



Institute for Legal Support and Technical Assistance

# National Conference 2019

Strengthening Capacities on Combating Organised Crime  
with a focus on Narcotics, Human Trafficking and Money Laundering

*February 26th – 28th, 2019  
National Convention Centre, Vientiane Capital*

Organised by



Office of the Supreme People's Prosecutor (OSPP)



Institute for Legal Support and Technical Assistance (ILSTA)

*With the kind support of :*



LE GOUVERNEMENT  
DU GRAND-DUCHÉ DE LUXEMBOURG  
Ministère des Finances



Government  
of Canada



THE GLOBAL INITIATIVE  
AGAINST TRANSNATIONAL  
ORGANIZED CRIME

Institute for Legal Support and Technical Assistance

6<sup>th</sup> Floor, NNN Building, Bourichane Road, Phonsinouan Village, Sisattanak District, Vientiane, Lao PDR

Tel: (+856) 21 41 0095 Fax: (+856) 21 41 0096 Email: [contact@ilsta.org](mailto:contact@ilsta.org) Website: [www.ilsta.org](http://www.ilsta.org)

National Conference on Strengthening Capacities on Combating Organised Crime with a focus on Narcotics, Human Trafficking and Money Laundering"

February 26th - 28th 2019,

National Convention Centre, Vientiane Capital



# Foreword

---



Transnational Organised Crime threatens the security, stability and socio-economic development of countries within the region and throughout the world. Illegal drug trafficking, trafficking in persons and money laundering seriously damage the lives, properties and development potential of our people and society. This requires us to have strong preventative and combating measures in place as well as effective cooperation mechanisms between national agencies and with our neighboring countries.

Recognizing the importance of cooperation in combating illicit narcotics, human trafficking and money laundering, the Government of Lao PDR has established organisations with responsibility for each specific issue, namely the Lao National Commission for Drug Control and Supervision (LCDC), the National Steering Committee on Human Trafficking (NSC) and the National Coordination Committee for Anti-Money Laundering and Counter-Financing of Terrorism and other

sectors with legal authority in solving criminal matters in accordance with the justice process e.g. the Office of the Supreme People's Prosecutor (OSPP), the People's Supreme Court (PSC), Ministry of Public Security (MOPS) and Ministry of Justice (MOJ), aiming at effectively addressing these crimes. Representatives from all mentioned organisations participate in the national conference each year. The 2019 National Conference, entitled "Strengthening Capacities on Combating Organised Crime with a focus on Narcotics, Human Trafficking and Money Laundering, and Dissemination of the Penal Code" was organised on February 26 – 28, 2019, with more than 200 participants, at the National Convention Center, Vientiane Capital.

This Conference is a significant milestone for officials especially the Office of the Supreme People's Prosecutor, the People's Supreme Court, Ministry of Justice, Ministry of Public Security and other relevant authorities to share their lessons learned, creating an effective cooperation mechanism including building knowledge and understanding in implementation of domestic laws such as the Law on Criminal Procedure 2017 and the first Penal Code of Lao PDR. These are significant achievements which will ensure that penalties for offences are harmonized making it easier for investigators, prosecutors, and judges to refer to and enforce the law.

This National Conference will be followed by three regional in the north, central and south reaching officials from relevant provincial organisations and will enable key agencies to further disseminate the Penal Code and Law on Criminal Procedure, and to exchange knowledge and share best practices and lessons learned with national and international partners.

I believe that this conference helps in strengthening capacities of the relevant officials, and also improves coordination mechanism in order to contribute to more effectively combating transnational organised crime.

I would like to take this opportunity to thank the Government of Luxembourg and the Government of Canada for their valuable support. I would also like to thank ILSTA for its significant cooperation in organising this conference and the following regional workshops and for preparing and printing this Conference Report.

H.E. Mr Khamsane Souvong  
Prosecutor General  
Office of the Supreme People's Prosecutor of Lao PDR

# Regional Conferences 2019

In 2019, the National Conference in Vientiane was followed by three Regional Conferences in the north, south and central Provinces of Laos, ensuring greater outreach and further in-depth training and exchange.



Luang Prabang, March 27<sup>th</sup> – 29<sup>th</sup> 2019



Xieng Khouang, June 26<sup>th</sup> – 28<sup>th</sup> 2019



Khammouane, August 28<sup>th</sup> – 30<sup>th</sup> 2019



# Contents Vientiane Conference

## Key notes:

**Day 1, Tuesday, February 26<sup>th</sup> 2019**

Office of the Supreme People's Prosecutor

Head of Planning and International Cooperation  
Mrs Bounthai Pankeo

Office of the Supreme People's Prosecutor

Deputy Prosecutor General of the Lao PDR  
Mr Bounyang Chandalasane

Institute for Legal Support and Technical Assistance

President  
Mr Richard Philippart

## Presentation Topics

1. Situation of drugs and drug-related crime in Lao PDR

Lao National Commission for Drug Control and Supervision,  
Deputy Head of Office  
Lieutenant Colonel Vongpheth Sengvongsa

2. The economy of organised crime

Center for the Study of Democracy, Bulgaria,  
Senior Analyst  
Mr Atanas Rusev

3. Organised crime: trends and dynamics

The Global Initiative against Organized Crime  
Senior Expert  
Mr Jason Eligh

4. Anti-money laundering: mutual evaluation

United Nations Office on Drugs and Crime  
Resident AML/CFT Advisor to the Mekong  
Mr Chris Batt

5. Anti-money laundering: National Risk Assessment

Anti-Money Laundering Intelligence Office (AMLIO) Director of AMLIO  
Mrs Phengsy Phengmuong

6. Monitoring legal proceedings on drug cases

Office of the Supreme People's Prosecutor  
Department of Monitoring Criminal Proceedings Cases, Deputy Director General  
Mr Souphasith Lorvanxay

## Presentation Topics

**Day 2, Wednesday, February 27<sup>th</sup> 2019**

7. Legal Proceedings on Human Trafficking

Ministry of Public Security,  
Head of Anti-Human Trafficking Department  
Lieutenant Colonel Khampane Sayavong

8. Money laundering and financing of terrorism

Institute for Legal Support and Technical Assistance  
Director  
Mr John Connolly

