of places available is limited (50 places). Participation will be subject to a selection procedure.
3. Applications should be submitted by **19 February 2023**.
4. A response will be sent to every applicant after the deadline. Participation is subject to a selection procedure.

We advise you not to book any travel or hotel before you receive our confirmation.

Registration fee

5. €120, including documentation, lunch and a joint dinner.

Travel expenses

6. Travel costs up to €300 can be reimbursed by ERA upon receipt of the original receipts, tickets, boarding passes, invoices after the seminar. For those travelling within Bulgaria to Sofia, travel costs of up to €100 will be reimbursed.

Participants are asked to book their own travel. Participants are advised of the obligation to use the most cost-efficient mode of transport available and to read the travel reimbursement information sheet carefully.

Accommodation

7. Two nights' single room accommodation up to €125 per night can be reimbursed by ERA upon receipt of the original receipts and invoices after the seminar if they have to travel more than 100km to Sofia.

Other services

8. One lunch, beverages consumed during the coffee breaks and the seminar documents are offered by ERA. One joint dinner is also included.

Participation

9. Participation at the whole seminar is required and your presence will be recorded.
10. A list of participants including each participant's address will be made available to all participants unless ERA receives written objection from the participant no later than one week prior to the beginning of the event.
11. The participant's address and other relevant information will be stored in ERA's database in order to provide information about future ERA events, publications and/or other developments in the participant's area of interest unless the participant indicates that he or she does not wish ERA to do so.
12. A certificate of attendance will be distributed electronically after the seminar has taken place.

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Venue

National Institute of Justice (NIJ)
14, Ekzarh Yossif str.
Sofia
Bulgaria

Languages

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Contact Person

Susanne Babion
Assistant
sbabion@era.int
+49 651 9 37 37 - 422

Understanding the scope and nature of illicit financial flows and how to investigate them: facts and figures

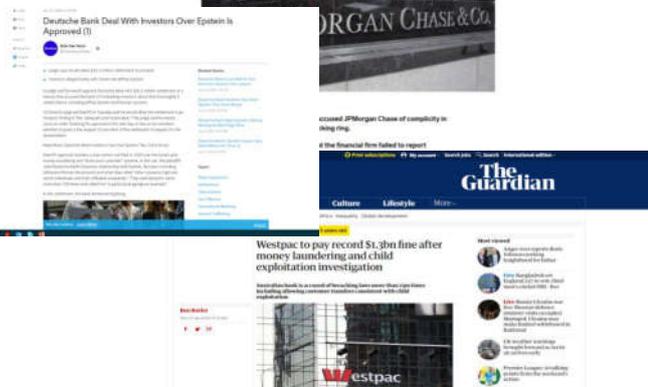
Tarana Baghirova, Office of the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings



The Finances of THB

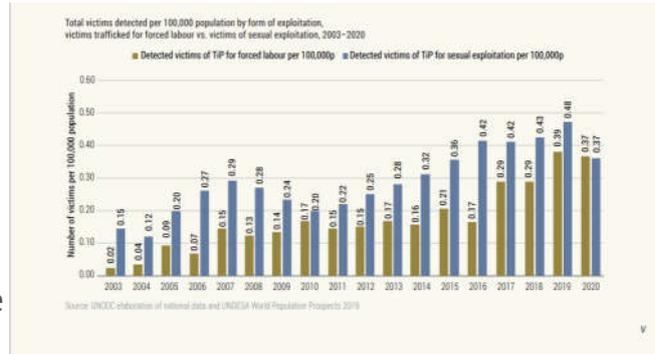
Top 3 Transnational Crimes

- 1) Drug Trafficking:
US\$300 Billion
- 2) **Human Trafficking:**
US\$150 Billion
- 3) Counterfeiting:
US\$120 Billion



2022 Global figures

- **11%** decrease in number of identified victims
- Most victims self-rescue
- **27%** less convictions
- More boys and men are victims
- **24%** less sex trafficking identified
- THB risks of conflicts, climate change
- More violence to women and children
- More organized criminal groups engaged in THB



OSCE findings -emerging trends in THB

Reported by States as under investigation and/or in the judicial process:

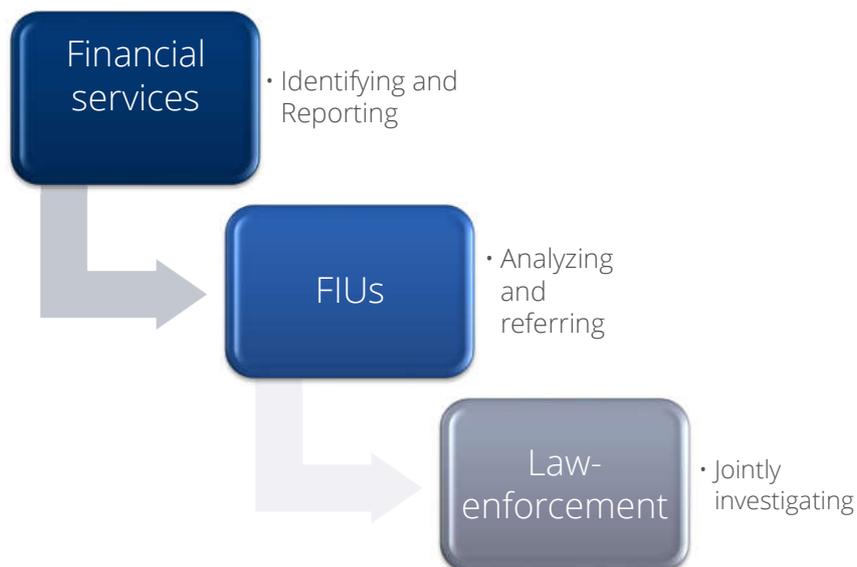
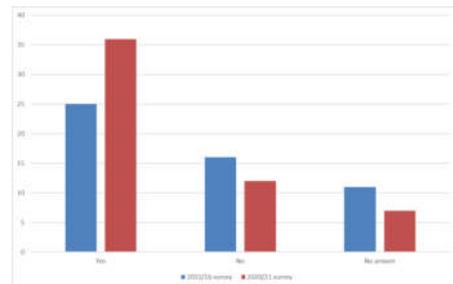
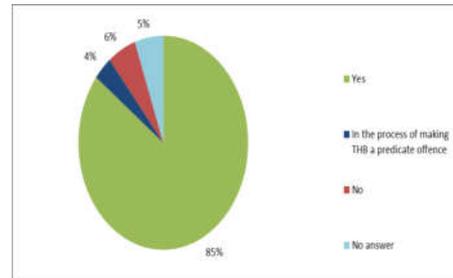
- (1) THB for **forced criminality** (47% -> 63%)
- (2) THB for **forced begging** (47% -> 59%)
- (3) NEW: THB cases involving production of **pornography, live cams, live remote sexual abuse** (56%)
- (4) THB for **sham marriage** (23% -> 39%)
- (6) 31% had THB cases involving **people with disabilities**, and 20% more noted unconfirmed reports

LOWEST:

- recruitment of foreign fighters
- recruitment of children associated with armed forces

OSCE findings

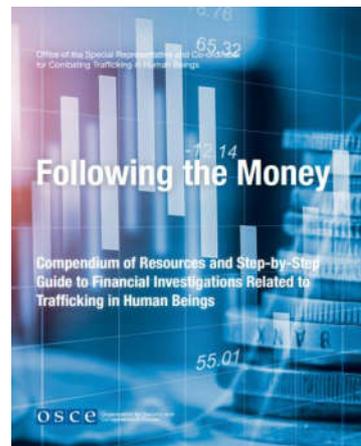
- Progress by pS in the use of indicators of financial crime to identify THB - 85% of pS list THB as a predicate offence
- 36 countries (65%) reported that red flag indicators that can trigger suspicious transaction reports include indicators relating to THB/forced labour. This represents a notable increase from 25 countries (48%) in 2015/16. The number of countries with no such indicators and no plans to introduce them fell from 16 to 7.
- **44 pS** have laws specifying that confiscated **assets were to be returned to the government's general fund**, with **30 pS also using funds to compensate victims**. Less common was the use of funds for victims support activities, to support investigating units, or to fund other counter-THB activities
- Of 57 pS, only 15 NAPs (7 EU MS) include financial investigations into THB vs 37 NRAs (65%)



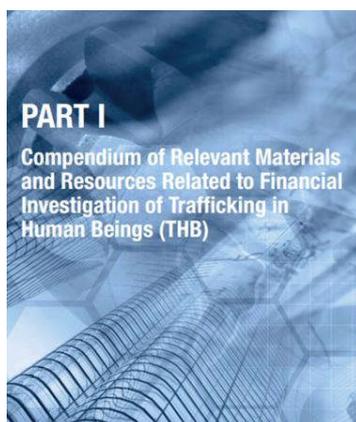
Primary Objective

-  Create awareness among practitioners and policy makers about the value of financial investigations and the need to incorporate them into anti-THB response systems;
-  Summarize and analyze many of the most prominent publications (reports, studies, etc.) on financial transaction indicators of THB;
-  Synthesize and condense the most common financial transaction indicators into one document for financial investigators and institutions to enhance their efforts in this arena;
-  Provide guidance for financial intelligence units (FIUs), law enforcement agencies (LEAs), financial institutions, as well as public and private entities, which will assist in enhancing their abilities to follow, track and report financial flows related to THB.

 Organization for Security and Co-operation in Europe



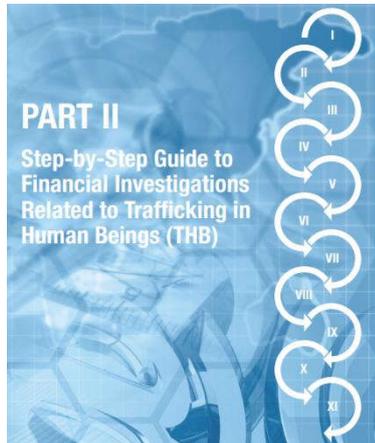
Compendium



 Organization for Security and Co-operation in Europe

- First compendium to focus on financial investigations relating to Trafficking in Human Beings (THB.)
- Publishers captured include;
 - Intergovernmental Organizations and
 - Agencies;
 - Independent National Financial Intelligence
 - Units (FIUs) and;
 - Civil Society, Non-Governmental Organizations (NGOs.)
- By the numbers (Section 4.1)
 - Publishers from **five continents**.
 - Publication dates ranging from **2005 to 2019**.
 - Approximately **68 percent** of all indicators identified were deemed to be **duplicates**.
 - The majority of indicators focused on **sexual exploitation**.

11 Steps



Foundational

- Step 1:** Centralize Oversight
- Step 2:** Define Roles and Responsibilities
- Step 3:** Access Appropriate Investigatory Resources

Operational

- Step 4:** Evaluate the Investigation for THB Activity
- Step 5:** Scope the Investigation and Identify Target Subjects
- Step 6:** Identify and Leverage Indicators and Red Flags
- Step 7:** Report Suspicious Behaviour
- Step 8:** De-Risk Relationships
- Step 9:** Extract Intelligence from Completed (and Proven) THB Investigations

Communal

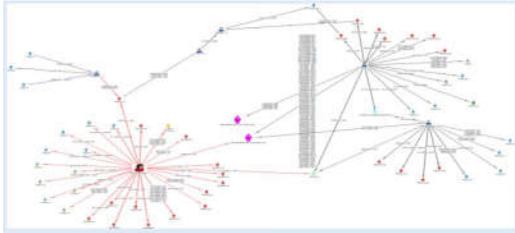
- Step 10:** Coordinate with External Partners (Public/Private Partnerships)
- Step 11:** Financial Access – Banking Survivors of THB

Red-flag Indicators



Cyprus pilot

Results



Lessons learned

- Use partnerships to access data and leverage varying mandates
- Buy-in of senior executives in the financial sector
- Engagement of financial regulators and supervisors

Thank you!

Tarana.Baghirova@osce.org



osce.org/secretariat/trafficking



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Uncovering the complexities of flows of illicit funds and victims of labour trafficking: The FLOW project

Atanas Rusev
Center for the Study of Democracy
Sofia, March 2023

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Flows of illicit funds and victims of human trafficking: uncovering the complexities

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THB for purposes of labour exploitation: the context

No extra pay for overtime, shifts or weekend work

Pressure related to working conditions

Withholding pay

Overlong working hours

Underpayment

Sexual violence or the threat thereof

Forbidding social interaction

Unreasonable or unlawful recruitment fees

Confiscation of ID

Restriction of movement

Unreasonable transport fees

Physical violence or the threat thereof

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Always keep an eye out for the specifics...

- Exploitation in legitimate industry vs. exploitation in criminal markets;
- Single victim (e.g. domestic servitude) vs multiple victims exploitation (e.g. construction, agriculture);

N.B. Traffickers in labour THB may be involved only in the recruitment and transportation, but not in the exploitation phase

ACT (What is done)	MEANS (How it is done)	PURPOSE (Why it is done)
<ul style="list-style-type: none"> ○ Recruitment, ○ Transportation, ○ Transfer, ○ Harbouring, or ○ Receipt of persons. 	<ul style="list-style-type: none"> ○ Threat or use of force, ○ Coercion, ○ Abduction, ○ Fraud, ○ Deception, ○ Abuse of power or vulnerability, or ○ Giving payments or benefits to a person in control of the victim. 	<ul style="list-style-type: none"> ○ Exploitation, which includes exploiting the prostitution of others, ○ Sexual exploitation, ○ Forced labour, ○ Slavery or similar practices, and ○ The removal of organs.

3





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...and do your best to follow the money

- Labour exploitation is a **low-risk, high gain** form of corporate crime motivated by profit-making;
- Legal structures are used to **hide grey and illegal activities**;
- Tackling labour exploitation is hindered by **insufficient regulation**, resources & monitoring;
- ML investigations focus on the **proceeds of crime** and not on the **investments and financial transactions** related to the criminal activities. HOWEVER, criminal financing: 1) Takes place before and during the commission of the crime; 2) Links all actors in a given criminal operation; 3) Often mixes licit and illicit financial flows, when legitimate business structures are used.

4







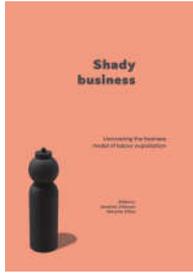
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About FLOW

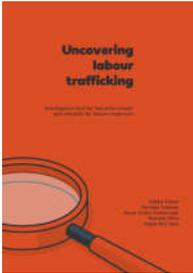
Consortium:
 European Institute for Crime Prevention and Control (Finland)
 Center for the Study of Democracy (Bulgaria)
 Ministry of the Interior (Latvia)
 University of Tartu (Estonia)

Objective:
 Raising the awareness on business models of THB for purposes of labour exploitation

Major outputs:



Shady business



Uncovering labour trafficking



Navigating through your supply chain



Flows of illicit funds and victims of human trafficking: uncovering the complexities

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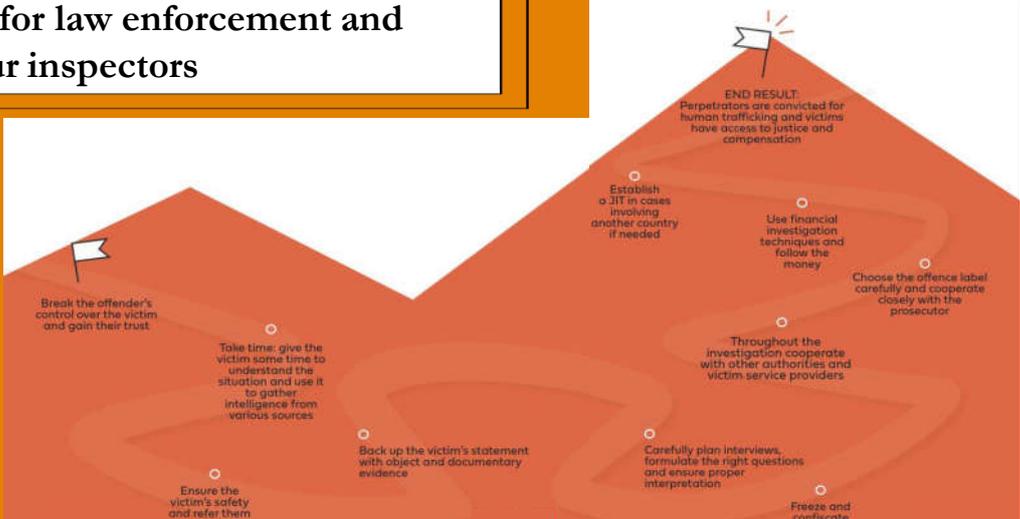






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Investigation tool for law enforcement and checklist for labour inspectors

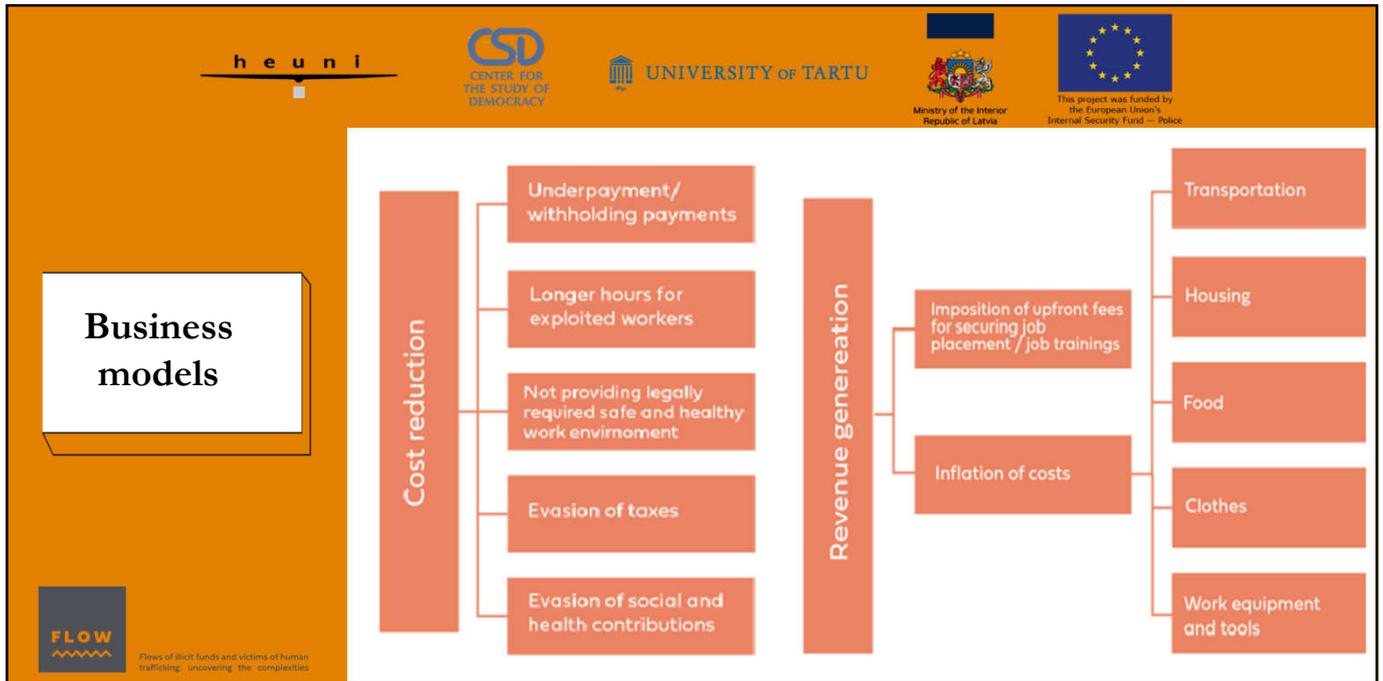


END RESULT:
 Perpetrators are convicted for human trafficking and victims have access to justice and compensation

