



Institute for Legal Support and Technical Assistance

Regional Conferences 2019

Luang Prabang, Xieng Khouang, Khammouane

*Strengthening Capacities on Combating Transnational Organised Crime
with a focus on Illicit Drugs, Human Trafficking and Money Laundering*

City of Luang Prabang,
Luang Prabang Province

March 27th-29th 2019

Phonsavan
Xieng Khouang Province

June 26th-28th 2019

Thakhek
Khammouane Province

August 28th-30th 2019



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THE GLOBAL INITIATIVE
AGAINST TRANSNATIONAL
ORGANIZED CRIME

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Regional Conferences 2019



Luang Prabang, March 27th – 29th 2019



Xieng Khouang, June 26th – 28th 2019



Khammouane, August 28th – 30th 2019

Table of Contents

National Conference, February 26th - 28th, Vientiane

Luang Prabang

Regional Conference.....	4
Key Notes.....	5
Presentations.....	6
Case Studies	10
Legal Knowledge Quiz.....	16

Xieng Khouang

Regional Conference.....	17
Key Notes.....	18
Presentations.....	19
Case Studies	23
Legal Knowledge Quiz.....	26

Khammouane

Regional Conference.....	27
Key Notes.....	28
Presentations.....	29
Case Studies.....	33
Legal Knowledge Quiz	35

National Conference on Transnational Organised Crime with a focus on Illicit Drugs, Human Trafficking and Money Laundering February 26th - 28th, Vientiane

This National Conference is a tool to strengthen capacity and coordination to combat organised crime.

This year the Annual National Conference held at the National Convention Centre in Vientiane was followed by three Regional Conferences in the Northern, Central and Southern Provinces.



The key objectives of the conferences are to:

- Foster awareness on the national and international legal provisions on organised crime, with a focus on ***illicit narcotics human trafficking*** and ***money laundering***;
- Promote and ***disseminate*** best practices to address transnational organised crime;
- Provide and sustain a platform for ***cooperation*** between the key agencies of law enforcement and the judiciary in order to counter organised crime.



Map of Laos





Regional Conference in Northern Laos, Luang Prabang Province



The Conference was held in Luang Prabang Province from 27th – 29th of March. Law enforcement and judiciary from seven provinces attended: Luang Prabang, Phongsaly, Huaphan, Luang Namtha, Bokeo, Xayaboury and Oudomxay.



Key Notes



"Organised crime is a serious threat to our country and foremost to our region as a whole, our efforts have to come together in order to be able to share expertise, with the aim to an efficient fight against organised crime. With the adoption of the new Penal Code we need to improve the knowledge of its provisions and even more, of the proper application of the law. "

Prosecutor General Mr Khamsane Souvong

Mr. Vongsavanh Thephachanh, Deputy Governor of the Province of Luang Prabang, stressed the importance of international expertise in the fight against transnational organized crime.

"Compliance with international standards, exchange and information sharing are key for results-oriented national actions in combating criminal phenomena. We are in urgent need for highly skilled professionals and this is a very good opportunity for us all to upscale our knowledge and skills."



President of ILSTA, Mr. Richard Philippart stated that "Southeast Asia is exposed to a number of security challenges, illicit narcotics, precursors to manufacture narcotics, human trafficking, smuggling of migrants, illegal wildlife trade, counterfeit products, money laundering and corruption. These matters are interconnected as organised crime groups are often involved in more than one illicit activity."



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"

Mr Vongpeth presented on the drug situation in Laos, highlighting that this is prioritised at the national level. He gave an overview of the Lao laws and regulations which deal with this matter. Specific attention was given to the offences related to narcotics in the new Lao Penal Code, which was disseminated to all participants at the Conference.

Significant seizures of illicit goods reported in 2018 have involved drugs and precursors, especially in the regions with international borders. Mr Vongpheth highlighted that in the Golden Triangle region shared by Laos, Myanmar and Thailand, the drug issue remains an urgent matter, as large seizures of methamphetamine tablets have been made.

Opium cultivation is still widespread in the country despite alternative economic opportunities, such as coffee or tea plantations. Programmes introducing such opportunities have been implemented in these regions, but it is not uncommon for locals to return to poppy cultivation, for which a demand remains and which brings them higher profits.