9. Human trafficking

Institute for Legal Support and Technical Assistance  
Programme Officer  
Ms Alina Timus

10. Psychological effects on victims of human trafficking

Institute for Legal Support and Technical Assistance  
Ms Sophie Kruch

11. Financial Investigations

Institute for Legal Support and Technical Assistance  
Programme Officer  
Mr Keith Farquharson

12. Research on decisions in drug cases

People's Supreme Court  
Criminal Case Inspection Department  
Mr Khamsay Chitthakhone

13. Criminal cooperation and extradition

Office of the Supreme People's Prosecutor  
Deputy Director General of the Department of Planning and International Cooperation  
Mr Khamphet Somvolachith



**Presentation Topics****Day 3, Thursday 28<sup>th</sup> February 2019**

14. Actors in the criminal courtroom	Luxembourgish Supervisory Authority (CSSF) Dr Heleen De Geest
15. Legal approach to concurrent offences	University of Luxembourg Liaison Officer Dr Perrine Simon
16. The Lao Penal Code 2017	Former Vice Minister of Justice Mr Ket Kiattisack
17. Comparison of the law on criminal proceedings 2012 and 2017	Office of the Supreme People's Prosecutor Director General of the Department of Monitoring Criminal Proceeding Cases Mr Chanthy Polivanh
18. Mutual legal assistance	Ministry of Justice Head of the Department of International Cooperation Mr Ketsana Phommachane
19. Law on international treaties and international agreements	Ministry of Foreign Affairs Deputy Director General of the Department of Treaties and Law Mr Somkhith Vankham
Conference Recommendations	Chairs: Mr Bounyang Chandalasane, OSPP Mr Richard Philippart, ILSTA
Presentation of Prizes for Legal Knowledge Quiz	Mr Bounyang Chandalasane Mr Richard Philippart
1. Ms Vilayphone Sithiso	Mr Timothy Edwards, Charge d'Affaires, Office of the Embassy of Canada in Laos
2. Mr Tamnieng Vongsaykham	



# Key Notes

---

## Mrs Bounthai Pankeo

---

Head of Planning and International Cooperation Department of the Office of the Supreme People's Prosecutor of Lao PDR



On behalf of the Conference Organising Committee, Mrs Bounthai Pankeo, welcomed the guests and representatives from all organizations to the 2019 National Conference, entitled Combating Organised Crime, with a focus on Illicit Narcotics, Human Trafficking and Money Laundering, and dissemination of Lao Penal Code.

The 2019 Conference is organised by OSPP with the support of the Institute for Legal Support and Technical Assistance (ILSTA) of Luxembourg. Mrs. Bounthai stated that the main objectives of the conference were to strengthen the justice sector of Laos in combatting organised crime, as well as to promote and tighten cooperation amongst relevant entities, especially in countering illicit drugs, human trafficking and money laundering. Mrs Bounthai introduced the co-chairs of the Conference, Mr. Bounyang Chandalasane, Deputy Prosecutor General of Lao PDR and Mr. Richard Philippart, President of ILSTA.

## Mr Bounyang Chandalasane

---

Deputy Prosecutor General of Lao PDR



Mr Bounyang expressed his pleasure at participating in such a significant conference and warmly welcomed all participants. Mr Bounyang emphasized that transnational organised crime threatens the political and socio-economic development of countries within the region and around the world. It is imperative therefore that we have preventive and combating measures in place, as well as methodology, the necessary tools and strong cooperation mechanisms.

He stated that in recent years crime in Lao PDR is getting more complicated, especially those linked to drugs and human trafficking. Each year, a huge number of young people (both men and women) and children become victims of these crimes. Between 2016 and 2018, a total number of 11,760 drug-related cases and 56 human trafficking cases were prosecuted; these numbers are increasing. Realizing the danger of those crimes, the Government of Lao PDR has increased its efforts in combating organised crime by developing relevant immediate and long-term strategies as well as establishing organisations which are responsible for addressing each specific problem.

## Mr Richard Philippart

President of the Institute for Legal Support and Technical Assistance



Organised crime is a serious threat for many countries and Southeast Asia is particularly exposed to that risk. Organised crime undermines state structures, puts human security at risk and challenges national development achievements. He noted that developing countries are particularly vulnerable as organised crime adapts to environments, exploiting structural and geographical weak spots of countries. Organised crime is a huge industry comprising many areas: narcotics, wildlife trade of protected species, human

trafficking, counterfeit goods, money laundering, in naming just a few. However, unlike other industries, organised crime is not visible, it does not advertise; as its activities are criminal, it tends to hide. It is economically very lucrative and has no regard for society and human beings.

In the matter of narcotics, there has been a clear shift from opiates to synthetic drugs. Methamphetamines and crystal methamphetamine are now the biggest concern, though opium production has also increased in recent years. As crime groups adapt their production methods using always new components as precursors to avoid detection, law enforcement agencies must keep up with the latest developments.

Human trafficking is a gross violation of human rights that often involves extreme exploitation and abuse. In the region, we may not see the organised crime structures at the departure place; often it is a relative or friend which assists the person, girl, boy, woman or man to look for better opportunities. But at the other end, where the exploitation takes place, it is often organised structures which make a lot of money, exploiting people in slave-like situations, be it as sex workers, in factories, on fishing boats, fake marriage or domestic servitude. Let's keep in mind, the main point of organised crime is the pursuit of making money. And money from organised crime needs to be laundered. "Following the money" therefore, and identifying suspicious transactions, freezing and seizing assets is one efficient way of hindering operations of organised crime groups. Laos has made progress in this area and now has the legislation in place criminalizing money laundering and its predicate offences. However, much remains to be done. Mr Philippart underlined the importance of cross agency cooperation as well as international cooperation and thanked representatives from international organisations for their participation.





## Lieutenant Colonel Vongpheth Sengvongsa

Deputy Head of Office, Lao National Commission for Drug Control and Supervision

### “Situation of Drug and Drug-related Crime in Lao PDR”



Lt. Col. Vongpheth outlined the geographic characteristics of Lao PDR as part of the Golden Triangle, a notorious illicit-drug producing area. Criminal groups use Laos as a transit country for illegal smuggling and trading of drugs. He noted that the illegal cultivation of opium and marijuana is increasing in 10 provinces of Laos. During October and December of each year, traders sell dried opium latex in some provincial markets, and in some markets of Vientiane Capital.