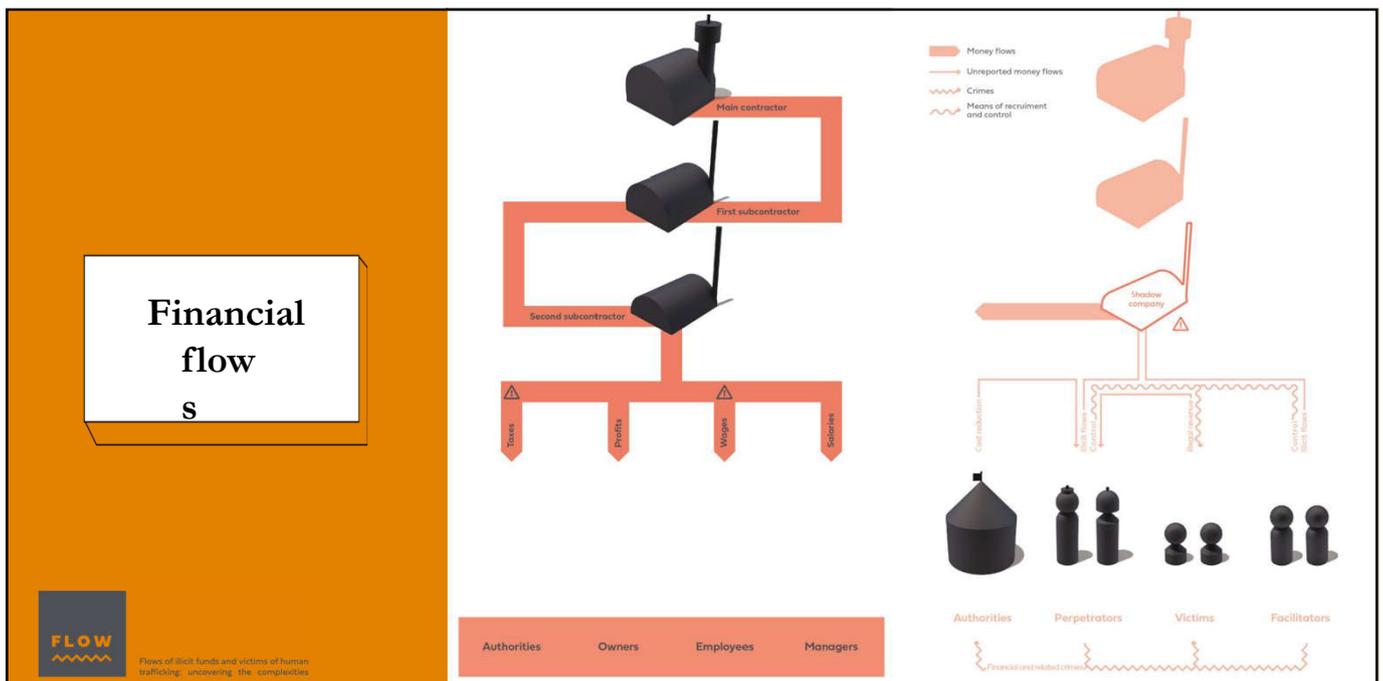


Flows of illicit funds and victims of human trafficking: uncovering the complexities

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Labour exploitation related crimes

Economic crime	Document offenses	Benefit fraud	Tax, social and health-care dues evasion
Money laundering	Online card fraud	Bribery	Extortion
Labour law violations	Work safety violations	Fraud	Charging illegal recruitment fees

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Typology of tax and social security evasion

Non-payment of labour costs	Reduced cost of labour	Tax evasion
Overcharging for additional “services” – accommodation, food, internet access, etc.	Debt bondage	

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A Toolkit for prevention of labour exploitation and trafficking

- Risk Assessment Tool**
Take the first step of due diligence and pinpoint the areas where the risks of exploitation are the highest. Includes an easy-to-use checklist for mapping risks.
- Strategy Tool**
Define a clear company strategy on the prevention of exploitation and trafficking, and include it in internal guidelines and corporate policies. Includes nine recommendations for value-driven action.
- Screening Tool**
Get to know your partners, seek to verify that they act responsibly and are not engaged in abusive or criminal practices. Includes a list of questions for discussions with potential business partner.
- Contract Tool**
Include permanent clauses in the contracts with subcontractors and other partners that are intended to clarify the obligations and requirements of the contractual partners. Includes four steps for putting policies in writing.
- Workplace Assessment Tool**
Monitor contractors' and subcontractors' operation through conducting inspections of working conditions on jobsites. Includes guidance for planning and conducting assessment along with a list of questions for discussions with migrant workers to uncover risk factors that make workers vulnerable for exploitation and trafficking.

11

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Takeaways & recommendations

- 1) Systematic collection of financial data -> parallel financial investigations
- 2) Differentiated approach towards different OCGs: raising costs and risks for traffickers
- 3) Improving border & visa control -> Nigerian OCGs
- 4) Administrative measures -> Eastern European OCGs
- 5) Enhancing international cooperation in criminal matters -> China, Africa, Latin America
- 7) Re-thinking existing legal framework
- 8) Criminalization of the sex buyer
- 9) Ban on internet advertising of sex services

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Thank you for your attention!

AtanasRusev
atanas.rusev@csd.bg
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HUMAN TRAFFICKING - INVESTIGATION APPROACH

Lora von Ploetz

Head of Division Payment Institutions, Agents and Crypto
Businesses at Federal Financial Supervisory Authority
Sofia / Bulgaria / March 2023



Co-financed by the European Union

1

HUMAN TRAFFICKING - OVERVIEW

What is human trafficking?

- **Palermo Protocol to the UN Convention against transnational organized crime and EU Directive 2011/36 define this crime as:**

“the recruitment, transportation, transfer, harboring 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”

Three categories of human trafficking:

- Sexual exploitation (forced prostitution, pimping)
- Forced labor (workplace exploitation or domestic servitude)
- Removal of organs

How big are the criminal proceeds?

- According to the International Labor Organization, human trafficking is estimated to generate revenues of US \$150-US\$99 billion from sexual exploitation, US \$34 billion from construction, manufacturing, mining & utilities, US \$9 billion from agriculture, forestry & fishing, US \$8 billion from forced labor by domestic workers & US \$840 million - US \$1.7 billion from illegal organ trading.

How many people are affected?

- Over 40.3 million victims

What are the trigger factors?

- Pull factors - a number of factors which make some countries more attractive for human trafficking than others (employment opportunities, foreign diaspora community, etc.)
- Push factors - a number of social and economic conditions which influence the actions of both victims and exploiters and facilitate the occurrence of human trafficking (unemployment, lack of education, social inequality, gender discrimination, etc.)
- Facilitating factors - Social tolerance or a lack of public awareness can create a more permissive environment for certain crimes (discrimination, political circumstances, etc.)

What are the major challenges in detecting, investigating and prosecuting ML from the trafficking of human beings?

- Limited international co-operation
- Lack of awareness or concern
- The difficulty to detect funds

2

REGULATORY EXPECTATIONS AND STANDARDS

International Standards

Financial Action Task Force

- Report on Financial Flows from Human Trafficking (July 2018)

Organization for Security and Co-operation in Europe

- Follow the Money Compendium on HT-related financial investigations (October 2019)

UN Office on Drugs and Crime

- Global Report on Trafficking in Persons (2018)

EU Law

EU Parliament

- Passed in March 2021 a resolution calling on the European Commission to tackle inter alia human rights abuses in the supply chains of EU businesses
- Published proposal for a draft directive that includes environmental and governance risks, unlike the German DD Act, while the possible imposition of sanctions goes beyond the French vigilance Law

European Commission

- Forthcoming legislative proposal for a directive on sustainable corporate governance and due diligence expected in 2021

Germany

Transition to “all-crimes” approach in fighting ML

- Expanding the scope of §§ 261 StGB (ML offence) to include ill-gotten proceeds from all criminal acts

Punishable HT offences in Germany:

- §§ 232 StGB (human trafficking); §§ 232a StGB (forced prostitution); §§ 232b StGB (forced labour); §§ 181a StGB (pimping); §§ 180a StGB (exploitation of prostitutes); §§ 233a StGB (exploitation involving deprivation of liberty); §§ 236 (child trafficking)

BMF National Risk Assessment

- Among the offences classified as the greatest ML threat
- HT to gain importance over long term in Germany

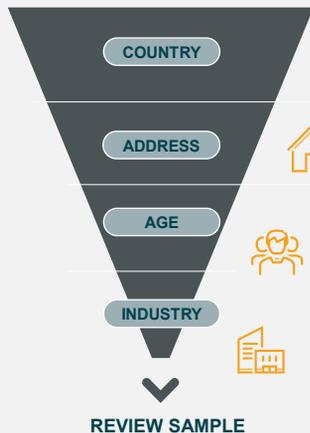
Due Diligence Act (*Sorgfaltspflichtengesetz*) on protection of human rights in the supply chain

- to implement substantial new DD policies and procedures focused on the company's own business environment and (in)direct suppliers
- According to the explanatory memorandum, financial services may be part of the supply chain. Possible necessity of human rights due diligence check by the lender
- Status: official government draft which now enters the parliamentary procedure

3

METHODOLOGY: DATA SELECTION – VICTIM’S PERSPECTIVE

SELECTION OF NON FI CUSTOMERS



- According to the German Federal Police (BKA, 2020), most common nationalities among the victims are: **Bulgaria, Romania, Hungary**. These are “preferred” nationalities due to freedom of movement and absence of requirement for work permits related to EU citizens. (Since 2)
- Data was extracted based on nationality, place of birth or tax residence in the above three countries, incl. Ukraine and Moldova.



- Results were refined by applying the criterion “**more than 4 active Clients registered on the same address.**” (based on strategic confidential intelligence provided by Europol and open source information, often victims are residing in the same house/flat (overcrowded housing units).



- Client data was further refined according to **age (20-40 years)** based on indicators from open sources and statistics by the German Federal Police on the most common age of victims.



- **High risk industries** for human trafficking (meat industry...)
- Risk-based review of clients receiving payments from such industries was performed.
- Additional risk-based review of top 15 groups with highest number of residents at one address.



MAIN SOURCES

Bundeskriminalamt (BKA), Bundeslagebild Menschenhandel und Ausbeutung 2020, RedFlag Accelerator- Typologies (Q3, 2021) Europol Financial Intelligence Public Private Partnership (EFIPPP), Trafficking in Human Beings (Sept. 2020)

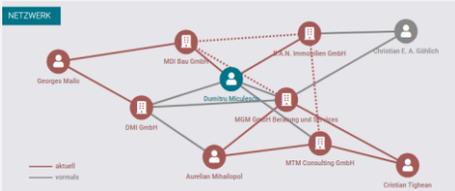
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CASE STUDY: THE LARGEST "EXPORTER" OF ROMANIANS IN GERMAN SLAUGHTERHOUSES



Dumitru Miculescu - a Romanian businessman and former PEP has been providing manpower to slaughterhouses in Germany since more than 15 years. Using a network of subcontracting companies, he has been facilitating Romanian workers' employment in the meat processing sector.

According to media reports, he exploited loopholes in German labour law by controlling a number of companies in the meat-processing, housing and recruitment sectors. Thus, he could recruit thousands of Romanian workers in Germany in exchange for dire living conditions, low wages and exploitation.



In 2011 Miculescu was convicted on corruption charges in his home country.

Following the outbreak of COVID-19 in Germany's largest meat-packing plant – Tönnies – public attention was drawn to the shocking living and working conditions of the so called “contracted” workers from Bulgaria and Romania at the factory.

According to reports, the companies, controlled by Miculescu (MGM, MTM, MDS, MDI, DAN, DAS) provided manpower to the meat-packing plant. Workers were promised the minimum wage of € 9.35 per hour, however, the price for a shared accommodation (around €200) was to be deducted from their monthly salary. Often they had to pay other ancillary fees to the agency (i.e. transport, agency fees).

As a result of public scrutiny and legislative initiatives, as of **January 1, 2021**, slaughterhouses in Germany are no longer allowed to work with subcontractors.



<https://www.dw.com/ro/daniela-reim-%C3%AE-n-cazu-dumitru-miculescu-%C5%9F-a-firmelor-mtm-gmbh-%C5%9F-mgm-gmbh-%C5%9F-abator-car-s-a-mers-multi-mai-depart-a-57071869>
<https://www.ft.com/content/7b77ec15-7384-42d0-9da0-78c4b7f0872b>

CASE STUDY: THE LARGEST "EXPORTER" OF ROMANIANS IN GERMAN SLAUGHTERHOUSES: FINDINGS



Individuals (Possible Victims)

High number of individuals have provided the **same contact address**, at which companies in Gütersloh, NRW are registered. The individuals often share the same nationality (Romanian, Hungarian, Bulgarian).

Apart from address, no other contact details had been provided. Accounts had been opened in the **same Branch**, often by same Relationship Managers.



Companies (Subcontractors)

The companies are controlled by Dumitru Miculescu. Some are **registered as recruiting companies in Romania** and only have an address in Germany.

The companies were acting as subcontractors. Thus, possibly avoiding German labour regulations.



Transactional Activity

The Romanian businessman receives multiple payments per month **from different companies** under the purpose of payment “salary”.

More than 80% of the salary is **withdrawn cash** within the same or following day.

Small transactions (100€ – 500€) with unverifiable business purpose: “Cadou” (Present), “Bani” (Money), “Scaunel” (Chair), Names of individuals



MULTIPLE SALARY PAYMENTS

CASH WITHDRAWALS

Bundeskriminalamt (BKA), Bundeslagebild Menschenhandel und Ausbeutung 2020, RedFlag Accelerator- Typologies (Q3, 2021)
 Europol Financial Intelligence Public Private Partnership (EFIPPP), Trafficking in Human Beings (Sept. 2020)

COMMON IDENTIFIED RISK INDICATORS: FORCED LABOUR

KYC & BEHAVIOURAL

Victim

- Shared addresses, often using addresses of companies;
- Nationalities: BG; HU; RO
- Accounts opened in the same branch, often by same relationship manager;
- Insufficient knowledge of local language;
- Multiple customers with the same employer, opening account within the same or close time period



Perpetrator

- Control over companies active in high risk industries for HuT (i.e. meat processing, cleaning, etc.);
- Often sharing the same nationality as the victims; Companies registered in high risk countries in respect of HuT (BG, HU, RO).
- Negative news
- Many vehicles registered on one person
- Client cannot or unwilling to provide reasonable explanation to requests for information.

TRANSACTIONAL

- Unusually low wages or lack of wages;
- Low or non-existent daily expenses;
- Third parties having access over customer's account (cash withdrawals from different locations)

- Lack of payments related to salaries, health insurance and taxes;
- Unplausible transactions; low value transactions with no apparent business purpose;
- Frequent cash withdrawals (payments in cash)
- Receipt of payments from multiple companies

Commerzbank AG, GM-CO Global Financial Crime Unit





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Countering Human Trafficking (THB) and Related Money Laundering in Latvia

Seminar on Financial Investigation of Trafficking in Human Beings

Sofia, Bulgaria
23-24 March 2023



Co-financed by the European Union



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The role and responsibilities of an FIU



AML Directive, Article 32:

- Each Member State **shall establish an FIU** in order to prevent, detect and effectively combat money laundering and terrorist financing.
- Each **FIU shall be operationally independent and autonomous**, which means that the FIU shall have the authority and capacity to carry out its functions freely, including the ability to take autonomous decisions to analyse, request and disseminate specific information.
- The FIU as **the central national unit shall be responsible for receiving and analysing suspicious transaction reports and other information** relevant to money laundering, associated predicate offences or terrorist financing.
- **The FIU shall be responsible for disseminating the results of its analyses and any additional relevant information to the competent authorities** where there are grounds to suspect money laundering, associated predicate offences or terrorist financing.
- Member States shall **provide their FIUs with adequate financial, human and technical resources** in order to fulfil their tasks.
- Member States shall ensure that their **FIUs have access, directly or indirectly, in a timely manner, to the financial, administrative and law enforcement information** that they require to fulfil their tasks properly.
- Member States shall ensure that **the FIU is empowered to take urgent action, directly or indirectly, where there is a suspicion that a transaction is related to money laundering or terrorist financing, to suspend or withhold consent to a transaction that is proceeding, in order to analyse the transaction, confirm the suspicion and disseminate the results of the analysis to the competent authorities.**
- The **FIU's analysis function** shall consist of the following:
 - (a) **an operational analysis** which focuses on individual cases and specific targets or on appropriate selected information, depending on the type and volume of the disclosures received and the expected use of the information after dissemination; and
 - (b) **a strategic analysis** addressing money laundering and terrorist financing trends and patterns.



Financial Action Task Force (FATF) Recommendation 29:

Countries should establish a financial intelligence unit (FIU) that serves as a national centre for the receipt and analysis of:

(a) suspicious transaction reports; and

(a) other information relevant to money laundering, associated predicate offences and terrorist financing, and for the dissemination of the results of that analysis.