Lt. Col Vongpheth shared some figures, provided by the provinces, showing that by the end of 2018 there

were 65,854 drug addicted people across the country including 82.5% consuming Ya ba (methamphetamine), 16.15% addicted to opium, 1.2% addicted to heroin and 0.15% are consuming other types of drugs.

Lt. Col. Vongpheth shared the Lao Government's efforts in prevention, control and inspection of illicit drugs, yielding increased seizures of illicit drugs including crystal meth (ice), Ya ba (methamphetamine); marijuana; heroin; opium and precursor chemicals. Lt. Col. Vongpheth stated that in parallel with the combating and prevention of drug smuggling, the government is supporting the treatment and rehabilitation of drug-addicts through the establishment of 14 Drug Treatment Centers across the country. Based on the collected data from all centers, approximately three to four thousand drug-addicts are treated each year in these centers.

In regard to relevant legislation, Lt. Col Vongpheth added that in addition to anti-drug related international conventions that Lao PDR has ratified and national legislation such as the Anti-drug Law (amended version 2012) and Chapter 8 of the new Penal Code, the Government is implementing the 2016-2020 National Master Plan for Combatting Drugs, which consists of 9 programs and 37 projects.

## Mr Atanas Rusev

Senior Analyst, Center for the Study of Democracy, Bulgaria

“The Economy of Organised Crime”

Mr Rusev provided the key findings of a recent European-based study on the financial aspects and business models of human trafficking. These findings demonstrated that forms of criminal financing vary depending on the modus operandi of human trafficking activities, and the ethnicity of the traffickers and their victims.



The study involved nine EU countries and included data on Eastern European, Nigerian, Chinese and Latin American source country operations. Four typical human trafficking organisational structures were identified: individual traffickers, loose networks, family/clan-based organisations, and hierarchical organized crime groups. All of these trafficking operations are profit-driven and could be described as criminal businesses, with similar financial needs to legitimate businesses, such as acquiring start-up costs, meeting recurring and incidental expenses, and supporting business expansion.

In the EU study, trafficking business costs were classified according to the key stages of recruitment, transportation, and exploitation. Recruitment expenses and overall cost structure distribution was shown to vary in accordance with the modus operandi and source location of the trafficking operation. The study also looked into methods of payment and how profits were laundered/invested. Considerable variation in these key processes was also found.

To conclude, the speaker stressed the need for a holistic view of criminal finances. Rather than focus solely on tracking the proceeds of crime, he suggested financial investigations broaden their scope to consider the financial activities that preceded and coincided with the criminal action. In this way, regional and organisational financial indicators can help identify actors in a criminal operation, and criminal investigations supported by parallel financial evidence can be successfully prosecuted.



## Mr Jason Eligh

Senior Expert, The Global Initiative against Organized Crime

“Organized crime: trends and dynamics”



The Global Initiative against Transnational Organized Crime is a global network of prominent law enforcement, governance and development practitioners who are dedicated to seeking new and innovative strategies and responses to organized crime. Mr Eligh demonstrated that Organized Crime has evolved alongside the globalization of the world economy. The reduction in time to destination for goods has allowed Organized Crime Groups (OCGs) to expand their operations around the world. This “time-space compression” can be seen in the vastly reduced time to travel from Vientiane to Bangkok over the past fifty years. As distance and efficiency increases OCGs can move more products. He gave examples of trafficking women from Nigeria to Europe and heroin from Myanmar to London.

Mr Eligh pointed to two evolutionary changes: the spillover and diffusion of criminality, as some young people perceive the only opportunity they have is with organized crime and OCGs; the second being the danger of state capture by OCGs, as OCGs increasingly infiltrate government institutions. Mr Eligh used the example of Mauritius, where organized crime influenced every area of government and the drug control organization was actually controlling the drug trade.

He identified three emerging trends: firstly, the growing relationship between organized crime groups and terrorist groups, drugs for weapons for mutually beneficial purposes; secondly, old crime done in new and different ways, with the use of the web and increasing efficiency, examples include Hong Kong networks using drones to fly goods into China; thirdly, new drugs, the problem of newly developed psychoactive substances outside of existing international conventions and also the adoption of cutting edge technologies, used for electronic crime today. OCGs take advantage of every technological advance they can, ahead of our abilities to respond.

Following on from this Mr Eligh considered how this will affect Laos. He showed 6 regional maps, migrant smuggling, human trafficking, drug trafficking, trafficking in counterfeit goods, trafficking in wood and trafficking in tigers. Laos is at the intersection of trafficking routes that penetrate the area. The increase in movement of goods and people over the past 15 years has been significant. He gave examples of demands from neighbouring countries for illicit goods with a strong emphasis on China, but with significant demand from other neighbouring countries as well. He also stressed risk; that OCGs will take the route that has the least risk that the product will be lost.



This is not a difficulty for Laos alone. A regional response to OCGs and organized crime markets is needed, and this response has to be evolutionary. Where did we come from? Where are we now, and where are we going? The last question although we cannot answer it, we need to get better information because this is what the OCGs are doing every day.

## Mr Christopher Batt

Resident Advisor on AML/CFT to the Mekong

United Nations Office on Drugs and Crime

“Anti-Money Laundering: Mutual Evaluation”



Mr Batt addressed money laundering processes and preventative measures. He highlighted the relevance of money laundering to the Mekong region, where an estimated \$100 billion is accrued annually through criminal activities. Given the Lao PDR's lengthy borders, it was seen to be particularly vulnerable to cross-border laundering operations.

Money laundering was described as 'cleaning dirty money', and a three-stage process was identified: placement, layering, and integration. Placement involves introducing the proceeds of crime into the economy. Layering aims to obfuscate the money trail, thereby distancing it from its illicit origins. Integration represents the return of the profit to the offender through a legitimate channel such as the purchase of luxury assets and financial investments.

To combat money laundering on a national scale, Mr Batt recommended countries follow the recommendations of the Financial Action Task Force (FATF). The FATF is an inter-governmental body which sets international standards for Anti-Money Laundering (AML) with forty action-based recommendations, and an evaluation and assessment mechanism. The Lao PDR is due for a FATF assessment in 2020 and Mr Batt explained that in cases where a country was found to have significant deficiencies in its AML regime and didn't take appropriate steps to address those deficiencies, FATF could effectively 'black list' the country concerned. This was clearly something that should be avoided as it can result in the loss of international investment and reputation. Mr Batt closed by reassuring the audience that Lao PDR was working hard to meet its AML targets before the next FATF assessment although there remained a significant amount of work still to be done.



# Mrs Phengsy Phengmuong

Director of AMLIO, Anti-Money Laundering Intelligence Office

“Anti-Money Laundering and National Risk Assessment”



Mrs Phengsy presented the role and duties of the Anti-Money Laundering Intelligence Office (AMLIO) and the legislation related to the implementation of the Law on Anti-Money Laundering and Countering Financing of Terrorism (AML/CFT). Established in 2007, AMLIO is under the technical supervision of the National Commission for AML/CFT, while the budget and personnel support are provided by the Bank of Lao PDR. AMLIO follows an Administrative Model, which is one of the four models of Financial Intelligence Units (FIUs) worldwide.

Laos’ first National Risk Assessment (NRA), which was completed in 2018, covered three main areas, 1) Money Laundering Threats and Risk; 2) Preventative Measures on Money Laundering; and 3) Assessment of sectors at risk of money laundering. The NRA identified 8 at-risk sectors out of all 18 assessed sectors, namely banks, casinos, high-value goods shops, the stock exchange, insurance companies, money exchange, money transferring agencies, and real estate businesses.

Mrs Phengsy stated that the three main challenges for AML/CFT in Laos were: awareness of responsible units for reporting on AML/CFT; reducing the risk of AML/CFT based on the action plan of NRA; and providing knowledge and information on AML/CFT to officers of relevant ministries.

AMLIO is now in the process of preparing for the FATF Mutual Evaluation, which will take place in 2020. In addition, AMLIO is in the process of becoming a member of International Financial Intelligence Unit (Egmont Group), and addressing the gaps in implementation activities related to AML/CFT, especially the implementation of the 40 FATF Recommendations and 11 Immediate Outcomes (IOs).



## Mr Souphasith Lorvanxay

Deputy Director of Criminal Case Inspection Department

Office of the Supreme People's Prosecutor

"Monitoring Legal Proceedings on Drug Cases"



In his presentation, Mr Souphasith emphasized the importance of monitoring the legal proceedings of drug cases and the important role of the State Prosecutor in this. He outlined the three main objectives of monitoring: to ensure that the investigating authorities implement the laws correctly; to enable the investigating authorities to properly use investigation methodologies; and to use measures to combat illicit drugs based on the 7 combatting measures described in articles 137 – 145 of the amended Criminal Procedure Law.

In order to provide a clear picture of the monitoring of legal proceedings on drug cases, Mr Souphasith outlined some case studies and pointed out the relevant articles of the amended Criminal Procedure Law, which was disseminated to all participants. One such example dealt with the arrest of a suspect under articles 135 – 137; the reasons for detaining a suspect and the period of time a suspect can be detained for questioning under article 138, and the actions and recording of an arrest, articles 139 and 140 of the new Criminal Procedure Law (2017).



## Lieutenant Colonel Khampane Sayavong

Head of Anti-Human Trafficking Department, Ministry of Public Security

### “Legal Proceedings on Human Trafficking”



Lt. Col. Khampane stated that human trafficking is an organised crime; human trafficking is a criminal business that generates huge profits; and human trafficking is linked to money laundering. Traffickers in Laos have been using more complicated methods of deceiving people into becoming trafficking victims, most commonly involving deception, persuasion and inducement.

According to Lt. Col. Khampane, the two main reasons why trafficking happens in Laos is: 1) the traffickers see the possibility of making huge profits with little investment, and 2) due to the victims themselves - family poverty, low education, no jobs or no incomes. Targeted victims of the traffickers are mainly women and children. Lt. Col. Khampane stated that out of a total number of 39 recorded cases of human trafficking in 2018, 63 out of 64 victims were women and 4 of them were under 18 years of age. He added that when these victims were trafficked or transported to the planned destination points, they would then be exploited by different types of means, including the use of threat, coercion, control or debt bondage. For example, some who were forced to work as prostitutes had to work for as long as 5-6 years without any payments. They were forced to use drugs and threatened with having revealing videos sent to their families. These types of exploitation result in severe effects on the physical, mental and sexual health of the victims. In the worst cases, there were reports of disappearances of the victims.

In regard to the legal framework related to anti-human trafficking, Lt. Col. Khampane explained article 2 of the Law on Anti-Trafficking in Persons, giving the definition of human trafficking. He also explained the three elements of human trafficking: the act, the means, and the purpose of exploitation. He distinguished between an adult trafficking case and one involving children (under 18 years old) where trafficking cases can be identified by just two elements (act and purpose). He outlined the four elements of a criminal offence: material element, objective, subjective and complainant. He emphasized that investigating authorities must pay attention during case analysis in order to correctly identify human trafficking offences.



Lt. Col. Khampane shared the 2017-2020 National Action Plan for Anti-Human Trafficking, approved by the National Assembly, consisting of 5 main components, 19 projects and 139 activities. Lt. Col. Khampane concluded by showing two short films on human trafficking and how to prevent it. He also shared the three hotline numbers: 1300 for police in Thailand; 1362 for the counseling center of the Lao Women's Union, and 1512 for Lao Federation of Trade Unions.

## Mr John Connolly

Director, Institute for Legal Support and Technical Assistance

“Money Laundering and Financing of Terrorism”



Mr Connolly's presentation provided clear examples of how money laundering takes place, as well as an overview of the legal mechanisms available in the Lao PDR which can be utilised to combat money laundering.

The motivation behind money laundering is that criminal wealth needs to be hidden to be ultimately enjoyed or reinvested. The best way to hide dirty money is to launder it. Mr Connolly then outlined the money laundering processes in cash and non-cash economies. In addressing the latter, the three-stage process of placement, layering, and integration was explained in detail.