The FIU should be able to obtain additional information from reporting entities, and should have access on a timely basis to the financial, administrative and law enforcement information that it requires to undertake its functions properly.



Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism

Article 12:

Each Party shall adopt such legislative and other measures as may be necessary **to establish an FIU** as defined in this Convention. Each Party shall adopt such legislative and other measures as may be necessary **to ensure that its FIU has access, directly or indirectly, on a timely basis to the financial, administrative and law enforcement information** that it requires to properly undertake its functions, including the analysis of suspicious transaction reports.

Article 14:

Each Party shall adopt such legislative and other measures as may be necessary to **permit urgent action to be taken by the FIU or, as appropriate, by any other competent authorities or body, when there is a suspicion that a transaction is related to money laundering, to suspend or withhold consent to a transaction going ahead in order to analyse the transaction and confirm the suspicion.**



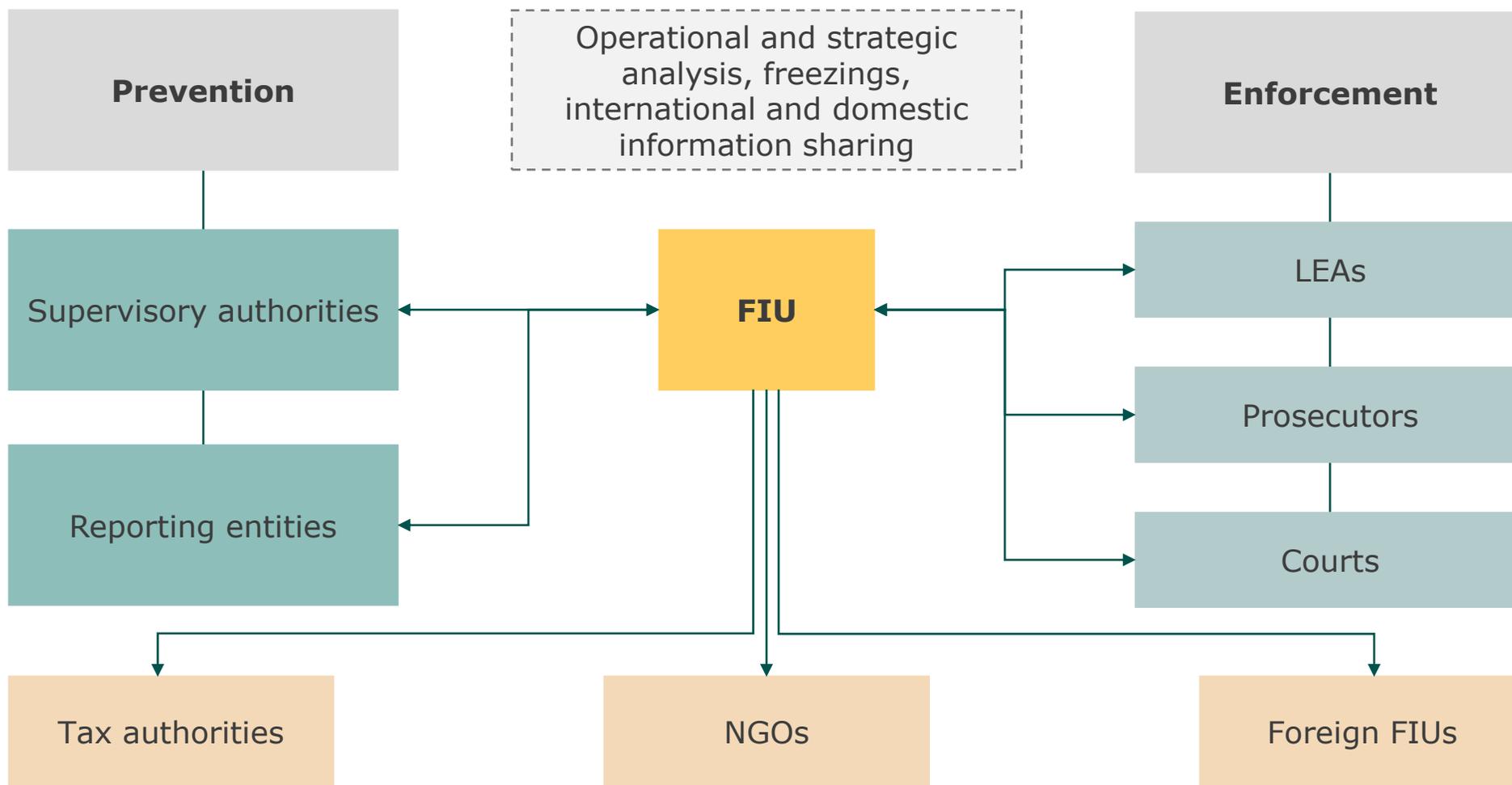
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FIU Latvia, its role in AML/CFT system and responsibilities

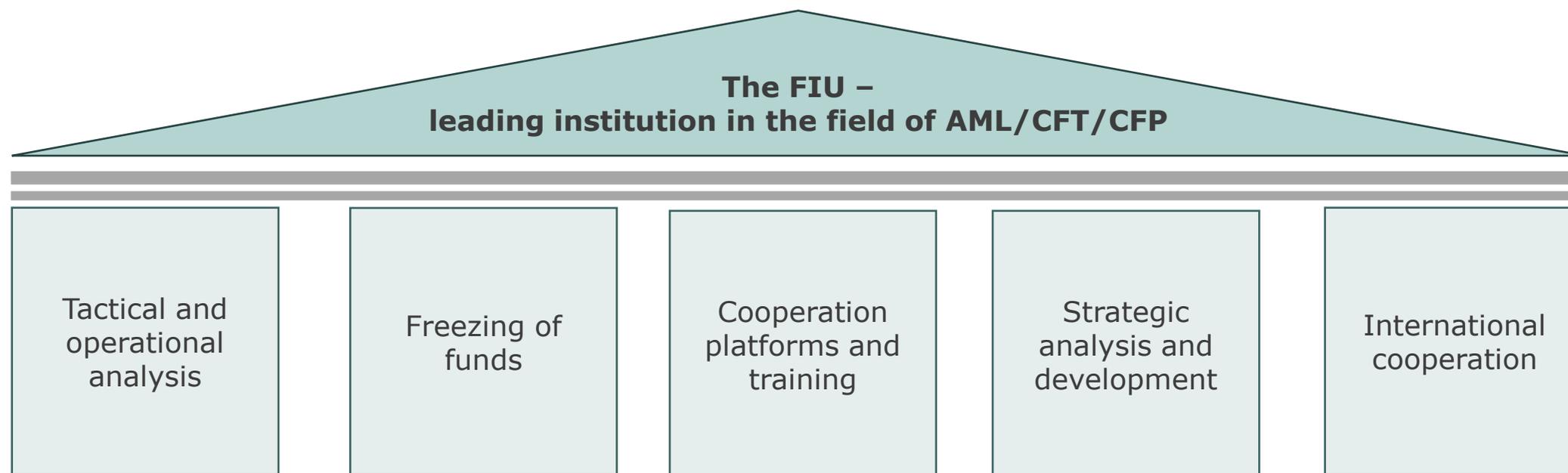




Architecture of AML system



5 pillars of FIU's operation



- The **operation of the FIU** is regulated by the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing (AML Law).
- As of January 1, 2019 the FIU is an institution of direct administration under supervision of the Cabinet.
- As of June 29, 2019 the FIU is the **leading institution**, the **purpose** of which is to prevent the possibility to use the financial system of Latvia for ML/TF/PF.

Case analysis strategies of FIU Latvia

1) When receiving STRs (on **goAML** platform), the FIU Latvia prioritize them using **priority matrix**. STRs/SARs are examined and prioritized by several criteria:

- **criminal offence** (fraud, tax crime, corruption, smuggling of goods, human trafficking, violation of sanctions, etc.);
- the **amount of funds** to be frozen.

2) Regarding the analysis of suspicious financial transactions/activities, first, we do **tactical analysis**:

- financial statement analysis (IT tools: **Altia** to convert the bank account statements in more convenient format and **Excel** to analyse the bank account statements - to create pivot tables and to track the source of funds);

- visualization of fund flow/source of funds (IT tool: **IBM i2 Analyst`s Notebook**);
- open source research and information/data from the database of FIU Latvia;
- summary of indicators and typologies (methodological material issued by FIU Latvia "Typologies and Indicators of Money Laundering").

3) Discussion about the summary of findings and the perspective of the case. If needed, we organize meetings between the FIU Latvia and investigation authorities in order to decide, whether to issue the freezing order, or not.



Freezing of funds

The FIU has the power to issue freezing orders in the financial intelligence process:

- after receipt of the STR on refraining from executing a transaction;
- upon its own initiative;
- upon a request of foreign authorized institutions.

The FIU has the right to issue an order to freeze funds **if there are reasonable suspicions** that a criminal offence is being committed or has been committed, including money laundering, terrorism and proliferation financing, or an attempt of such criminal offences.

The order shall be binding to the obliged entity or the controller of the national information system.

Strategic analysis: FIU Latvia

For obliged entities and supervisors:

- ML typology reports of specific sectors, products and criminal offenses.
- ML/FT/FP risk assessments of certain products, industries or jurisdictions based on ad-hoc requests or findings of the NRA / other reports.
- Individual or sector-wide comprehensive feedback reports on the quality of STRs.

For supervisors:

- Targeted reports on individual obliged entities (e.g. prior to an inspection by the supervisor).

For law enforcement:

- Typology reports of specific predicate offenses and money laundering (e.g. to act as a source of circumstantial evidence in stand-alone ML investigations).
- Ad-hoc support in criminal proceedings that require input of strategic analysis division (e.g. strategic dissemination).

For internal work of the FIU:

- Strategic analysis on the effective use of resources and prioritization of STRs.
- Monitoring of STR dynamics and results of disseminations: receiving feedback from LEAs, setting KPIs.

Ultimate strategic analysis product: National Risk Assessment, which is performed every three years



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FIU cooperation with competent authorities



Legal basis for cooperation between FIU and competent authorities

AML Law:

- Article 51: **the FIU has an obligation to provide to** investigating institutions, the Office of the Prosecutor, and a court **information that may be used for the prevention, detection, pre-trial criminal proceedings or trial of money laundering, terrorism and proliferation financing or an attempt to carry out such actions, or of another associated criminal offence;**
- Article 55 «Cooperation of the Financial Intelligence Unit of Latvia with the Bodies Performing Operational Activities, Investigating Institutions, the Office of the Prosecutor, Court, the State Revenue Service, and Obligated Entities»;
- Article 56: **the Financial Intelligence Unit of Latvia shall provide the information at its disposal upon request** of the bodies performing operational activities, investigating institutions, or the Office of the Prosecutor in the operational activities proceedings or criminal proceedings, as well as upon request of a court in criminal proceedings. .

In order to ensure more effective cooperation between FIU and LEAs **Cooperation guidelines** have been provided.

Guidelines provides the guidance:

- in which cases the FIU provides information to LEAs upon its own initiative
- In which cases LEAs can request information from the FIU
- In which cases the FIU can issues a freezing order based on the information provided by LEAs
- Requirements for information requests, including from foreign FIUs

Provision of information at the initiative of FIU

- **FIU provides information to the investigating institutions and the Office of the Prosecutor if such information raises reasonable suspicions that the relevant person has committed a criminal offence**, including has carried out money laundering, terrorism and proliferation financing, or an attempt to carry out such actions.
- **FIU may provide information to pre-trial investigating institutions, the Office of the Prosecutor and the bodies performing operational activities**, if, in the opinion of the FIU, **the relevant institutions can use such information for carrying out of the tasks specified for them in laws and regulations.**

Provision of information upon request

- FIU shall provide the information at its disposal upon request of LEAs in the operational activities proceedings or criminal proceedings
- LEAs may request information through FIU from obliged entities (such as credit institutions) but under certain conditions (agreement within the Coordination Cooperation Group and if LEAs cannot request information directly from the obliged entity due to objective reasons.
- The body performing operational activity requests information in accordance with the procedure of the Operational Activities Law regarding the acceptance of the execution of the measure.

Cooperation in assessing information on the basis of which the FIU may decide to freeze funds

- According to the AML Law the FIU has the right to issue a freezing order of funds, if there are justified suspicions that a criminal offence occurs or is committed, including money laundering, terrorism and proliferation financing or an attempt to commit this criminal offence.

FIU shall issue an order on freezing the funds:

- a) after receipt of the report of the obliged entity on the refraining from executing a transaction;
- b) upon its own initiative;
- c) upon a request of foreign authorised institutions to freeze the funds.

- The FIU may, on the basis of LEAs information on the circumstances of the case and the grounds for possible freezing of funds, issue an order for freezing of funds.
- Within the validity term of the FIU order for temporary freezing of funds (within the time-limit set by the order of no more than five days) the person directing the criminal proceedings is obliged to decide on the seizure.
- If freezing funds shall be carried out abroad the Egmont Group can be effectively used. The request within criminal proceedings shall contain a justification of urgency of the request, namely circumstances preventing the sending of a request for legal assistance for the attachment of property or a European Investigation Order.

Cooperation Coordination Group

- AML Law stipulates that FIU coordinate the cooperation between the bodies performing operational activities, investigating institutions, the Office of the Prosecutor, the State Revenue Service, as well as obliged entities.
- Cooperation is coordinated by convening **a cooperation coordination group – CCG**.
- The CCG is convened by FIU upon its own initiative or if it is suggested by at least one of the involved institutions.
- If necessary, a representative from the supervisory and control authority may be invited to CCG meeting.

Information exchange within CCG

- Participants of CCG exchange information which is related to money laundering, terrorism and proliferation financing, or an attempt to carry out such actions, or another associated criminal offence, or suspicious transaction.
- Within the scope of the CCG the participants can examine specific situations in which inspections or investigations are taking place, and to exchange information in accordance with the laws and regulations determining conducting of the relevant inspection or investigation.



Cooperation Coordination Group (CCG):

- Supports both **tactical** exchanges and **strategic** intelligence co-development.
- Based on a precise legislative framework with FIU's leadership.
- Precise membership; flexibility for each particular meeting of the CCG.
- Addresses ML/TF/PF threats and attempts, as well as any other related criminal offenses and suspicious transactions;

Types of CCG meetings:

- 1. Tactical exchanges:** Effective prevention or investigation of a specific (potential) case, STR or criminal offense.
- 2. Strategic intelligence:** Achieving common understanding between public and private sectors; development of typologies, risk indicators.
- 3. Feedback meetings:** raising awareness and improving the overall quality of STRs. Provided to obliged entities and supervisors.



Requirements for requests for information from the FIU in the framework of international cooperation

Based on the AML Law, the FIU may, on its own initiative or upon request, conduct exchange of information with its partner institutions.

Such exchange of information is based on the principles of the exchange of information of the Egmont Group.

The FIU does not make enquiries to foreign law enforcement authorities, public prosecutor offices and courts.

Before turning to the FIU with a request for information from a foreign country, LEAs are asked to consider using the possibilities provided by the ARO.

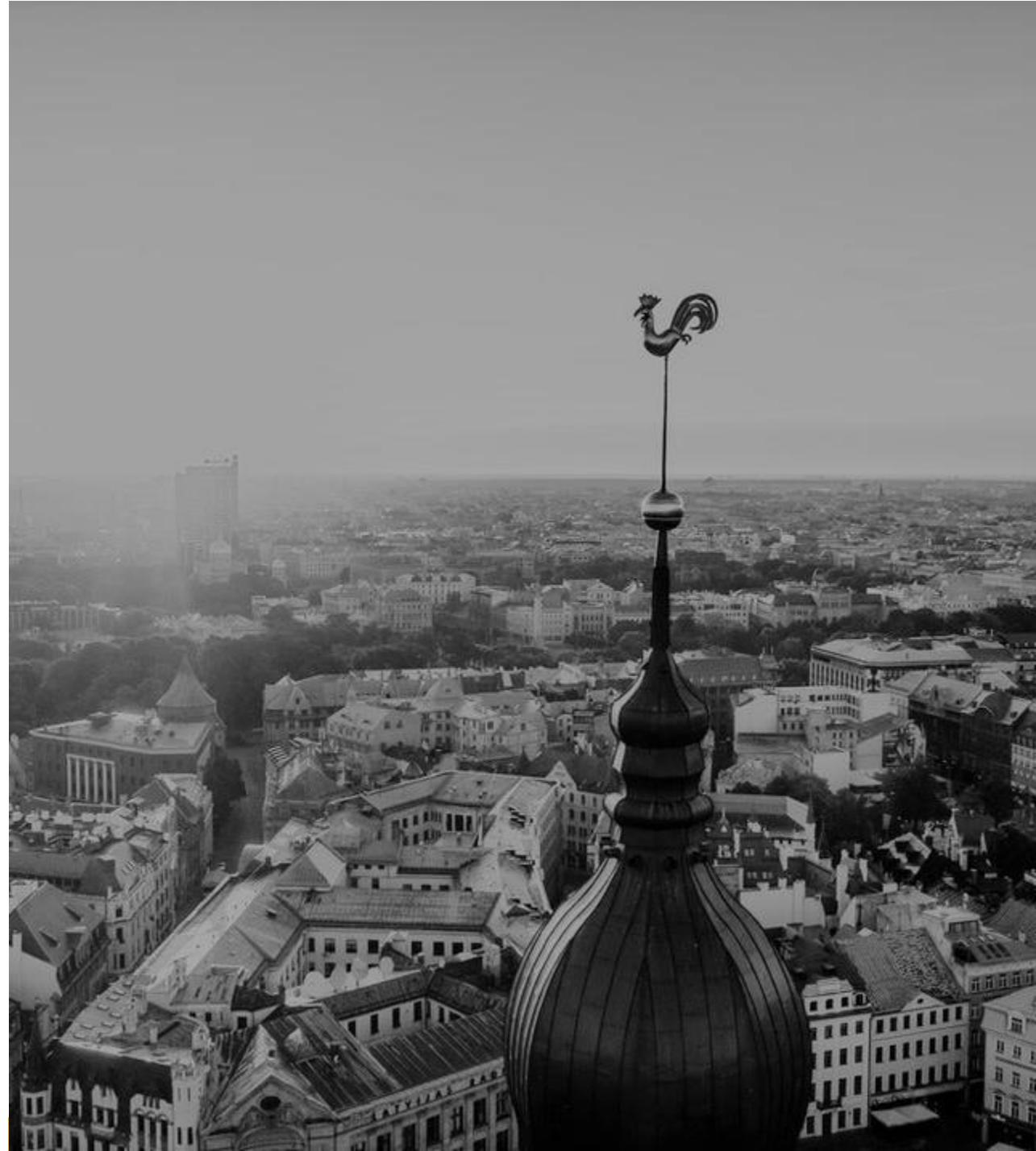
When submitting a request to the FIU to obtain information from foreign analogous services, it is assessed whether it is also necessary to request information on the natural or legal person at the disposal of the FIU, as such information may already be available to the FIU.