The severity of money laundering in terms of scale and impact was then addressed. The UNODC estimates that in excess of 1.6 trillion dollars is laundered annually. Mr Connolly stressed that money laundering is not a victimless crime. Money laundering impacts society and the economy by undermining legitimate businesses and giving more power and wealth to criminal groups.

Article 130 of the new Lao Penal Code explicitly criminalises money laundering. This offence extends to assets and property as well as money, and can be charged to individuals, companies, and organisations. Further, the Anti-Money Laundering & Countering the Financing of Terrorism Law, 2014, contains specific articles outlining the nature and extent of predicate offences of money laundering, and the reporting obligations of financial institutions and Designated Non-Financial Businesses and Professions (DNFBP).

Money laundering investigations involve several offences including predicate offences, the money laundering offence, and other breaches of various AML laws by third party facilitators.

In closing, Mr Connolly stressed that AML laws can assist in the successful prosecution of the leaders of criminal organisations. These leaders are not usually the ones directly committing the crimes, and thus often escape prosecution. However, these leaders enjoy the profits of criminal activity, and by linking them to the money, they can be convicted of money laundering offences.





## Ms Alina Timus

Programme Officer, Institute for Legal Support and Technical Assistance

“Human Trafficking”



Almost every country in the world is affected by human trafficking as either as a source, transit or destination country. Ms Timus detailed worldwide statistics on human trafficking. She outlined the definition into the three elements of act, means and purpose. This definition is also reflected in Lao law, in the Anti-Human Trafficking Law, the new Penal Code (article 215) and the Law on the Protection of Women and Children.

She dealt with the issue of consent stating that if the victim is over 18, if they consent initially, as soon as that consent is removed Human Trafficking occurs. An important aspect that was stressed is the fact that if the victim is under 18 only 2 elements are necessary for human trafficking to occur: the act and the purpose.

Ms Timus outlined the international instruments and the domestic laws that cover human trafficking (UNTOC, The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, and the Convention on the Elimination of all Forms of Discrimination Against Women). The domestic law's enactment is the first step to reaching international standards. Every law needs implementation.

Indicators of Human Trafficking such as false promises, threats and the use of force, deprivation of food and sleep and debt bondage of family or people outside their environment were detailed. She also pointed out that human trafficking doesn't have to be transnational so there has to be emphasis on domestic victims as well as transnational. Ms Timus then focused on maps showing the trans-regional and transnational flows of trafficking victims, as well as illustrating the source and destination countries.

Ms Timus pointed out that the intention of exploitation is enough but difficult to prove, also the prosecution of the offender for other offences deprives the victims of their right to protection as for a human trafficking victim. The identification of victims by region identifies regional differences and trends of exploitation, for example in Asia it is often for marriage or sexual services, whilst in Central and South America it is often children for adoption and forced labour.



Both internal and transnational victims should not be treated as offenders. It is important to identify the victims and quantify their numbers. We know that women, children and men of all ages, and all physical conditions can be victims of trafficking. Also, that people from rural areas followed by small urban areas are most vulnerable to trafficking. Male victims are often used in the building, agriculture and fishing industries. Women and girls provide a very big global victim percentage for the purpose of sexual exploitation and forced labour.

The differences between smuggling of migrants and human trafficking were discussed, noting that smuggling of migrants consent is given a priori and it must be transnational, whereas human trafficking can be both internal or transnational and needs exploitation. It is very important that law enforcement agencies and civil society groups understand the differences, especially as victims of other offences may not be able to receive the same redress as victims of human trafficking. Illegal migrants are though one of the most vulnerable group of potential human trafficking victims, they are afraid to go to the authorities to complain, employers take advantage and so exploitation occurs.

## Ms Sophie Kruch

Institute for Legal Support and Technical Assistance

“Psychological Effects on Victims of Human Trafficking”



Ms Kruch began by noting that when a person is trafficked, they are treated as a commodity, rather than a human being. The resulting psychological and physical effects make the road to recovery laborious and painful. She then went on to explain various psychological effects of trafficking, while noting that it is impossible to describe a typical victim of human trafficking.

Trauma is an experience which threatens one’s sense of security and safety arising from a single or a recurring event. Restriction of movement, violence, and abuse are common triggers of trauma, just as they are common features of human trafficking. Trauma often leads to mental health disorders. In fact, human trafficking victims have recorded the highest levels of mental health deterioration of all distressed populations. Depression, anxiety, post-traumatic stress disorder, and hostility are all common conditions experienced by victims of human trafficking. Additionally, human trafficking victims often experience other negative impacts that do not fit within diagnostic categories. These include: eroded self-perception, loss of trust, and in cases of women’s sexual exploitation, the inability to form relationships with men.

Ms Kruch concluded her presentation by recommending strategies for efficient psychological support for victims of human trafficking. The importance of post-trafficking care was stressed, and the aim of that care identified as providing a safe space for the victim to recover. Successful recovery allows the victim to regain the power she lost over her life, and to move from being a victim, to being a survivor.



# Mr Keith Farquharson

Programme Officer, Institute for Legal Support and Technical Assistance

“Financial Investigations”



Mr Farquharson stressed the benefit of conducting parallel investigations of both predicate and money laundering offences. He presented a case study of a money laundering suspect. This case study demonstrated that when a predicate offence investigation may be lacking evidence, a financial investigation can lead to a prosecution. In the Lao PDR, money laundering convictions carry penalties of 10-15 years in jail, 700-900 million kip in fines, and the confiscation of assets. The severity of these penalties provides ample incentive to pursue money laundering investigations.

Furthermore, financial investigations can generate essential data to support both predicate offence and money laundering investigations. Financial data can identify links between criminal associates and crime locations; locate suspects, witnesses, and victims; reveal information on a suspect’s movements; and ultimately link a suspect to a crime.