Information received by FIU from abroad cannot be used as evidence in criminal proceedings, except cases where a permission from the foreign FIU has been received.



Financial Intelligence
Unit of Latvia

**Thank you for
your attention!**





EUROPOL SUPPORT

SIENA

Secure Information Exchange
Network Application

Operational Support

Strategic Impact
(SOCTA)

Analytical Support



Analysis Project Phoenix – Europol’s project dedicated to THB

- The AP was established in June 2007 and it is composed of a specialised team of specialists and analysts.
- It has a dedicated database (suspects, adult and underage victims, contacts, witnesses, associates, means of transportation, communication, financial data...)
- Member States (MS) and 11 third countries are associated with the AP.
- Focus on all forms of exploitation and associated crimes:
 - Sexual and labour exploitation;
 - Child trafficking;
 - Parallel financial investigations;
 - Internet enabled THB;
 - Chinese THB;
 - Nigerian THB;

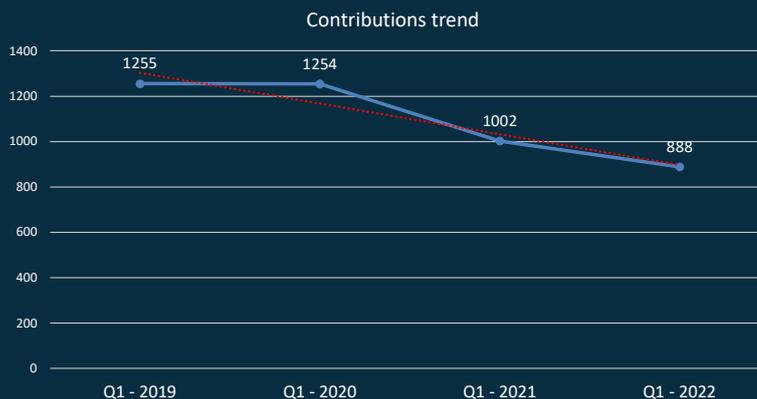
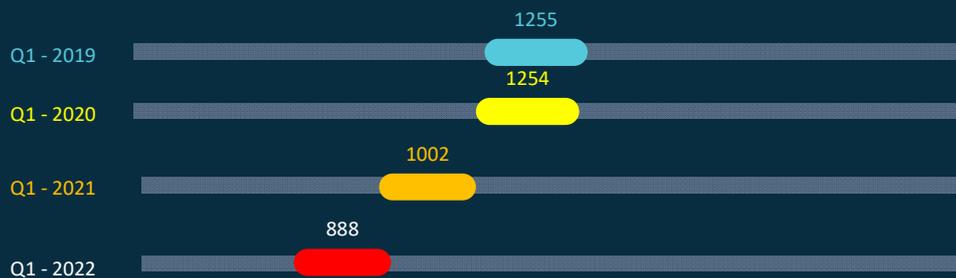


-
- The team provides analytical and operational support to high-profile cases
 - It develops the knowledge of the THB situation in the EU
 - Supports the EMPACT THB project

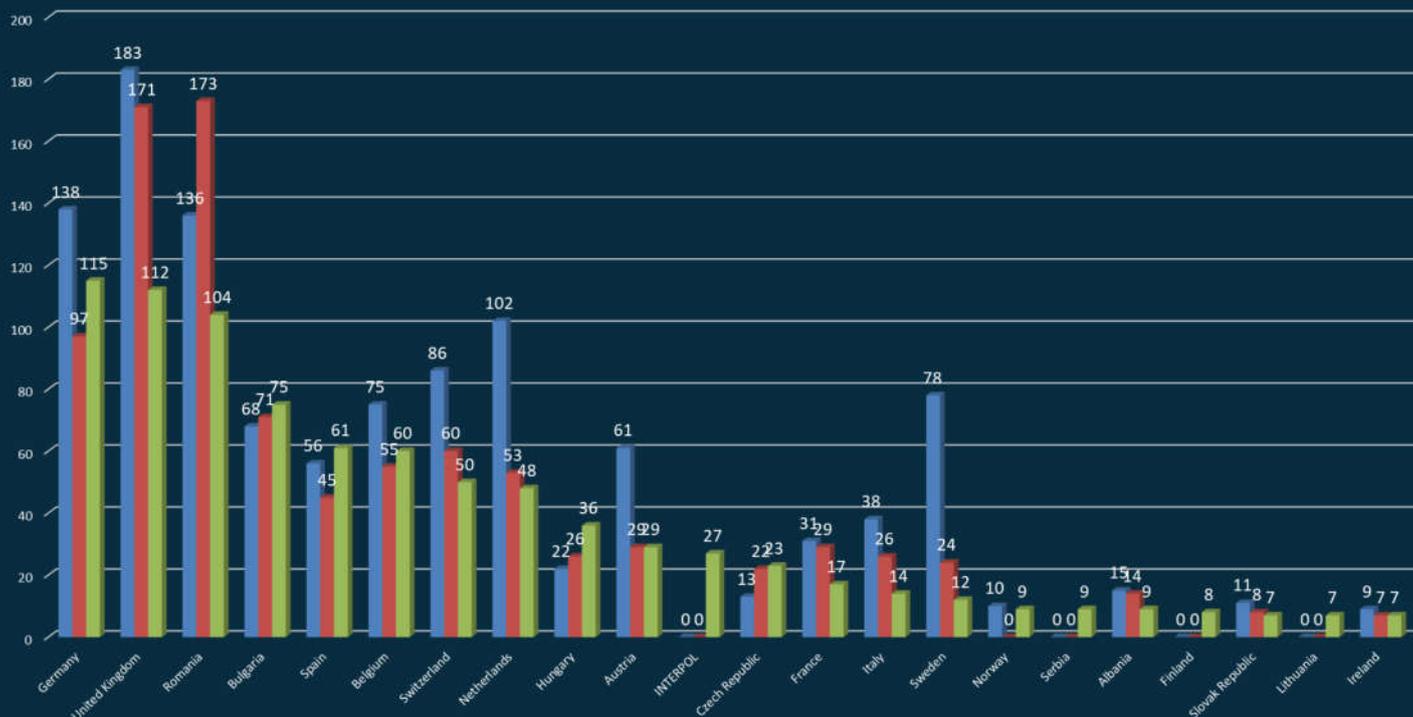
Trafficking in Human Beings in the EU

- 70% of both victims and suspects are EU nationals.
- The most reported form of exploitation remains for sexual purposes, followed by labour exploitation.
- While physical violence and coercion are decreasing, deception and emotional abuse are more commonly used to lure the victims and to force them into exploitation.
- The organised crime groups that manage the trafficking and the exploitation are becoming more and more sophisticated and involved in poly-criminality (document fraud, money laundering, drug trafficking and distribution...)
- Online THB is becoming more apparent.

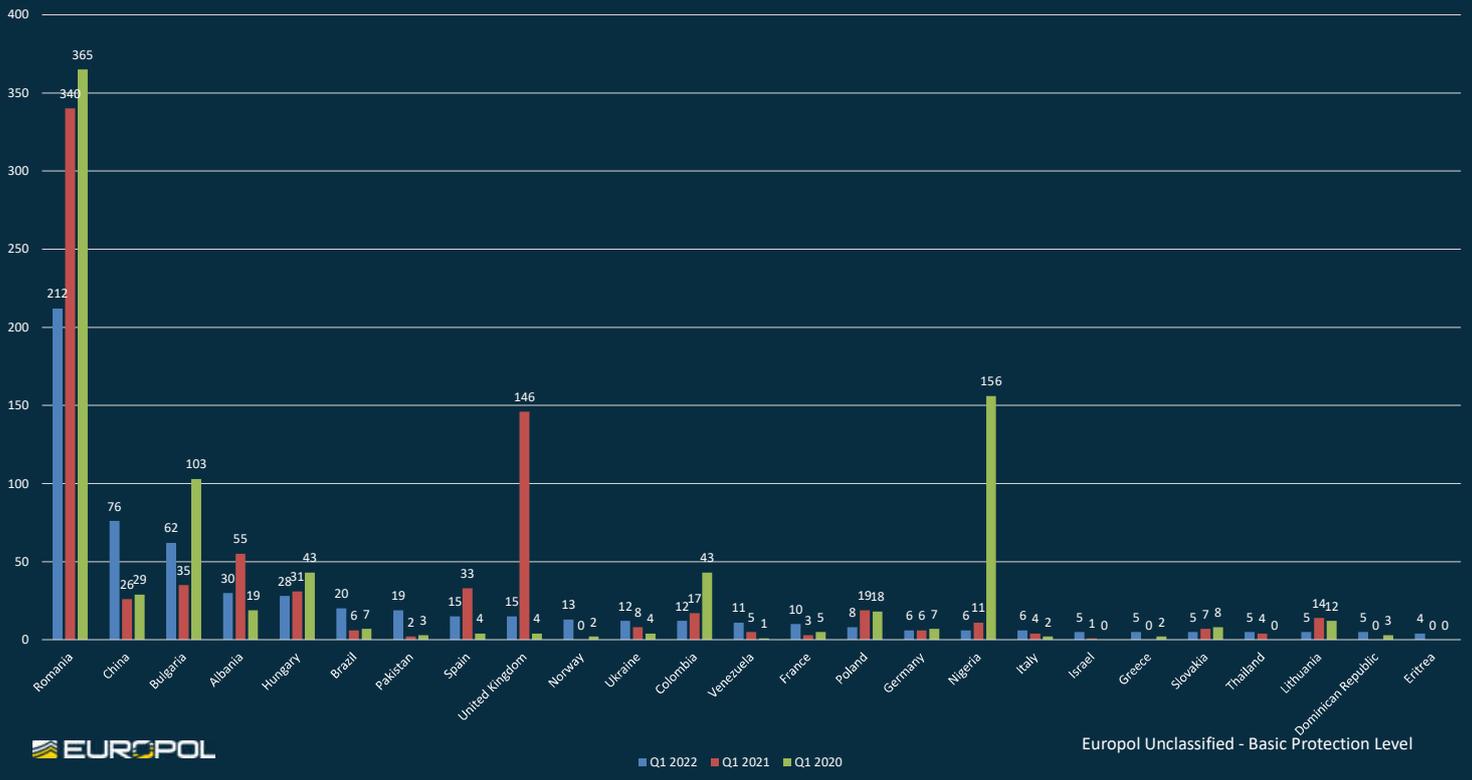
Number of THB related contributions



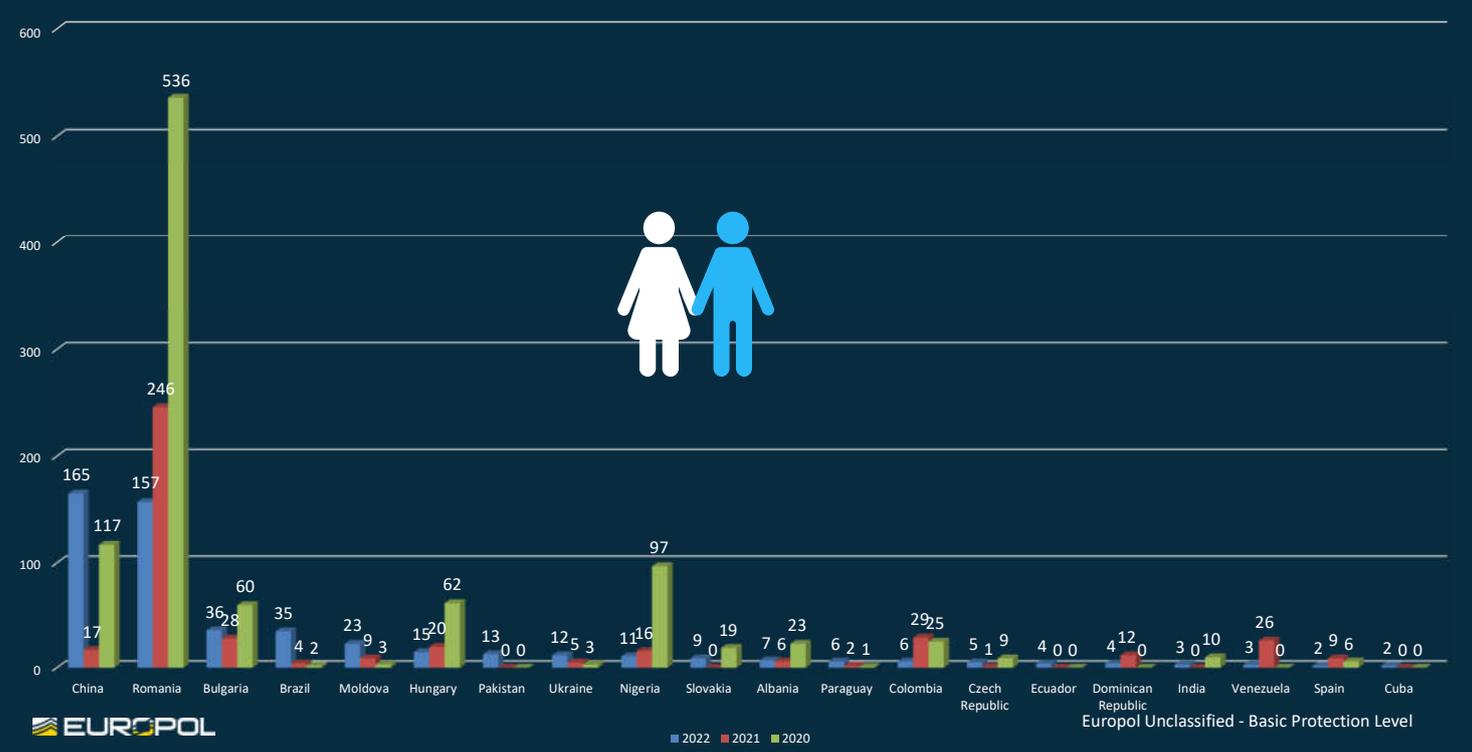
TOP CONTRIBUTORS Q1 2022-2020

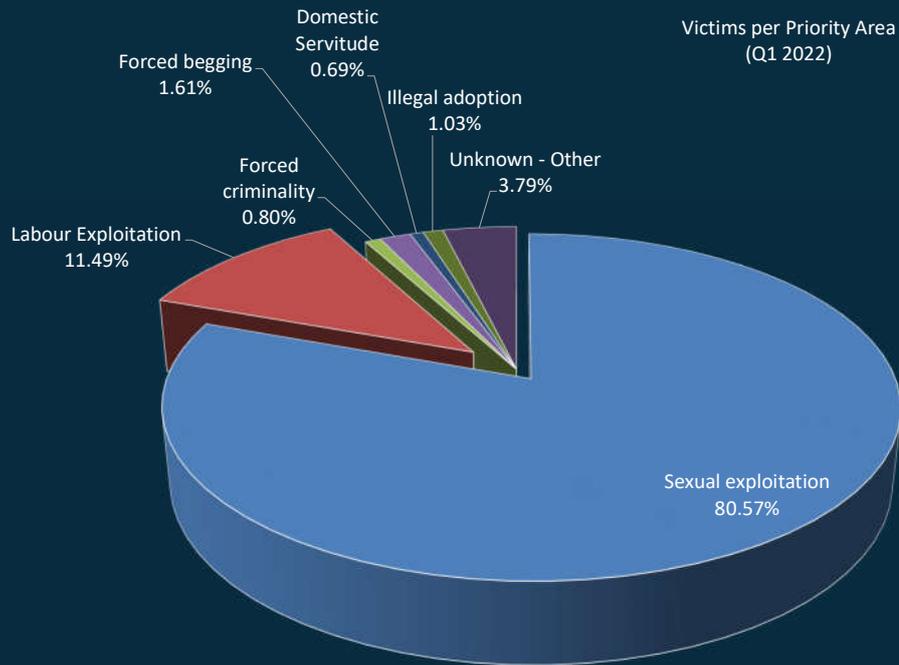


Top 25 suspects nationalities Q1 2022-2020



Reported victims Q1 2022-2021
Top 20 nationalities





Why do criminals commit crime?

- ❑ To finance and extend illicit activities
- ❑ Enjoy a lifestyle beyond their logical possibilities
- ❑ To build wealth

Organised crime is nothing but a well-organised underground business with functions similar to legal companies.



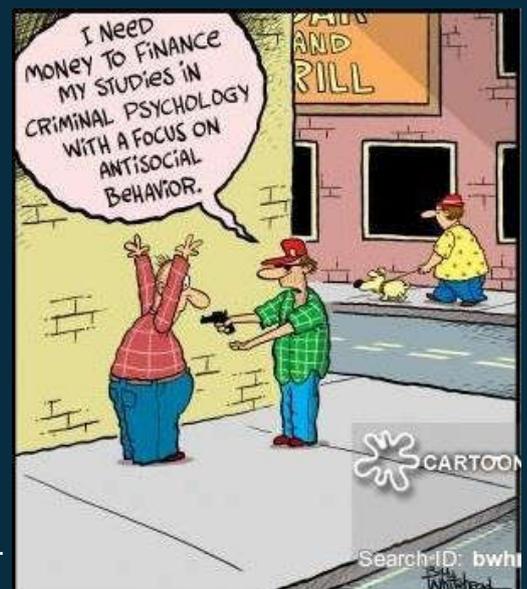
Prices and influencing factors

- ❑ Distance
- ❑ Transport
- ❑ Method
- ❑ Number of trafficked people
- ❑ Nationality
- ❑ Additional services
- ❑ Discounts/debts
- ❑ Refunds for damages



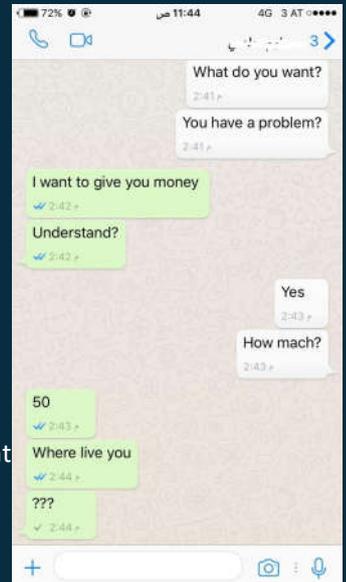
Pay attention to...