**ການສືບສວນທາງດ້ານການເງິນ ແມ່ນຫຍັງ ?**

**ຕິດຕາມເງິນ!**

ການສືບສວນທາງດ້ານການເງິນ (financial investigation) ແມ່ນການກວດສອບການເຄື່ອນໄຫວຂອງເງິນ ແລະ ຊັບສິນອື່ນໆ ທີ່ເກີດຂຶ້ນໃນລະຫ່ວາງທີ່ມີການກະທຳຜິດທາງອາຍາ.

ການສືບສວນທາງດ້ານການເງິນປະກອບດ້ວຍການເກັບລວບລວມ ແລະ ວິເຄາະຂໍ້ມູນທີ່ມີທັງໝົດ ທີ່ກ່ຽວຂ້ອງກັບການເງິນ ແລະ ຊັບສິນຂອງບຸກຄົນທີ່ຢູ່ພາຍໃຕ້ການສືບສວນ.

ໂດຍປົກກະຕິແລ້ວ ການສືບສວນທາງດ້ານການເງິນ ຈະເປັນຂໍ້ມູນເຂັ້ມຂຸ້ນ ເນື່ອງຈາກວ່າ ເຈົ້າ ຫົກທີ່ສືບສວນພະຍາຍາມທີ່ຈະສ້າງລາຍລະອຽດທາງການເງິນ (financial profile) ຂອງອາຊະຍາກອນ ຫຼື ຫຼາຍຄົນ.

[www.ilsta.org](http://www.ilsta.org)

Follow the Money...

# Mr Khamsay Chittakhone

Judge, Head of Criminal Court, People's Supreme Court

"Inspection of Drug Case Proceedings"



Mr Khamsay stated that inspecting drug case proceedings requires precision, detail and thoroughness. It also requires mutual coordination amongst relevant authorities such as the investigating authority, the people's prosecutors and people's court. He said that drug cases are linked to other criminal offenses e.g. money laundering. In 2018 there were 4,307 new criminal cases submitted to the court, among those, there were 2,239 drug cases.

He outlined three important components of inspecting drug case proceedings. Firstly, the criminal court inspects a case file to make sure that meets the list provided by the People's Prosecutor. This is to prevent and avoid loss of documents related to the case. The case file must have an issue of indictment the head of people's prosecutor with signature of the defendant in accordance with Article 154 of the 2017 Law on Criminal Procedure.

Mr Khamsay emphasized the importance of evidence in such cases, as the accused person should not be convicted based on the confession only. The three types of evidence are material evidence: object trace, objects used or as tools for criminal actions, including drug, production equipment, vehicles, bloodstain and others as described in Article 29 of the 2017 Law on Criminal Procedure. Documentary evidence: investigation report, crime scene analysis, finding or detection, detention, seizing of properties, face-to-face inquiring, verifying of re-testing of data, and other documents related to the cases in accordance with article 32 and 33 of the 2017 Law on Criminal Procedure. And personal evidence: testimonies of suspected persons, witnesses, victims, civil plaintiffs, identifying persons and comments of experts or persons specialized in the concerned criminal cases in accordance with article 34 of the 2017 Law on Criminal Procedure.

Lastly, Mr Khamsay explained procedures and steps in considering laws' provisions based on the 2017 Law on Criminal Procedure and the new Penal Code. When all the steps have been followed, a brief report of the case is submitted to the court committee, reporting the case situation and determining if the defendant is guilty or not, setting out the punishment, determining the court fee and stating the articles of laws used as reference.



## Mr Khamphet Somvolachith

Deputy Director, Department of Planning and International Cooperation

Office of the Supreme People's Prosecutor

"Criminal Cooperation and Extradition"



Mr Khamphet explained the general principles and procedures of extradition; consideration of an extradition request and submission of a request for extradition to another country. He shared that consideration of an extradition request is based on 4 principles, as defined under the international legal framework as well as in Lao PDR's Extradition Law: Reciprocity (Article 5); Dual Criminality (Article 7); Extraditable Offences (Article 7); and Rule of Specialty (Article 25).

Mr Khamphet outlined the ministries, organizations and agencies involved, and their roles, in the process and procedures of considering the requests and implementing extraditions, namely the Ministry of Foreign Affairs (Department of Treaty and Law); Office of Supreme People's Prosecutors (Department of Planning and International Cooperation); Ministry of Public Security (General Department of Police/Department of International Police); People's Prosecutor of Vientiane Capital (Criminal Committee); People's Prosecutor and People's Court of the Central Part.

Mr Khamphet added that in addition to the domestic and international legal frameworks, the process of considering extradition requests is also based on three types of evidence: objective evidence, documentary evidence; and personal evidence.



## Dr Heleen De Geest

Luxembourg Supervisory Authority (CSSF)

“Actors in the Criminal Courtroom”



Dr De Geest began by stressing the power invested in the courts as representatives of the State's authority. She distinguished between civil and criminal courts, and positioned her discussion in the criminal sphere. The aims and underlying principles of a criminal trial, including the rights of the accused, were then addressed.

The Common Law and Civil Law Criminal Justice systems were then comparatively defined, with the former representing an adversarial or dispute model, and the latter being an inquisitorial model. As the Lao PDR's justice system was influenced by the French system, it employs an inquisitorial system, as evidenced in the active role of the judge, an emphasis on written arguments, and the absence of jury-based verdicts.

Dr De Geest then identified the roles and responsibilities of the key actors in criminal proceedings including: the defence, the public prosecutor, the judge, and the victim. She noted that the victim - in contrast to the judge, the defence and the public prosecutor - plays a passive role in court proceedings. However, in some jurisdictions, such as Belgium, it has been recognised that being actively involved in the justice process is beneficial to a victim's recovery, and provisions have been introduced to enable such participation.

Finally, the issue of public trials and the subsequent role of the media in the justice system was discussed. Public trials are a feature of both Common Law and civil law Justice systems as they provide for transparency, accountability, and fairness. The 'public' includes the media, and the freedom of the media is the freedom of the people. This freedom, or right of society, can come into conflict with the rights of the accused. This is the case when media coverage creates a widespread perception of guilt or innocence, which can then influence court proceedings. This is known as 'trial by media', and is a risk inherent in the public trial system



## Dr Perrine Simon

University of Luxembourg / ILSTA

“Legal Approach to Concurrent Offences”



Dr Perrine examined concurrent offences in terms of competing offences, meaning the multiple offences that can be held against a suspect. She stated that it is important to look at two questions: when multiple legal classifications can be used for the same wrongful behaviour and what to do with multiple crimes?