- ❑ Financial profiling (household!)
- ❑ Cross border transactions/cash seizures/cash declarations
- ❑ Phone extractions
- ❑ Wiretappings
- ❑ Surveillance
- ❑ Notes/documents/prepaid cards etc. during (house) searches
- ❑ Computer extractions
- ❑ MVTs transactions and agents used
- ❑ Any links to other countries
- ❑ Social network
- ❑ Cash intensive businesses, export import, construction businesses, etc.



Look for...

- ❑ numerous transactions with money remittance companies and online payment services companies
- ❑ cash withdrawals and money transfers through payment institutions
- ❑ bank account reflects a significant deposit activity, in cash and checks
- ❑ beneficiary countries of these transactions are countries known for hawala
- ❑ transactions with businesses with no apparent link to the other business
- ❑ large transactions are not recorded
- ❑ large volumes of transactions are received from one customer
- ❑ high turnover in account of low income earner
- ❑ bulk cash shipments/ physical movements of cash daily
- ❑ cash couriers travelling to jurisdictions known for hawala
- ❑ transactions that have no commercial or economic sense for a personal/business account
- ❑ cash intensive businesses
- ❑ remittances to a different province or country of prior residence or citizenship
- ❑ abnormal payments to hotels, apartments and other accommodation/travel services



FATF guidelines



<https://www.fatf-gafi.org/publications/methodsandtrends/documents/migrant-smuggling.html>

The report identifies the most common methods to transfer and launder the proceeds of migrant smuggling, from hawala, integration of proceeds into legitimate business such as shops, travel agencies and transport companies, and the increasing use of professional money launderers.

The FATF calls on countries to proactively follow the money linked to migrant smuggling. Strengthening institutional, international and regional cooperation is an important step. There should be particular focus on supporting countries directly affected by migrant smuggling.



Human trafficking is big business and earns estimated profits of \$150 billion a year for traffickers².

Financial gain is the main incentive for most serious and organized crime networks, and stripping them of their proceeds is the most effective way to dismantle them. Yet, according to Europol, only 1.2 per cent of illicit proceeds are confiscated in the European Union, leaving 98.8 per cent at the disposal of criminals.

THB as one of the most profitable crimes

THB is the third largest source of income for the organised crime groups after drug and arms trafficking (UN GIFT).

Useful tool:
to identify the supporting financial structures of OCGs,
to disrupt THB networks and
to confiscate THB proceeds



Financial investigation – money laundering

- ✓ Challenging to estimate the overall profits derived from THB
- ✓ Laundering of criminal proceeds is a major activity for THB OCGs
- ✓ Challenging to follow the way of the money (smurfing, false documents, movement of cash, legal business structures, Informal Value Transfer Systems, new payment methods, high value goods and real estate)



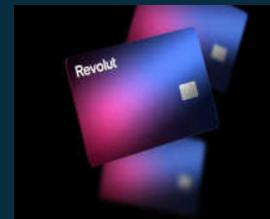
Despite the global prevalence of more sophisticated types of money transfer, in THB, cash is still king.

Money Service Businesses (MBS) – MoneyGram, WU, Hawala, Revolut

Most widely used modus operandi



- Efficient use of smurfing techniques
- Senders: Criminal associates, victims and contacts
- Recipients: family members or low-level criminals
- Transaction based vs account based (banking industry)
- Intelligence gap: Placement in the banking sector in the country of origin



Cash couriers

- Illegal income generated in cash
- Absence of physical border controls in Schengen area
- Use of victims to transfer or move criminal proceeds electronically or physically
- Opportunity: Cash needs to be converted to local currency



Abuse of legal business structures

- Traffickers operate across both licit and illicit economies
- Entertainment sector, but also in sectors like restaurant and catering, retail and small businesses, production and trade, construction, vehicle rent and retail and recruitment agencies
- Used as a legitimate source of income

carlin **Identifying different types of assets for recovery**
When profiling criminal assets for freezing, seizing, or confiscation, have you considered the following types of assets:

Tangible Assets
These are tangible real world assets that have a physical existence. These assets can be physically seized and will require physical management to secure them. They include:

- Buildings
- Land
- Vehicles
- Cash
- Jewellery

Intangible assets
These assets don't physically have existence but are generally recognised as an asset of a person. They usually have some legal status before the courts. They can include:

- Bank accounts
- Credit cards/stored value cards
- Licences
- Patents
- Trademarks
- Rights in property (eg a lease)
- Companies
- Intellectual property
- Share certificates

Virtual assets
These assets do not physically exist and have no direct connection with the real world. They include:

- Crypto-currencies (eg Bitcoin)
- Digital wallets
- Assets in computer games
- Digital information
- Online gambling accounts (eg Poker)
- Websites
- Domains
- Databases
- Passwords
- Online business

The asset may exist solely in digital world and may require the use of passwords to control the asset. They can however be converted into cash or some other value and be used to purchase items.

Examples of assets shown: Buildings, Land, Vehicles, Cash, Jewellery, Bank accounts, Credit cards, Licences, Patents, Trademarks, Rights in property, Companies, Intellectual property, Share certificates, Crypto-currencies, Digital wallets, Assets in computer games, Digital information, Online gambling accounts, Websites, Domains, Databases, Passwords, Online business, Password field, Bitcoin, Litecoin, Ethereum, WWW, http://

How many do you normally investigate?

Designed by: Criminal Assets Bureau, Ireland 2016

ML/AR in THB investigations



Overall understanding:

- ✓ Illegal proceeds laundered with little use of experts
- ✓ There are no THB specific money laundering techniques
Victims and extended family members are used in ML activities
- ✓ OCGs sent cash/invest illegal profits in the country of origin
Legal Business Structures (cash intensive business) and real estate are used for money laundering
- ✓ Unexplained wealth is clearly visible

Europol support: Role of AP Sustrans

AP Sustrans is Europol's initiative regarding the fight against Money Laundering

- Sustrans offers horizontal support to other commodity based APs
- Sustrans collects:
 - Suspicious Transaction/ Activity Reports filled by FIUs,
 - reports on cash detections (usually from Customs) and
 - Supports on-going money laundering investigations

The Digitalisation of THB: Financial Advantages

- Even though the methods of recruitment and exploitation have shifted online, the criminal profits are still predominantly made in **cash**, which is moved via money services business (**MSB**), such as MoneyGram or Western Union.
- Only a few, more technologically advanced traffickers, have been using new methods to gather and manage their incomes.
- **Digital wallets and Fintech**: provide virtual banking services and access to virtual currencies.
- Very few traffickers have been operating with **cryptocurrencies** to date. However, the emergence of members with a crypto-profile, including mixers, traders, exchangers are pointing at a crime-as-a-service business model.

EMPACT THB Operational Action Plan 2022

Strategic Goal 4:

Criminal Finances, Money Laundering and Asset Recovery

Objective:

Combat the criminal use of financial structures including money laundering, facilitate asset recovery and confiscate proceeds of crime, disrupt criminal infiltration by involving specialised financial investigators, where relevant, as part of investigations in the EU crime priorities, and develop a culture of asset recovery through training and financial intelligence sharing.



Harnessing Internet and Modern Technologies to Tackle THB

- If it is true that technology offers multiple benefits to criminal networks, it also provides law enforcement with tools to investigate and find leads.

DIGITAL FOOTPRINTS



- Investigators are dedicated to find ways to trace criminals' digital footprints with the purpose to use them in judicial proceedings.
- **Digital footprints:** law enforcement detect identities, structures of the organized crime groups, locations, roles and criminal assets.

ONLINE EVIDENCE



- Investigators can extract **digital evidence** from:
- Financial transactions made by the criminals;
- Uploaded content;
- Online advertisements.

Challenges/limitations

- Extensive use of cash/cash couriers/intra EU travel
- Lifestyle style money laundering
- ML investigations should be launched from the early steps of the investigation
- Coordinated efforts between involved countries (persons, timing, etc.)

OPERATION WEBMASTER 2019



- In cooperation with 15 countries, Europol, Eurojust
- 6 arrests
- 16 websites shutdowns
- Multiple seizures of cash and luxury goods
- Bank accounts were frozen in 12 different countries



Cooperation with Third Parties and Private Sector



Cooperation with Private Sector

- **Cooperation** between law enforcement agencies and the private sector is key in the fight against THB
- **Counterparts:** NGOs, financial institutions, internet service providers etc.
- **Private actors** have a **unique knowledge of their industry** which put them in a key position to gather intelligence and to develop innovative measures to prevent and counter attempts of criminal exploitation.
- **Victim detection:** civil society, including NGOs, have an **important and complementary role in victim detection and rescue**, and can lead to the **early detection** and identification of victims and the initiation of **proactive investigations**.

EUROPOL Amended Regulation 2022/991

Cooperation with Private Parties

To support Member States in cooperating with private parties where those private parties hold information relevant for preventing and combating serious crime and terrorism, **Europol should be able to receive personal data from private parties** and, **in specific cases where necessary and proportionate, exchange personal data with private parties***. (Art. 32)

* In accordance with Regulation (EU) 2016/794, **in certain cases and subject to conditions, it can be necessary and proportionate for Europol to transfer personal data to private parties** which are not established within the Union **or in a third country** which is the subject of an adequacy decision or with which an international agreement or a cooperation agreement has been concluded, or where appropriate safeguards with regard to the protection of personal data are not provided for in a legally binding instrument or Europol has not concluded that appropriate safeguards exist. **In such cases, the transfer should be subject to prior authorisation by the Executive Director.**



Recommendations

- All THB cases should involve a financial investigation, but only the more complex cases are likely to require the input of a forensic accountant.
- Financial investigation should be used not only for asset tracing, but for the purpose of identifying evidence, detecting criminal networks and determining the scale of criminality.
- It is imperative to pro-actively seek financial information at the earliest possible opportunity in all THB investigations.
- Consider preemptive actions, such as developing THB casework from available financial intelligence.
- Use the Business Model Canvas, or a similar tool to consider all key angles to THB investigations.
- Consider whether the financial evidence gathered may constitute an additional money-laundering charge, particularly if there is a cross-border element to transfers.
- Do not be put off investigating businesses. Discuss the matter with a forensic accountant who will be able to provide advice.
- For cross-border THB cases, consider setting up a Joint Investigation Team (JIT), which greatly facilitates international cooperation. Contact EUROPOL and EUROJUST who will facilitate the JIT process.
- Engage with EUROPOL and EUROJUST when deciding which country/ countries in which to litigate.
- Where the Defence instructs a forensic accountant, do the same!
- Use the ALEFA network for advice.
- Use the Asset Recovery Offices (ARO) and Camden Asset Recovery Inter-agency Network (CARIN) to assist in identification and recovery of international proceeds of crime.
- Once a case is complete, it is often "out of sight, out of mind", however there are always lessons which can be learned. Disseminate the key aspects of your THB case to EUROPOL, they can analyse the scenario further, disseminate appropriate methodologies and identify themes more widely.

Thank you for your attention
Any questions?



Europol, AP Phoenix



www.europol.europa.eu

Co-financed by the European Union

30 YEARS ERA

Financial Investigations linked to THB & Victim compensation and confiscation

W.J. de Graaf LL.M
Public Prosecutor human trafficking and migrant smuggling from the Netherlands (Amsterdam)

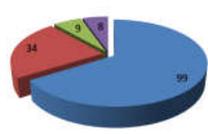
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30 YEARS ERA

Trafficking in Human Beings

Every single day 24.9 million victims are trapped in modern-day slavery.
Human trafficking is big business and earns estimated profits of \$150 billion a year for traffickers
(source: ILO 2014)

Yearly profits (\$ billion)



Category	Yearly profits (\$ billion)
commercial sexual exploitation	99
construction, manufacturing, mining and utilities	34
agriculture, including forestry and fishing	9
saved annually by private households that employ domestic workers under conditions of forced labor	8

2

Why financial investigation?

Financial investigation is necessary to be effective

- Additional charges (money laundering)
- Better quality of criminal investigations
- Maximize the potential for building evidence
- Compensation for victims
- Deprivation of criminal profits

3

Victim compensation

Article 15 van het 2005 Council of Europe Convention on Action against Trafficking in Human Beings

Under 3: Each Party shall provide (...) for the right of victims to compensation from the perpetrators.

Under 4: Each Party shall adopt such legislative or other measures as may be necessary to guarantee compensation for victims in accordance with the conditions under its internal law, for instance through the establishment of a fund for victim compensation (...)



4

Victim compensation

1. Joining the criminal proceedings as an injured party
2. Compensation enforced by the state
3. Compensation order
4. Violent Offences Compensation Fund
5. Confiscation Order



5

Joining the criminal proceedings as an injured party/victim

"The person who has suffered direct damage as a result of a criminal offense may join the criminal proceedings as an injured party with respect to his claim for compensation." (art. 51f CC)

Civil process within the criminal process

- Provide for substantiation of a wrongful act (burden of proof on PPO)
- Provide for substantiation of material and/or non pecuniary damage as direct result (burden of proof on the victim).

Amount of damage

- Standard jurisprudence in relation to material damage: standard plausible amounts in (forced) prostitution (shift of burden). Up to 10 customers a day, 50-70 euro's per customer. [Source: GH DH 11 juli 2018 ECLI ghda 2018 1710 en Rb>NNL 26-9-2022 ECLI rbnne 2022 3510](#)
- **Immaterial damages:** judge has large discretionary power and must determine the damages according to fairness.

6

Joining the criminal proceedings as an injured party



Substantiation for immaterial damages.

- Physical injury automatically opens door to claims
- Psychological injury (PTSD for example) has to be substantiated with reports from experts (f.e.).

The Supreme Court has determined that exceptions to this rule may be accepted in connection with the *"particular seriousness of the norm violation and its impact on the victim."*

"Considering the offence constitutes such a serious violation of a fundamental right (i.e., the right to self-determination and physical integrity) that this in itself should be considered an infringement of the person. Thereby, even without the presence of a report acknowledging psychiatric recognized illness compensation for damages may be at issue."

- ECLI:NL:HR2004:A07721 and PHRL2015:924

Case comparison: between 10.000 and 25.000 euro's for immaterial damages

7

Compensation enforcement



The court can either impose a partly suspended sentence under the condition that the offender pays compensation (sect. 14c CC), or can impose a compensation order (sect. 36f CC). Compensation orders are enforced by the State.

Suspended sentence only up to 4 years of imprisonment

Condition of the donation of a certain sum of money (not exceeding the maximum statutory fine) to the Criminal Injuries Compensation Fund



8



Compensation order (art. 36f CC)

The compensation order is an autonomous criminal measure that can be imposed (as a sentence) alongside other punishments and measures (sect 36f paragraph 3 CC).

State Treasury collects the compensation for behalf of the victim

In cases of non recovery of the full amount due, the Court can order default detention of one year maximum. However, the execution of this default detention does not cancel the obligation to pay on behalf of the victim (article 36f paragraph 8 of the Criminal Code).

Advance payment scheme (not capped for THB victims).

- State pays the amount of the compensation measure as an advance payment to the victim, if within eight months after the verdict judgment has become irrevocable has not or has not fully fulfilled his has fulfilled his payment obligation

9



Violent Offences Compensation Fund

Victims will receive, depending on the severity of the physical or psychological injury and the circumstances under which the violent crime was committed, a **fixed amount**.

THB victims can receive **an all-in amount ranging from € 10,000 to € 35,000**.

The Compensation Fund makes the payment conditional upon the compensation subsequently received by the victim (for example, an award of the injured party's claim) may still be deducted from the amount.

The Compensation Fund pays out annually around 20.4 million euros to victims. The number of claims is around 9,250. Of these claims, 5.36 percent involve applications that address human trafficking victimization. So that's about 500 claims on a yearly basis.

The criterion for victimization is plausibility (thus not only on the basis of court rulings).

10



Confiscation order

On January 1, 2014, the Victims Preservation Act went into effect

This law allows for the confiscation of assets on suspicion of serious crimes, including Human Trafficking. Assets may be confiscated to preserve the right to recovery for a compensation order to be imposed in respect of that crime

Conservatory confiscation can be made pursuant to article 103 CC after the supervisory judge, -at the request of the Public Prosecutor- has granted authorization for this purpose.

Prevention from transferring or encumbering by the suspect of his assets before he is actually sentenced to a compensation order.

11



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12

Cross border cooperation and JIT's example of a successful JIT case

30 YEARS ERA

- Investigation 13 LEERDAM
- Sexual exploitation in Belgium and The Netherland
- Money Laundering and participation in a criminal organization in Bulgaria
- Parties Bulgaria Belgium and The Netherlands & cooperation
- Results





Co-financed by the European Union



French Agency for the Recovery and Management of Seized and Confiscated Assets (AGRASC)

Seminar on Financial Investigation of Trafficking in Human Beings on 23-24 March 2023 in Sofia / 323DT04

1



Speaker

Mrs Clémence OLIVIER

Head of the legal department
French AGRASC (asset recovery agency)

2

Summary

- I. Quick presentation of the agency
- II. Legal basis for seizure and confiscation
- III. The seizure, confiscation and social reuse of confiscated assets (real estate)

3

3

I. The agency at a glance

- **2010** : the French Parliament adopted an Act designed to deprive criminals of their ill-gotten assets

The purpose of this Act is to develop 2 measures :

- A preventive measure : the **freezing/seizure** of ill-gotten assets (criminal investigation stage)
- A criminal sentence : the **confiscation/forfeiture** of the ill-gotten assets (criminal trial stage)

➔ The aim of the **freezing/seizure measure** is to guarantee the effectiveness of the **confiscation sentence**

- **2011** : in application of the 2010 Act of Parliament, the french **Agency for the recovery and management of seized and confiscated assets (AGRASC)** was created. AGRASC is in charge of :

- the execution of seizures and confiscations
- the management of seized and confiscated assets

➔ Its daily task is to put in practice the political will **that crime should not pay !**

4

4

I. The agency at a glance

- **A public administrative body created in 2011**
 - directed by a member of the Judiciary
 - double supervision : Ministry of Justice and Ministry of Budget
 - Multidisciplinary staff (60 employees): police officers, former prosecutors and judges, law clerks, tax officers

- **Support and assistance to the law enforcement agencies, prosecutor's office, investigating judges and courts** : operational support in helping asset seizure and asset confiscation ;

- **Centralized management of sums of money seized** : the Agency alone is competent to manage sums of money seized in the course of criminal proceedings. These sums of money are placed in an account opened by the Agency which bears interest at the deposit rate ;

- **Analysis of court decisions and execution of confiscation orders** : Money transfer to the State general budget ; the agency is qualified to sell the confiscated real estates assets ;

5

I. The agency at a glance

- **Managing complex assets** :
 - Real estate : managing and selling confiscated building ;
 - Cryptocurrencies
 - Movable (chattel) : the Agency may be entrusted by Prosecutors and Judges with the task of managing complex assets, i.e. assets requiring administration ;

 - The Agency alone is competent to sell assets seized prior to judgment (when the asset is no longer useful for ascertaining the truth and is liable to depreciate rapidly) ;

6

I. The agency at a glance Assignments

- **Informing public creditors prior to any restitution of seized assets** (Tax, Customs, social services): the agency may inform public creditors, before the return of any non-confiscated assets, in order to ensure payment of any fiscal, customs or social debt ;
- **Improving compensation of civil claimants in criminal proceedings :**

7

- **Victims who obtained compensation by Court order can ask AGRASC to compensate them with the proceeds from the sale of seized and confiscated assets by the agency (French criminal procedure code, section 706-164)**
- **When AGRASC has compensated the victims, the agency can request the tax administration to seek reimbursement by the offender (recourse action).**

The confiscated assets become the property of the State, and the compensation mechanism is, in reality, only an advance payment granted by the State to the convicted person. The convicted person thus becomes the debtor of the State and no longer of the civil claimant.

In addition to the budgetary aspect, the implementation of this recourse action is meaningful : placing the financial burden generated by the offence on the convicted person significantly reduces their risk of re-offending.

8

15 million euros : the amount of compensation paid to civil claimants in 2020

23 million euros : the amount of compensation paid to civil claimants in 2021

9

I. The agency at a glance Assignments

- **International cooperation for the execution of freezing and confiscation orders** (ex : asset sharing agreements)
- AGRASC is part of the **Camden Asset Recovery Inter-agency Network (CARIN) network**, an informal network of law enforcement and judicial practitioners in the field of asset tracing, freezing, seizure and confiscation (other regional networks are : South Africa (ARIN-SA), South America (RRAG), East Africa (ARIN-EA), Asia-Pacific (ARIN-AP), West Africa (ARIN-WA), Caribbean (ARIN-CA), Asia (ARIN WCA) networks)
- AGRASC is also part, with the **PIAC, the French police force in charge of asset tracing**, of the **European Union (EU) Asset Recovery Offices (ARO) network**

10

I. The agency at a glance

■ Asset reuse :

- Re-use to finance funds including the fund for the prevention of prostitution and social and professional support of prostitutes since 2016 ;
- Re-use of sized and confiscated assets by the judiciary and law enforcement agency : cars, hifi material ;
- Social re-use of confiscated buildings ;

■ Financing :

- Contributes to the protection of justice collaborators, witnesses and victims of human trafficking with an annual contribution of 780 000 € ;
- Projects funding related to the fight against crime for the Ministry of Justice and the Home Office ;

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I. The Agency

Once the confiscation order is executed, **the proceeds are allocated to :**

- the general State budget
- the interministerial mission for **combating drugs** and addictive behaviors (MILDECA), where the case is related to drug trafficking
- **The fund for preventing prostitution and promoting social support for prostitutes (case related to human trafficking)**

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I. The agency



The fund for preventing prostitution and promoting social support for prostitutes (case related to human trafficking)

Seized and confiscated assets from human trafficking offences are directed towards the fund for prevention of prostitution and social and professional support of prostitutes since 2016. The proceeds of the assets are used to set up prevention programs :

- 2019 : €450 000
 - 2022 : €3,4 millions
 - Forecast for 2023 : €3,8 millions
- In 2022, 543 assets were confiscated including cash, bank accounts, vehicles, life insurances or real estates ...

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I. The agency at a glance

Key figures



■ Seizures (asset freezing)

- 1.5 billion euros on AGRASC's bank account
- More than 3.000 seized buildings

■ Proceeds from confiscation in 2021 : 150 million euros

- 75 million euros transferred to the State general budget
- 50 million euros transferred to specific programs (mainly against drug trafficking)
- 25 million euros for compensating victims

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II. Legal basis for seizure and confiscation

Under French criminal code, **all kind of assets (buildings, bank accounts, life-insurance, cryptocurrencies...)** can be seized and confiscated because they are :

131-21 al. 3 French criminal code : **object or proceeds of the crime** ;

131-21 al. 2 : **instrumentalities of the crime** (assets that were used or meant to be used to commit the offence) ;

=> e.g. : seizure and confiscation of the building used for prostitution

131-21 al. 9 : **value-based confiscation** :

You can seize and confiscate assets that has the same value than the proceeds of crime or instrumentalities of crime

Even if this asset was acquired legally

=> e.g. : a criminal made a profit of 1 million euros with sex/person trafficking : **seizure and confiscation of any asset of the criminal, of the same value (no link required between the asset and the crime). Strategic seizure !**

NB : need to have a financial estimation of the proceeds of crime

➔ **Assets can be confiscated if they belong to the offender, or if the offender is the “beneficial owner” of the asset (the “real economic owner”: concept used by the French Supreme Court)**

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II. Legal basis for seizure and confiscation

Extended confiscation (131-21 al. 5 and al. 6) : no matter the link with the offence and the date of the purchase

131-21 al. 5 : assets of unjustified origins

NB : only for offences punished by 5 years imprisonment at least

Suspects must be questioned on the provenance of the assets and if they do not prove that it was legally purchased, confiscation is possible

131-21 al. 6 : the entire heritage/general seizure & confiscation

All or part of the assets. Only for a list of serious offences (terrorism, **trafficking in persons**, drug trafficking, weapons trafficking, money laundering, etc.)

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III. SOCIAL REUSE OF CONFISCATED ASSETS

A. SOCIAL REUSE OF MOVABLE ASSETS

■ Seized and confiscated assets can be used (after seizure order) or devoted (after confiscation order) to law enforcement agencies and to the judiciary

E.G : the vehicles used by human trafficker can be used by the police, even when it is only seized and not confiscated.

In practice : order of the public prosecutor leading the investigation. If the criminal is eventually proved not guilty, he gets back his car, with a (very small) compensation if it has been deteriorated.

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III. SOCIAL REUSE OF CONFISCATED ASSETS

B. SOCIAL REUSE OF BUILDINGS

A new legal framework inspired from Italy :

- 04/08/2021 Law n°2021-401 :

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043339206>

- 11/02/2021 Enforcement decree n°2021-1428 :

<https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000044282534>

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III. SOCIAL REUSE OF CONFISCATED ASSETS

B. SOCIAL REUSE OF BUILDINGS

Key principles :

- The **AGRASC is the in charge of choosing the buildings** that can be devoted to social reuse & and to issue a public call for expression of interest
- French State **does no transfer the property of the buildings** : it is a lease (for free, or with a reasonable bill) and in any case, the beneficiary must pay for maintenance of the building

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III. SOCIAL REUSE OF CONFISCATED ASSETS

SOCIAL REUSE OF BUILDINGS

Main differences with Italian legal framework (1/3) :

=> France's main orientation : selling confiscated buildings in order to (i) fund French State's Budget, (ii) compensate civil claimants in criminal proceedings (iii) fund special government programs (drug control, fight against human trafficking, witness protection program)

=> Italy's main orientation : social reuse of confiscated buildings (Italian agency only sells useless buildings)

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III. SOCIAL REUSE OF CONFISCATED ASSETS

SOCIAL REUSE OF BUILDINGS

Main differences with Italian legal framework (2/3) :

=> French system : social reuse of confiscated buildings can only benefit to private sector : public interest foundations, charity and cultural organizations, social housing organizations

=> Italian system 's main orientation : social reuse of confiscated buildings (Italian agency only sells useless buildings)

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III. SOCIAL REUSE OF CONFISCATED ASSETS

SOCIAL REUSE OF BUILDINGS

Main differences with Italian legal framework (3/3) :

⇒ French system : **strict conditions regarding the confiscated buildings** (see 11/02/21 Enforcement Decree)

- Building has to be vacant (free of occupation)
- Selling of the building is not required to compensate civil claimants
- There is no mortgage registered on the building prior to seizure/confiscation order (in this case, the charity organization has to undertake to compensate/to pay off the creditors if he wants to benefit from the buildings)

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III. SOCIAL REUSE OF CONFISCATED ASSETS

SOCIAL REUSE OF BUILDINGS

Duration of rental agreement :

- **three-year terms, renewable an unlimited number of times (after 6 years, a call for expression of interest has to be issued)**
- **Longer time (more than 12 years and up to 99 years) social housing organizations (who needs long term projects because they lead rehabilitation and renovation of buildings)**

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III. SOCIAL REUSE OF CONFISCATED ASSETS

FIRST SOCIAL REUSE OF BUILDINGS

- **A flat in a luxury street of Paris, confiscated to an Italian Mafiosi (legal framework : international mutual legal assistance from Italy to France => confiscation certificate, on the basis of REGULATION (EU) 2018/1805 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 November 2018 on the mutual recognition of freezing orders and confiscation orders)**
- **Flat is now landed to a non governmental organization (L'amicale du Nid) specialized in the fight against procuring (sex trafficking). A former victim of the sex trade is now living in this flat, with her children**

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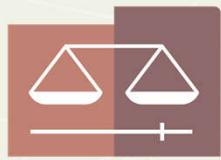


Thanks for your attention !

For all questions:

amo@agrasc.gouv.fr





EUROJUST

Eurojust's work and assistance in relation to THB financial investigations

Joint Investigation Teams (JITs)



Co-financed by the European Union

1

Summary

- ▶ The role of Eurojust
- ▶ THB investigations in particular
- ▶ JITs
- ▶ Best practices

2



The role of Eurojust

3

What is Eurojust?



Council Decision 2002/187/JHA

**European Union Agency for
Criminal Justice Cooperation**

**26 National Members +
Representative of Denmark +
Liaison prosecutors**

**Contacts within and outside
EU.**

4



5

Eurojust coordination role

- ▶ **Facilitate** cooperation between the national competent judicial authorities
- ▶ **Coordinate** cross-border investigations, prosecutions and trials between the judicial competent authorities
- ▶ **Support** the competent judicial authorities to render their investigations and prosecutions more effective
 - ❑ Promote Special tools and investigative techniques
 - ❑ Operational and legal advise

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COORDINATION MEETINGS



23/03/2023

Criminal justice across borders

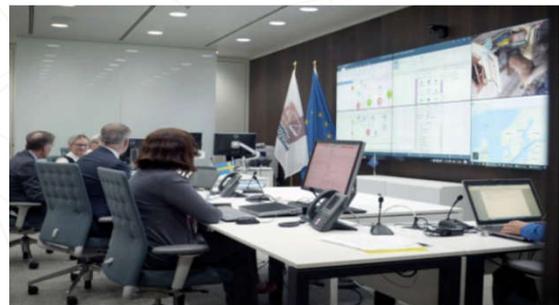
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EUROJUST

7

COORDINATION CENTRES

- 1. Decision to activate a CC (usually at C. Meeting)**
- 2. Supporting documents**
 - Contact List (judicial and police)
 - Overview of measures
- 3. Operational room equipped with:**
 - dedicated telephones and email
 - videoconference facilities
 - access to SIENA, internet
- 4. During Coordination Centre**
 - State of Play/ Charts
- 5. At the end of action**
 - Possible joint press release



23/03/2023

Criminal justice across borders

8

EUROJUST

8



THB investigations in particular

9

THB investigations in particular - challenges

- ▶ Transnational nature of the THB:
 - ❑ Different jurisdictions/legal frameworks involved (countries of origin, transit, exploitation);
 - ❑ Evidence spread among different jurisdictions;
- ▶ Parallel investigations
- ▶ Admissibility of evidence

10

How to overcome the challenges :

- ▶ Effective cooperation/coordination and commitment of all the involved/affected countries is the key factor of success of any investigation in these crime areas
- ▶ The involvement of Eurojust will provide solutions to many of the questions related to the gathering and validity of evidence and also to solve possible conflicts of jurisdiction.

23/03/2023

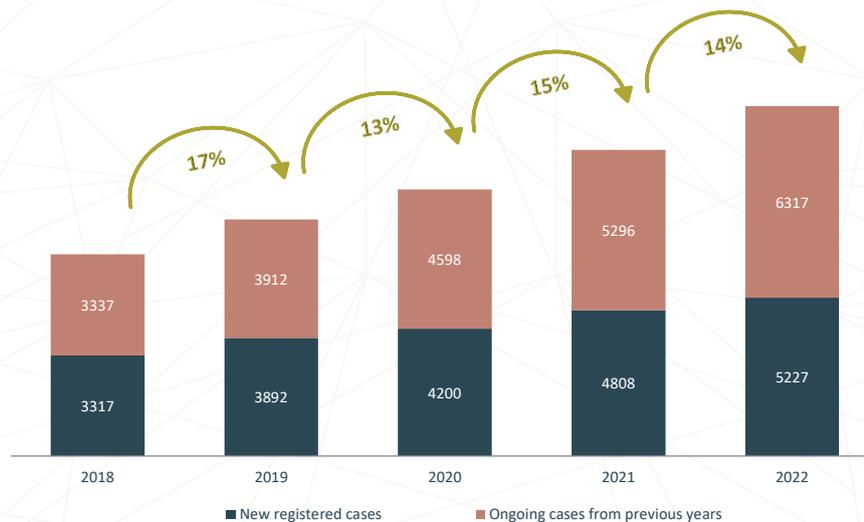
Criminal justice across borders

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EUROJUST

11

Workload Eurojust



23/03/2023

Criminal justice across borders

12

EUROJUST

12

STATISTICS / Main Crimes Types (2020 - 2022)

Crime Focus	Cases			CMs			CCs			Supported JITs		
	2020	2021	2022	2020	2021	2022	2020	2021	2022	2020	2021	2022
Migrant smuggling	99	170	132	21	25	33	2	0	4	12	12	13
THB	163	141	124	56	46	55	2	3	4	50	46	43
Terrorism	69	80	53	12	9	21	0	0	0	7	9	8
Cybercrime	174	188	173	45	67	42	1	5	1	21	16	12
Corruption	93	113	87	8	13	14	0	0	2	7	11	10
Drug trafficking	562	869	1061	87	107	126	4	1	5	50	48	60
Environmental crime	20	21	14	6	11	7	0	1	0	6	6	6
Money-laundering	605	651	690	101	115	142	7	5	7	72	62	63
Swindling and fraud	1270	1454	1655	91	111	115	8	11	6	72	74	72
MOCG	381	390	398	19	19	25	1	1	0	14	15	14
PIF	103	123	112	12	16	19	2	3	2	6	7	4
Core international crimes	12	7	26	2	6	23	0	0	0	0	1	2

Eurojust report on trafficking in human beings

Published on 23.02.2021

Link: [Eurojust Report on Trafficking in Human Beings | Eurojust | European Union Agency for Criminal Justice Cooperation \(europa.eu\)](#)



JOINT INVESTIGATION TEAM (JIT)

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The JIT concept:

- ▶ A joint investigation team is an instrument of international cooperation **based on an agreement between competent authorities** - both judicial (judges, prosecutors, investigating judges...) and law enforcement - **from two or more States, set up for a limited period and for a specific purpose** in order to carry out criminal investigations in one or more of the States involved.

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Main differences between traditional cooperation (EIO/ MLA) and JIT

- ▶ JITs allow direct collection and exchange of information and evidence (real-time)
- ▶ Dispensing the use of requests for cooperation
- ▶ Information and evidence collected in accordance with the law of the MS in which the team operates
- ▶ Seconded members of the team have the right to be present and to participate in investigative measures carried out outside their home State

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Main differences between traditional cooperation (EIO/ MLA) and JIT

The use of information and evidence exchanged within a JIT is limited by a “specialty rule”

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What is the legal basis for setting up a JIT?