Dr Perrine explained that to grasp common criminal reality from a legal point of view, it is essential to determine under which offence of the Penal code the act falls (legal classification of the behavior). Two guiding principles, the legality principle (no penalty

without a criminal offence defined by the law) and *ne bis in idem* (or double jeopardy, no one can be convicted twice for the same for the same act).

Determining the legal classification can be difficult because of the high number of criminal offences. In most countries this question is resolved by the judges and deduced from the facts. She outlined that it is fundamental to look at the elements of the specific offences (the material element/*actus reus* and the subjective element/*mens rea* (intent). Each element has to be identified for each offence, e.g. each crime will have a different material element and sometimes several material elements. Dr Perrine then looked at the situation where it is impossible to find a prevailing provision. For example, is an attempt to kill a government minister attempted murder or rebellion. Which crime is prevailing depends on the jurisdiction. In most countries, the judge picks one offence, generally the harshest.

Considering multiple offences raises the question of how to adjudicate on sentences (what type of penalties are applicable and can be cumulated?). Two approaches are possible, the purely cumulative one and the non-cumulative one. Dr Simon emphasized this is not a hypothetical case in Europe, especially where more evidence is acquired and there is a second trial. She finished her presentation by looking at Article 66 of the Lao Penal Code which deals with the “Prescription of Penalties for Offences Pertaining to Several Categories” and how it could be applied with the use of examples.



## Mr Ket Kiattisack

Former Vice Minister of Justice

“The Lao Penal Code 2017”



Prof. Ket explained that the Criminal Law of Lao PDR has been amended twice, the first amendment was done in 2003 with another amendment in 2005, until the country had its first Penal Code no. 26/NA, dated on May 17, 2017 which consists of 3 parts, 24 chapters and 425 articles. He explained that the Penal Code is a combination of more than 20 laws. Some new criminal offences have been included into the penal code. There are challenging issues for law enforcement authorities in Laos like the problems related to debtors who escape from debt repayments. Another new provision never previously defined in Lao criminal law, is the criminal

liability of legal entities. Prof. Ket explained that this new addition was due to the fact that many current offences are linked to entities or organisations, for example, criminal offences related to organised crime including drug trafficking, human trafficking, money laundering, environmental crime, etc.

A number of provisions from the 2005 Criminal Law have been amended in the Penal Code based on regional and international developments. Prof. Ket encouraged all participants, especially the relevant and responsible authorities, to further study the Penal Code in order to better understand the contents of every article and work out the implementation methodology for standardization and conformity. All participants were presented with a copy of the 2017 Penal Code for study and use in their line of duty.

Prof. Ket expressed his happiness at participating in such a significant conference and encouraged all participants to exchange best lessons learned.





## Mr Chanthy Polivanh

Director General of the Criminal Case Inspection Department

Office of the Supreme People's Prosecutor

"Comparison of the Law on Criminal Proceedings 2012 and 2017"



Mr. Chanthy outlined the main differences between the Law on Criminal Proceeding No. 17/NA, 2012 and the newly amended Criminal Procedure Law No. 37/NA, 2017, that consists of 15 parts, 30 chapters and 275 articles including 44 amended articles.

Mr. Chanthy explained in detail some of the amended articles in the 2017 Law, especially the articles have been amended, for instance Article 71: Laws and other Protectors, and Article 77: Rights and Duties of Military Investigation Officers which has been amended to correspond with the content of Article 3 of the Law on Military Officers of the Lao People's Army.

A copy of the new 2017 Criminal Procedure Law was disseminated to each participant so they can use as reference for further studies and in the implementation of their relevant duties.



## Mr Ketsana Phommachane

Director General of the Department of International Cooperation

Ministry of Justice

“Mutual Legal Assistance”



Mr. Ketsana explained the importance of Mutual Legal Assistance Treaties (MLATs) which comprise one of the key tools in combatting transnational organized crime. MLATs are agreements between two or more countries for the purpose of providing, exchanging and sharing information, evidence, statements and documents relevant to an investigation happening in at least one of those countries, or to provide evidence for a court case based on the scope of agreement of each treaty.

Lao PDR has signed bilateral MLATs with three countries: Vietnam (1998); China (1999); DPR Korea (2008). Lao PDR has also signed a multilateral MLAT with ASEAN countries in 2004, and is a party to many international criminal treaties e.g. UNTOC, UNCAC, which contain MLA provisions.

Mr. Ketsana shared some of the challenges for the Lao PDR in implementing MLA. The main challenge is the lack of a domestic law on MLA, which would clearly delineate the responsible implementing organizations for civil and criminal MLA. Currently the Ministry of Justice is the designated central agency for dealing with MLA, though it has insufficient capacity in languages as well as limited qualified personnel to adequately deal with MLA. He added that though the Ministry of Justice has been appointed as the central of coordination of mutual legal assistance for Lao PDR, the actual implementing agencies are other sectors including the Public Prosecutor and the Ministry of Public Security.



## Mr Somkhith Vankham

Deputy Director Department of Treaties and Law  
Ministry of Foreign Affairs

“Law on International Treaties and International Agreements”



Mr Somkhith explained that the Law on Treaties and International Agreements is the first law prepared by the Ministry of Foreign Affairs and approved by the National Assembly on May 8, 2017. The Law consists of 8 parts, 23 chapters and 137 articles. Mr Somkhith explained to the participants about the difference between a treaty and an international agreement: A Treaty is a written agreement, created in the name of Lao PDR with a foreign state, determining rights and obligations of the Lao PDR in accordance with international laws. An International Agreement is a written agreement, created in the name of an

organisation at the national or provincial level of the Lao PDR with a foreign contracting party on international cooperation in accordance with roles and scope of rights and duties of the concerned organisation and applied to the contracting organisation only.

He outlined 7 rights and duties of the Ministry of Foreign Affairs in the implementation of international treaties that Lao PDR is a party to, and the 3 rights and duties of the Ministry of Foreign Affairs in implementing International Agreements.

The Ministry of Foreign Affairs is the responsible coordinating agency in the management and monitoring of the implementation of international treaties and agreements with other organisations at national and provincial levels. Mr Somkhith shared the contacting information for further details on the Law on Treaties and International Agreements.



# Closing Remarks

## Mr Richard Philippart

President, Institute for Legal Support and Technical Assistance



Mr Philippart thanked and congratulated OSPP for organising and coordinating this important national event. In summarising the important lessons learned, Mr Philippart noted that the outcomes can be divided into two categories; one is “understanding” and the other one “addressing”.

In the matter of narcotics, the market is getting bigger. Seizures are rising, more arrests are being made. South East Asia is now the biggest market worldwide for methamphetamines.

He noted that the Space/Time relation has become smaller and now with the Internet, Apps on phones, OCGs operate faster than ever before and choose the way or passage of least resistance. Regional transport Infrastructure has made Laos a major crossroads and transit country and we have seen that OCGs operate in the region.

Mr Philippart stressed the need to understand what the problems are before they can be adequately addressed. He noted that cooperation between state actors is more important than ever. It was especially useful therefore to have a number of Lao agencies joining and sharing their expertise. We had a very informative presentation from a representative of the Anti-Money Laundering Intelligence Office (AMLIO) sharing with us the latest developments in the government’s efforts to address money laundering within the country.

The first National Risk Assessment is being completed and we were shown clearly that there are significant money laundering risks which need to be addressed. We had an important presentation on the need for a Mutual Legal Assistance Law, particularly given the upcoming Mutual Evaluation by FATF in 2020.

Mr Philippart congratulated the Lao government on promulgating a new Penal Code and Criminal Procedure Law and reinforced ILSTA’s commitment to support Laos in the dissemination efforts through the three regional conferences. Lastly, he thanked all the participants, speakers, and organisers, in particular the chair, OSPP, the University of Luxembourg, ILSTA, the Global Initiative, the Center for the Study of Democracy, Bulgaria, the Ministry of Finance of Luxembourg and the government of Canada.

# Mr Bounyang Chandalasane

Deputy Prosecutor General



Mr Bounyang expressed his appreciation to all of the participants for their active participation in this 3-day conference. He stated that this conference is significant, meaningful and useful, especially in capacity strengthening on combating organised crime. During these three days, we have seen many interesting presentations, as well as their relevant legislation, policies and operation scope, covering illicit narcotics, human trafficking and money laundering. We together have also studied and made better understanding the 2017 Penal Code. Mr Bounyang encouraged all participants to further put to use the contents and

results of the conference through information and knowledge exchange within their organisations at central and at local level and in applying the lessons learned at a practical level in their day-to-day work.

In officially closing the conference, Mr Bounyang thanked the conference organising committee for its great efforts in preparing and in ensuring the success of the 2019 National Conference.

## Conference Recommendations:

- This conference continues as an annual meeting for capacity building and sharing lessons learned; (4e Conference February 2020)
- Disseminate the knowledge on narcotics, human trafficking and money laundering to the authorities in the provinces;
- Develop capacity for all the provincial officials for the combating of organised transnational crime;
- Support the dissemination and capacity building of the Penal Code, Criminal Procedure code and other relevant legislation;
- Strengthen the data collection and elaborate an analysis on organised crime networks and potential threats;
- Support closer coordinating and monitoring of all the relevant agencies, both domestic and international in combating trans-national crime;
- Disseminate and create more awareness of the lessons learned from this conference across the nation.

# Presentation of Prizes for Legal Knowledge Quiz

## Winners:

**Ms Vilayphone Sithiso**, Anti-Money Laundering Intelligence Office

**Mr Tamnieng Vongsaykham**, Office of the Supreme People's Prosecutor

All attendees at the conference took part in a multiple-choice legal knowledge quiz, which tested their knowledge on themes and topics of the conference, such as drug crime, human trafficking, smuggling of migrants, wildlife crime, cybercrime, money laundering, and corruption amongst others.



Pictured from left to right, Mr Richard Philippart, President of ILSTA, Ms Vilayphone Sithiso from AMLIO receiving her prize, Mr Timothy Edwards, Chargé d'Affaires, Office of the Embassy of Canada in Laos, Mr Bounyang Chandalasane, Deputy Prosecutor General of Laos



# Delegations of the provinces and capital :



















Institute for Legal Support and Technical Assistance



# Join us on Facebook

**ILSTA Laos**  
@ILSTA.org

- Home
- Posts
- Videos
- Photos
- About
- Community
- Promote
- Manage Promotions

Liked Following Share ...

ກອງປະຊຸມສ້າງຄວາມເຂັ້ມແຂງໃນການຕ້ານອາຊະຍາກຳຂ້າມຊາດທີ່ມີການຈັດຕັ້ງ, ຈັດຂຶ້ນໃນວັນທີ 26-28 ກຸມພາ ທີ່ນະຄອນຫຼວງວຽງຈັນ ໄດ້ສ້າງຂີດໝາຍ ຄວາມສຳເລັດໃນການພັດທະນາດ້ານກົດໝາຍ ໃນ ສປປ ລາວ. ກອງປະຊຸມຄັ້ງນີ້ໄດ້ສ້າງໝາກຜົນອັນດີ ໃຫ້ແກ່ຜູ້ເຂົ້າຮ່ວມຕ່າງໆ ຈາກ ພາກເໜືອ, ພາກກາງ ແລະ ພາກໃຕ້ ໃນການແລກປ່ຽນຂໍ້ມູນພາຍໃຕ້ຫົວຂໍ້ ກ່ຽວກັບ ບັນຫາຢາເສບຕິດ, ການຄ້າມະນຸດ ແລະ ການຟອກເງິນ. ສະຖາບັນ ILSTA ຮູ້ສຶກ ປິຕິຍິນດີ ແລະ ເປັນກຽດຫຼາຍທີ່ເປັນພາກສ່ວນໜຶ່ງໃນຜົນສຳເລັດຄັ້ງນີ້.

The Annual Conference on Strengthening Capacitie... See More  
See Translation

+13

visit us at [www.ilsta.org](http://www.ilsta.org)