Legal basis may vary

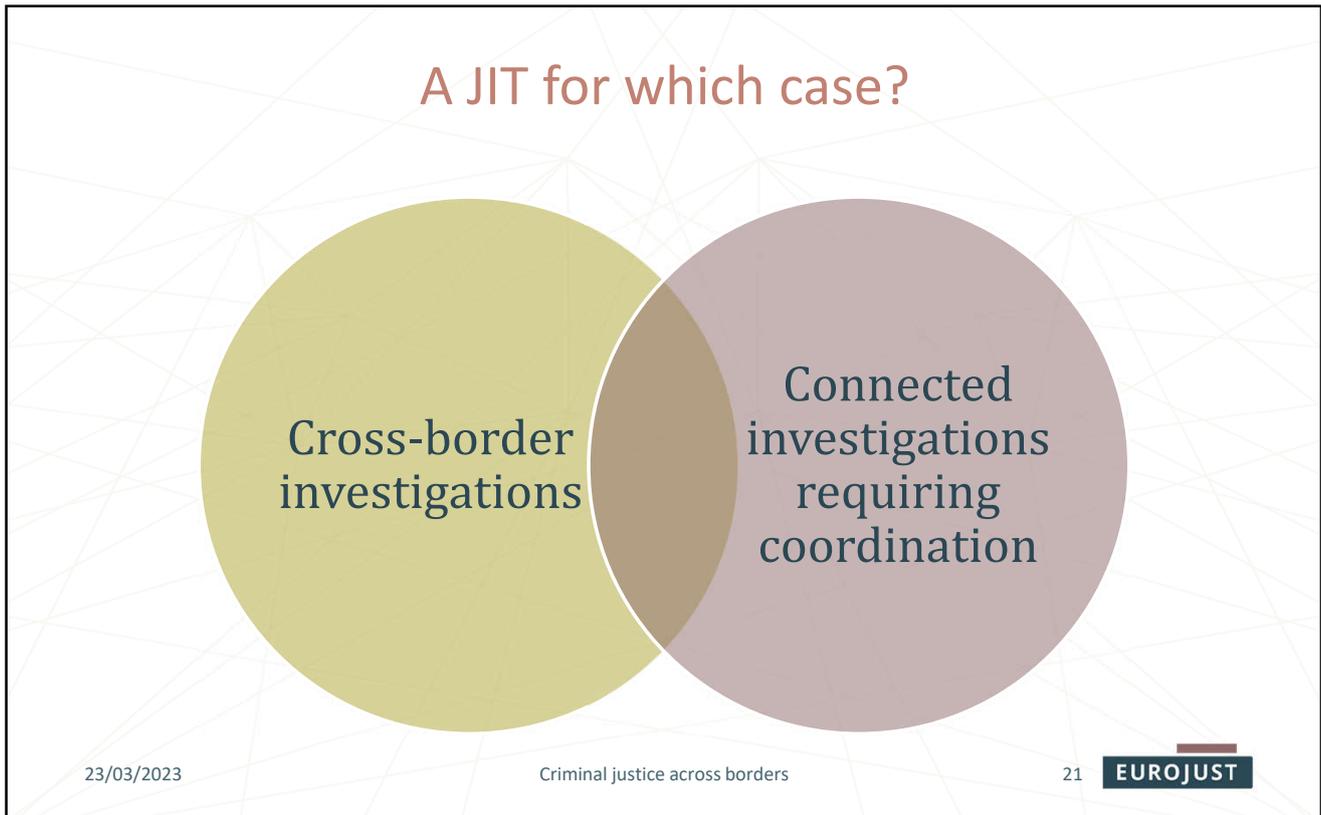
Article 13 of the 2000 EU Convention on Mutual Assistance in Criminal Matters

2002 Council framework decision on JITs

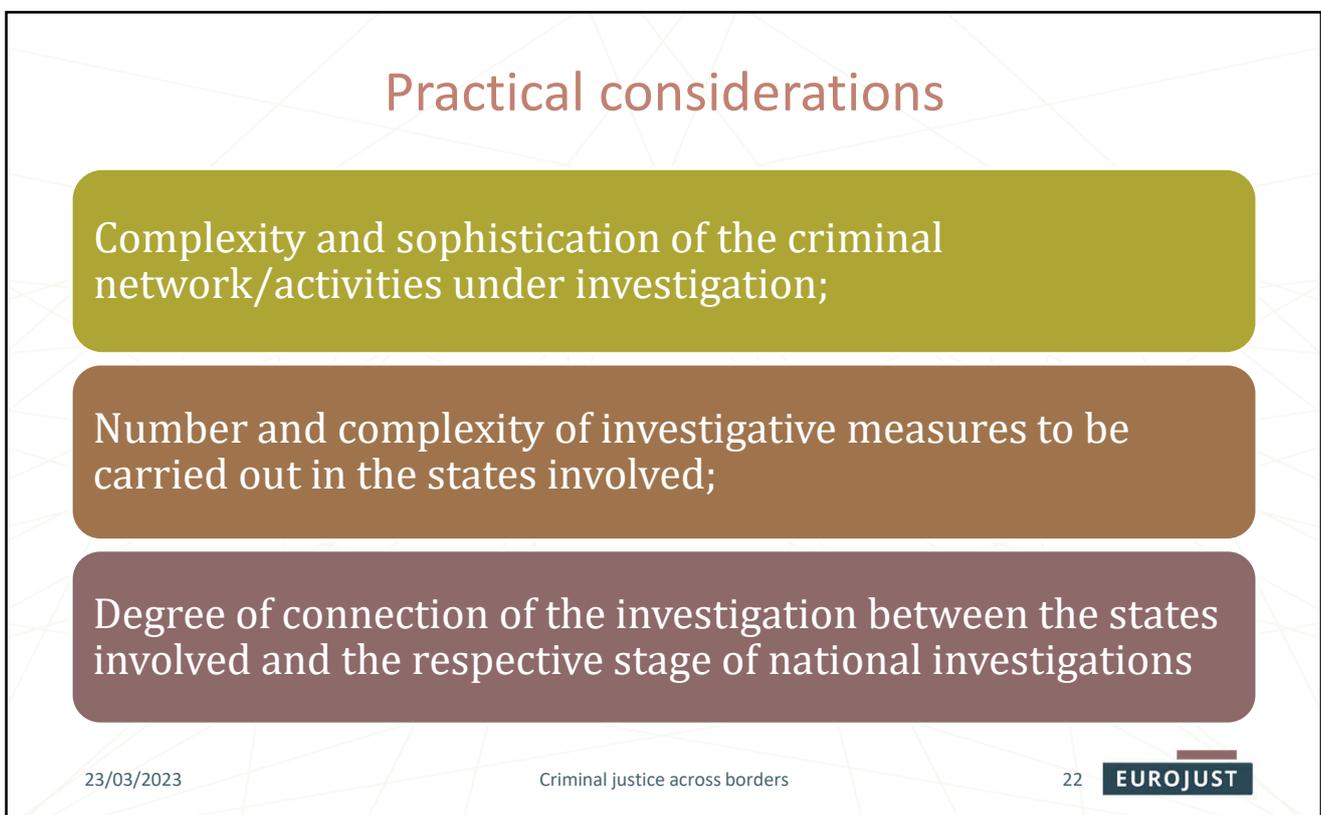
An EIO cannot be used to request the setting up of a JIT

Legal Framework

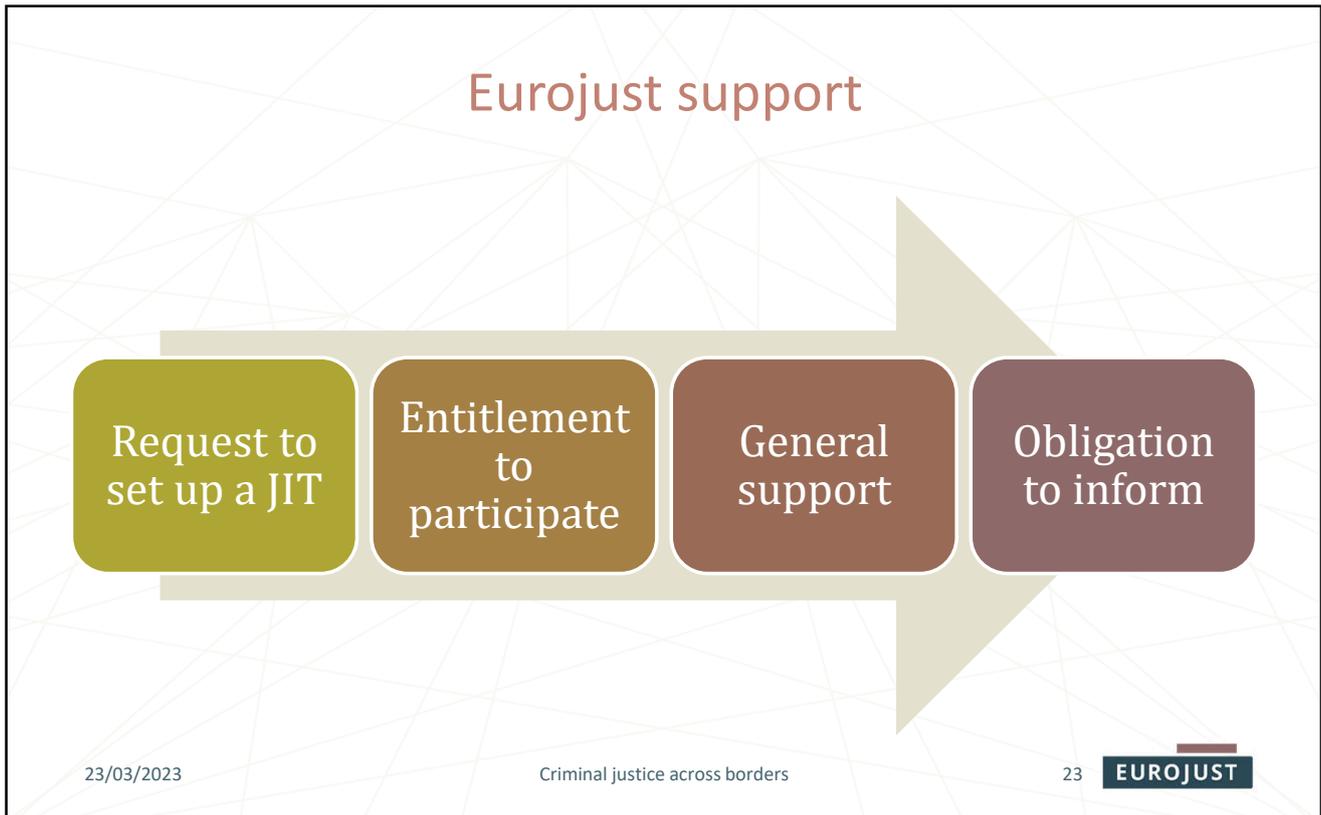
- ▶ Article 20 of the Second Additional Protocol to the European Convention on Mutual Assistance in Criminal Matters
- ▶ Article 9 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances
- ▶ **Article 19 of the United Nations Convention against Transnational Organized Crime**
- ▶ Article 49 of the United Nations Convention against Corruption;
- ▶ Agreement between the EU and Iceland and Norway on the application of certain provisions of the Convention 2000
- ▶ Article 5 of the Agreement on Mutual Legal Assistance between the European Union and the United States of America
- ▶ Bilateral agreements between the states involved ...



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Most effective tool in THB cases

The use of JITs in THB cases allows dynamic, flexible and close collaboration framework in complex and time-sensitive cross-border investigations

More speed and efficiency than by the traditional channels of mutual legal assistance

Direct cooperation and communication between authorities participating in the investigation in a mutually beneficial way

Once a JIT has been set up, the partners can directly exchange information and evidence, cooperate in real time and jointly carry out operations

The members of the JIT can be present during investigative measures on each other's territories, and to therefore share their technical expertise and human resources more efficiently.

The evidence gathered in the framework of the JIT will be used in the countries part of the JIT

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Ana Cristina Wallis de Carvalho

SNE to the Portuguese Desk

ana.wallisdecarvalho@eurojust.europa.eu

+31 70 412 5185

www.eurojust.europa.eu

Follow Eurojust on Twitter and LinkedIn @ *Eurojust*

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Ensuring victims' access to compensation



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La Strada International

- EU NGO Platform comprising 30 members in 24 European countries
- International secretariat based in Amsterdam, The Netherlands
- 9 priority focuses; including access to justice including compensation
- Promotion of compensation: COMP.Act 2009-2012, Justice at Last 2017-2019

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Compensation

- Compensation has a restorative, preventative and punitive function
- Right to effective remedy/compensation embedded in (inter) national law
- Need for access to compensation well supported; acknowledged that a functioning compensation system benefits everyone
- Lacking adequate implementation and remaining challenges
- Still limited successful compensation claims in Europe – due to remaining challenges and limited assets recovery

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Legal Right to Compensation

- UN TOC Convention & THB protocol (2000)
- CoE Convention on Action against THB
- European Convention on Compensation of Violent Crimes (ETS no. 116)
- CoE VAW (Istanbul) Convention
- EU Compensation directive 2004
- EU Employers sanctions directive 2009 & Seasonal workers directive 2014
- EU THB Directive 2011, Art. 11, 12 & 17 (*revision*) & THB Strategy 2021 – 2025
- Victim Rights Directive 2012 (*revision*) & Victims Rights Strategy
- Directive on the freezing and confiscation of instrumentalities and proceeds of crime 2014 (*revision*)

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UN TOC Convention & THB protocol (2000)

- Art 14.2: Requires States Parties to **give priority consideration to returning confiscated proceeds of crime or property** to a requesting State Party for **compensation of victims**.
- Art. 25.2: Requires States Parties to **establish appropriate procedures** to provide access to compensation and restitution for trafficked persons.
- Art. 25.3: Requires States Parties to **enable the views and concerns of trafficked persons to be presented and considered at appropriate stages of criminal proceedings** against offenders, in a manner that is non- prejudicial to the rights of the defence.

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UN Palermo protocol (2000)

- Art. 6.2: Each State Party shall ensure that **information on relevant court and administrative proceedings is provided** to trafficked persons.
- Art. 6.6: Each State Party shall ensure that its **domestic legal system contains measures** that offer trafficked persons **the possibility of obtaining compensation for damage suffered**.

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CoE Convention on Action against THB

- Art. 15.3: Each State Party shall provide, in its internal law, for **the right of trafficked persons to compensation** from the perpetrators.
- Art. 15.4: Each State Party shall **adopt such legislative or other measures** as may be necessary to **guarantee compensation for trafficked persons**, in accordance with the conditions under its internal law, for instance through **the establishment of a fund** for TPs' compensation or measures/programmes aimed at social assistance and social integration of trafficked persons (*assets funding*)
- Paragraphs 1 & 2 States Parties obliged to ensure **access to information** on relevant judicial and administrative proceedings (15.1), and **provide for right to legal assistance** and to **free legal aid** (15.2).

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European Convention on Compensation of Violent Crimes (ETS no. 116)

- Art. 2.1 envisages **State funded compensation scheme** which, at a minimum, covers **nationals and permanent** residents who are victims of **"serious bodily injury or impairment of health** directly attributable to intentional crime of violence".
- Compensation should **be available even where the offender is not prosecuted or punished** (Art. 2.2), and should cover at a minimum **loss of earnings, medical, hospital and funeral costs, and maintenance for dependants** (Art. 4).
- Art. 8 allows limitations, e.g. a claimant can be denied compensation if s/he is deemed to have **"provoked"** the crime or when s/he has an unrelated criminal record.

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CoE VAW (Istanbul) Convention

- Art 30.1 Parties shall take the necessary legislative or other measures to ensure that victims have the right to claim compensation from perpetrators for any of the offences established in accordance with this Convention.
- Adequate State compensation shall be awarded to those who have sustained serious bodily injury or impairment of health, to the extent that the damage is not covered by other sources such as the perpetrator, insurance or State-funded health and social provisions.
- Measures taken pursuant to paragraph 2 shall ensure the granting of compensation within a reasonable time.

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EU THB Directive (2011/36/EU)

- Art. 12.2: Member States shall ensure that trafficked persons have access without delay to legal counselling, and, in accordance with the role of trafficked persons in the relevant justice system, to legal representation, including for the purpose of claiming compensation. Legal counselling and legal aid shall be free of charge where the trafficked person does not have sufficient financial resources.
- Art. 17: Member States shall ensure that trafficked persons have access to existing schemes of compensation
- Art. 11 establishes the trafficked person's right to assistance and support before, during and after criminal proceeding.

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Victim Rights Directive (2012)

- Art 1 - rights apply to all people who fall victim to crime in Europe **without discrimination of any kind**, including respect to residence status
- Chapter II deals with **provision of information and support to trafficked persons; right to understand** and to **be understood** (Art. 3); the right to **receive information** ... legal advice or **compensation** (Art.4); the right to support (Art. 8-9), the right to interpretation and translation (Art.7).
- the **right to be heard** (Art. 10), the **right to legal aid** (Art. 13) **right to a review of a decision not to prosecute**.
- Art. 16 **right to obtain a decision** on compensation from offender in course of criminal proceedings, within reasonable time. MS to **promote measures to encourage offenders** to provide adequate compensation

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Relevant ILO legislation

- Labour Conventions no. 29 (1930) and 105 (1957)
- Guidelines on Human Trafficking and Forced Labour Exploitation
- Protection of Wages, no 95
- Conventions on migrant workers (no. 97 and 143)
- Private Employment Agencies, no 181
- ILO International Covenant on Social, Economic and Cultural Rights, Article 7
- Domestic Workers Convention (no 189) 2011
- Violence and Harassment Convention, no 190 (2019)

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'Compensation' Rights

- To be informed (about legal rights and compensation & procedures)
- To receive information on relevant judicial and administrative proceedings in a language the trafficked person understands
- To be understood and to be heard
- To receive legal assistance and legal aid (free of charge where the trafficked persons does not have sufficient financial resources – and before, during, after criminal proceedings) & legal representation
- To claim & have access to compensation – also when offender is not prosecuted
- Right to review decision not to prosecute & right to obtain a decision

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Other relevant victims rights

- Access to appropriate and secure accommodation
- Access to emergency medical treatment
- Right to a reflection and recovery period & temporary residence permit
- Right to remain in the country for the duration of proceedings
- Protection of private life and identity: Victims' personal data cannot be made public and can only be stored for specific lawful purposes
- Protection during investigations and court proceedings: protection from potential retaliation or intimidation by the traffickers
- Repatriation and return with due regard for victim's rights, safety and dignity; status of any related legal proceedings to be considered

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States' responsibility:

- To have procedures, (legislative) measures, programmes/legal system in place to ensure access compensation
- To provide access to both material and non-material damages
- Guarantee access to compensation including access to (state) compensation fund
- Granting of compensation within reasonable time

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Ways to claim compensation

Claiming compensation for victims of crime; in particular trafficked and exploited persons

There are different ways of claiming compensation, compensation can be claimed via criminal court procedures, via civil court procedure, including via labour courts. Further many European countries have state compensation funds in place. There are also other alternative non-legal options, including mediation and or claiming money from other social support or insurance funds.

Criminal court proceedings

Civil proceedings

Labour and employment law

State compensation fund

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Claiming compensation steps

- Step 1: What way(s) of compensation is/are the most suited?
- Step 2: Establish the damage & seek proof
- Step 3: Freezing and confiscation of assets of the trafficker
- Step 4: Present the claim
- Step 5: How to collect the money

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Non-material damages

- Abuse and offences committed against the individual (i.e., physical, or mental harm, including pain, suffering and emotional distress)
- Lost opportunities, including education and loss of earnings potential
- Harm to the reputation or dignity of the individual, including harm that is likely to continue in the future (e.g., as a result of stigmatisation);

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Material damages

- Costs of medical, physical, psychological, or psychiatric treatment required by the trafficked person.
- Costs of physical and occupational therapy or rehabilitation
- Lost income and due wages according to national law and regulations on wages.
- Legal fees and other costs or expenses related to the trafficked person's participation in criminal proceedings.
- Costs of necessary transportation, temporary childcare, and temporary housing for the trafficked person.
- Future lost incomes due to loss of earning capacity.

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Challenges

- Lack of awareness among police and judicial system
- Lack of access to legal aid & inadequate information to victims
- Postponement of trials & long duration of criminal and civil proceedings
- Return or deportation of victims (before verdict is reached)
- Lack of means to ensure a compensation order is executed
- Perpetrators not found or prosecuted; assets moved abroad/bankrupt
- Lack of access to compensation funds/compensation funds not available
- Lack of adequate cross border cooperation
- Difficulties calculation damages & quantifying different forms of harm

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Recommendations

- Specialization (and establishments of networks) of legal professionals to assist and represent trafficked persons in proceedings to claim compensation.
- Involve lawyers from multiple fields of specialization e.g. criminal and civil matters, immigration, employment issues.
- Promote promising practices on compensation and seek to adapt them to the national context.
- Encourage criminal courts to use their possibility to order *ex officio*, as part of the sentence, an ancillary financial penalty on the trafficker to compensate the victim, in cases where compensation was not claimed by the victim him/herself.

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Recommendations II

- Encourage the Judiciary to motivate their decisions concerning victims' compensation claims, including with regard to the amount and type of damages awarded
- Encourage the Criminal Justice Actors, including the Judiciary to develop criteria for the calculation of damages when dealing with trafficking cases to ensure the principles of legal equality and certainty.
- Promote the Dutch model of state advance payment of compensation (awarded in criminal proceedings) as a tool to improve victims' access to an effective remedy
- Increase capacity to identify, trace, seize and confiscate proceeds of crime (financial investigations) at an early stage of the investigation to secure evidence and availability of funds for compensation

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Recommendations III

- Remove eligibility criteria barriers for victims' access to compensation funds
- Provide victims in cross-border situations with access to specialised legal services as soon as possible (essential to have one specialized lawyer that would continue to accompany the victim throughout the proceedings)
- Exchange and cross-sectoral & cross-border cooperation in compensation cases to improve and harmonize procedures
- Invest in training and capacity building of criminal justice practitioners, Foster information sharing and mutual learning between judges, prosecutors, lawyers and victim support organizations within and across jurisdictions on compensation issues.

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More information

- www.lastradainternational.org
- www.justiceatlast.eu
- sh@lastradainternational.org

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REPUBLIC OF BULGARIA
National Commission for Combating
Trafficking in Human Beings



BULGARIA: ACCESS TO REMEDIES AND SUPPORT FOR VICTIMS OF HUMAN TRAFFICKING

*Financial Investigation of Trafficking in Human Beings
Sofia, 23-24 March 2023*



Co-financed by the European Union

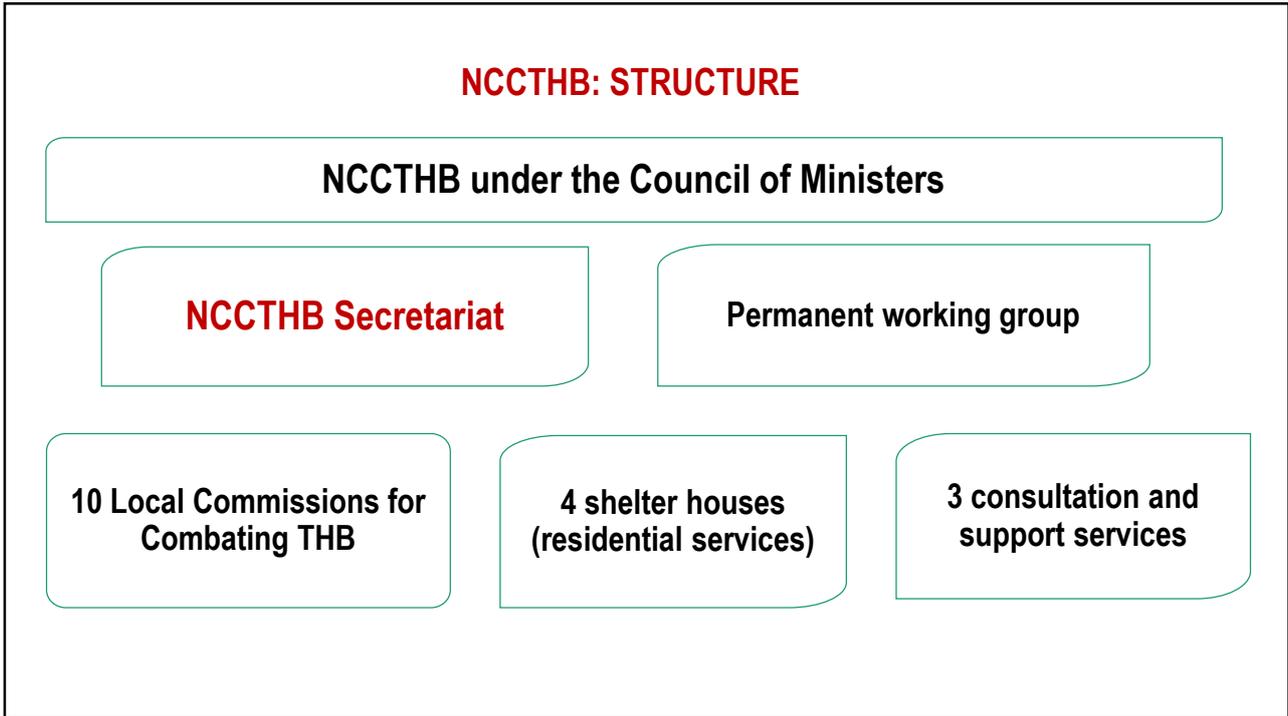
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OVERVIEW

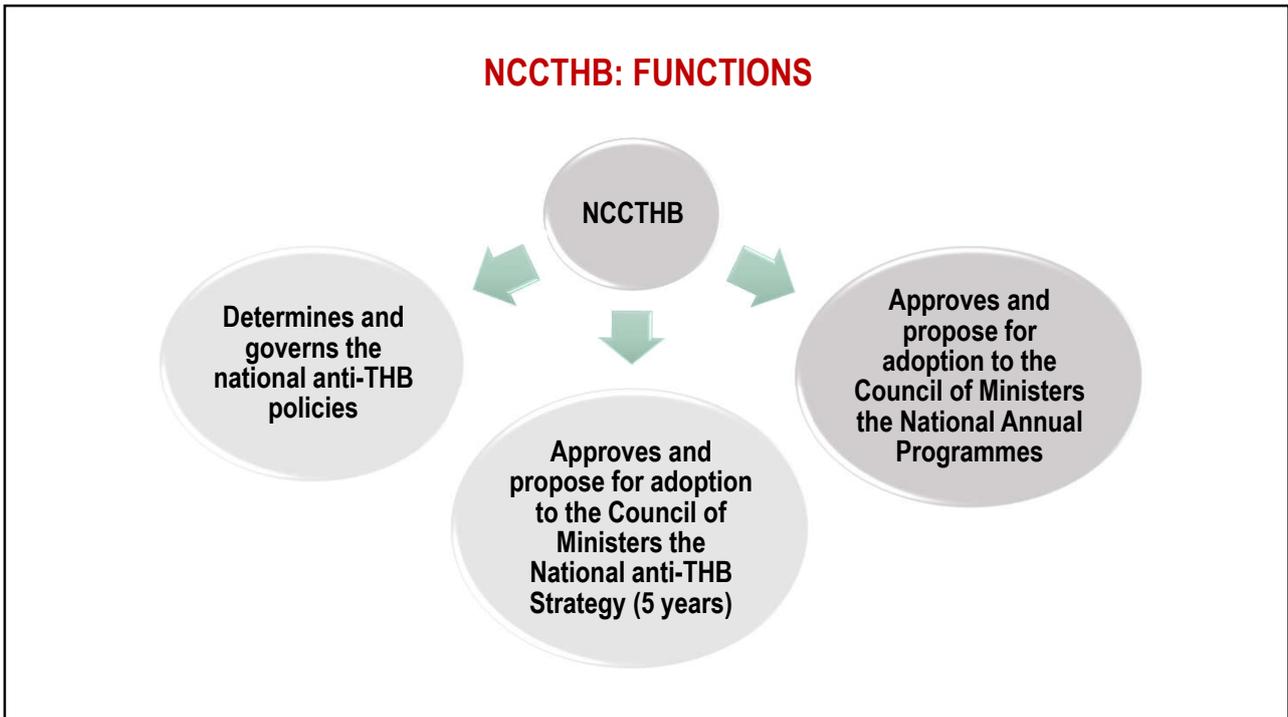


- Bulgaria is **mainly a country of origin** for victims of trafficking in human beings (THB) and to a lesser degree a country of transit and destination with prevalence of human trafficking for the purpose of **sexual exploitation** involving mainly women and girls. Secondly, male victims of human trafficking are mostly exploited for the purpose of **forced labour**.
- Main **destination countries**: Germany, Belgium, Netherlands, Greece, Austria, United Kingdom, France, Sweden, Switzerland, Spain, Italy, Czech Republic.
- **Internal trafficking**: THB for the purpose of sexual exploitation or labour exploitation related to seasonal work in agriculture as well as the hospitality business in seaside and ski resorts.

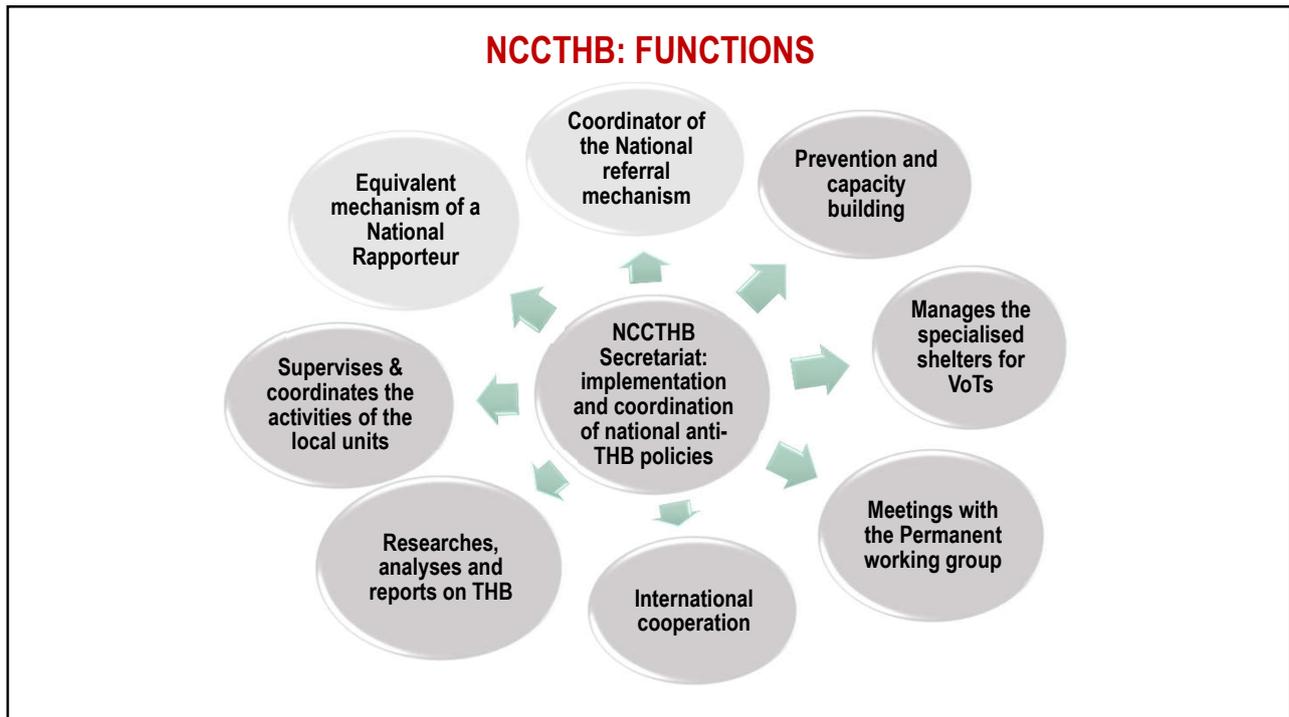
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IDENTIFICATION, REFERRAL AND SUPPORT

- **NATIONAL REFERRAL MECHANISM (NRM)**
- NRM is **developed in cooperation with civil society**, international organisations and public bodies
- Officially adopted by a decision of the Council of Ministers in 2016
- NRM is an **open document monitored and updated periodically**
- Regulates the steps to be followed to ensure **immediate and adequate assistance and support** to victims of human trafficking
- NCCTHB plays core role in the **coordination** and implementation of the NRM in the field of **victims' assistance**
- **Regular training of stakeholders**, participating in the NRM
- NRM sets definitions, lays out **standard operation procedures, identification indicators**
- https://antitrafficking.bg/uploads/Files/National_referral_mechanism_for_trafficked_persons_En.pdf



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SPECIALISED SERVICES IN BULGARIA

- **Seven services**, specialised specifically for adult victims of trafficking in human beings (victims can be accommodated with their children) in Sofia, Varna and Burgas.
- **3 residential services:** shelters for temporary accommodation
- **3 consultative services:** centers for protection and support
- **1 shelter** for subsequent reintegration
- Crisis Center **with priority accommodation of children** victims of trafficking – Sofia: state delegated service
- Victims of trafficking could also benefit from the state-delegated social services, including **Crisis centers for victims of violence and human trafficking** throughout the country – 20 for children and 8 for adults



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RIGHTS OF THE VICTIMS OF HUMAN TRAFFICKING: COMPENSATION

- The right for financial compensation of victims of human trafficking is regulated under the **Crime Victim Assistance and Financial Compensation Act** in compliance with the Council Directive 2004/80/EC relating compensation to crime victims and Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime.
- Financial compensation may be provided to victims who have suffered material damage as a result of the following crimes:
 - terrorism; intentional murder; attempted murder; intentional grievous bodily harm; sexual abuse; rape; **trafficking in human beings**;
 - a crime committed by order or under a decision of an organised criminal group;
 - another serious premeditated crime resulting in death or grievous bodily harm, as consequences of offence defined by statute.

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RIGHTS OF THE VICTIMS OF HUMAN TRAFFICKING: COMPENSATION

- **Coordination body:** the *National Council for Assistance and Compensation to Victims of Crime* under the Ministry of Justice which is responsible for:
 - holding regular meetings and revising the received applications for compensation
 - compile the application form
 - providing information
 - raising the awareness
 - supporting a national telephone line
 - capacity building
 - assist Bulgarian nationals in the process of applying for compensation in other EU MS
 - reporting to the Minister of Justice
 - international cooperation with the relevant authorities in other countries



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RIGHTS OF THE VICTIMS OF HUMAN TRAFFICKING: COMPENSATION

- **Information** about the right to compensation is provided by the authorities of the Ministry of the Interior, investigators and crime victim support organisations including information about:
 - the relevant authorities to report about the crime or the violation of their rights
 - access to medical assistance, psychological help and legal aid, and the specialised services providing assistance and support
 - the information is provided in a language that victims can understand as well in a written form registered in a protocol according to the relevant procedure
 - victims' rights during the criminal process and the possibilities for their participation in it
- The victims of crime shall be entitled to **one-off financial compensation for material damages** under Crime Victim Assistance and Financial Compensation Act after the completion of the criminal proceedings.

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RIGHTS OF THE VICTIMS OF HUMAN TRAFFICKING: COMPENSATION



- The Criminal Procedure Code of the Republic of Bulgaria regulates the procedure for submitting **claims for compensation of victims of crime in criminal proceedings**.
- If the victim does not claim compensation in the criminal proceedings or considers that the compensation awarded does not cover all the damages suffered, the victim has the right to bring an action for compensation under the provisions of the Obligations and Contracts Act before a civil court which will examine the case under the Civil Procedure Code.
- The civil claim can be filed by the victim or the victim's counsel. The application can be oral or written.

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RIGHTS OF THE VICTIMS OF HUMAN TRAFFICKING: LEGAL AID

- The right for access to legal aid in criminal, civil and administrative matters before courts of all instances is regulated under the **Legal Aid Act** to guarantee persons equal access to justice by means of ensuring and granting effective legal aid.
- **Coordination body:** *The National Legal Aid Bureau*
- Main responsibilities:
 - Performs general and methodical management of the activities on providing legal services
 - Works out draft budget for legal services
 - Organises keeping of the National Register of Legal Aid
 - Pays the provided legal services
 - Performs the control over providing the legal services
 - Promotes the system of legal aid
 - Performs the international legal cooperation in the field of the legal services

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ACCESS TO EFFECTIVE REMEDIES: CHALLENGES

- **Effective access to compensations for victims of THB**
 - Main challenge: difficulties to prove material damages for victims of human trafficking.
 - Possible solutions:
 - Collecting of evidences during the criminal investigation proving the material damages.
 - Adapting the procedure to the specifics of the crime taking into account that it should not discriminate the right to compensation of victims of other crimes.

The possible changes will require legal amendments.

 - Enhance the capacity and planning of relevant trainings for professionals including lawyers, prosecutors, judges, social workers and psychologists working with VoTs.

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ACCESS TO EFFECTIVE REMEDIES: CHALLENGES

- **Utilisation of confiscated assets from convicted traffickers for the benefit of victims of human trafficking**
 - Main challenges: developing a mechanism for immediate use of confiscated illegally acquired assets or a victim compensation fund which uses confiscated assets.
 - Similar development will require significant legislative amendments of a series of legal acts.
 - Short-term solution: in kind contribution of confiscated goods for the benefit of the specialised services by the relevant authorities (Ministry of Finance; National Revenue Agency, Customs Agency).
- **Legal assistance and free legal aid**
 - Enhance the capacity and the coordination process between the relevant specialists including lawyers, social workers and local anti-THB coordinators.

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THANK YOU!

**National Commission for Combating Trafficking in
Human Beings**
Tel.: +359 2 807 80 50

e.rousseva@antitraffic.government.bg
office@antitraffic.government.bg

www.antitraffic.government.bg
www.antitraffic.bg
<https://www.facebook.com/NCCTHB>