Mr John Connolly

Director, Institute for Legal Support and Technical Assistance

"Money Laundering and the Predicate Offence"

The process of money laundering was explained by Mr John Connolly, an ILSTA expert, highlighting definitions, types, and measures to take in countering money laundering. Money laundering is the process of concealing the origins of money obtained illegally. A drug trafficker, for example, needs to hide the origin of his wealth in order to avoid detection by the police. Mr Connolly explained some common money laundering schemes and the typologies of crimes it can be related to. He also presented an overview of the Lao legislation to counter money laundering.





Mr Ket Kiettisack

Former Vice Minister of Justice

"The Lao Penal Code 2017"

Mr Ket stated that the promulgation of the Penal Code and the upcoming adoption of the Civil Code are milestones for the development of the Lao legal sector.

The new Penal Code brings more clarity and amended penalties for a number of crimes, including chapters on corruption, narcotics, and a strong emphasis on organised crime and transnational offenses. Mr Ket explained the innovations brought in by the Penal Code, such as criminal liability of legal persons. The Penal Code was disseminated to all participants at the Conference.

Significant seizures of illicit goods reported in 2018 have involved drugs and precursors, especially in the regions with international borders. Mr Vongpheth highlighted that in the Golden Triangle region shared by Laos, Myanmar and Thailand, the drug issue remains an urgent matter, as large seizures of methamphetamine tablets have been made.

Mr Keith Farquharson

Programme Officer, Institute for Legal Support and Technical Assistance

"Introduction to Financial Investigations"

Mr Farquharson presented on the types and process of money laundering, and on the methods criminals use to hide their illegal proceeds. He elaborated on investigation techniques such as "following the money" and gathering and preparing evidence through sharing best international practices. He emphasized the importance of parallel investigations of money laundering and predicate offences, explaining that the money trail often leads to the criminal activity behind it.



Lieutenant Colonel Khampane Sayavong

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

“Legal Proceedings on Human Trafficking”

Mr Khampane presented on human trafficking in Laos, giving a detailed overview of the situation and outlined the work of the anti-human trafficking department. He gave a detailed legal analysis of the offence of human trafficking and the amended provisions of the new Penal Code as well as the international laws to which Laos is a party. He presented a series of practical cases which highlighted the importance of legal cooperation between countries in complex matters such as the offence of human trafficking.



Ms Alina Timus

Programme Officer, Institute for Legal Support and Technical Assistance

“Human Trafficking”

Ms Alina Timus outlined the definition of 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.

Indicators of human trafficking such as 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 can be domestic as well as transnational.

The differences between smuggling of migrants and human trafficking were discussed, noting that for the offence of smuggling of migrants, consent is given a priori, and it involves a transnational movement, whereas human trafficking can be both internal or transnational and involves exploitation.



Dr Perrine Simon

University of Luxembourg/ILSTA

“Actors in Court”



Dr Perrine presented on the actors involved in a judicial trial. She explained the aims and underlying principles of a criminal trial, including the rights of the accused. The expert explained the roles and responsibilities of the judge and other key players in a trial and in different law systems.

She explained the role of the jury in the French law system, the process of choosing the jury, and its role in the decision making. Dr Perrine stressed the importance of the independence of the judges in a trial and in a judicial system as a whole, and the guarantees they represent for an independent judiciary and a rule-of-law state. The judges are not only the guarantors of the system of law, but are also the guardians of an efficient and harmonised application of the law.

Mrs Bounthai Pankeo

Director General of the Department of Planning and International Cooperation
Office of the Supreme People's Prosecutor

“Extradition”

Mrs Bounthai explained the general principles and procedures of extradition in Laos, the considerations of an extradition request and the submission of a request for extradition to another country. Consideration of an extradition request is based on four principles, as defined under the international legal framework as well as in Laos' Extradition Law: Reciprocity (Article 5); Dual Criminality (Article 7); Extraditable Offences (Article 7); and Rule of Specialty (Article 25).

Mrs Bounthai outlined the ministries and organisations involved in the process and procedures of considering the requests and implementing extraditions, namely the Ministry of Foreign Affairs; Office of Supreme People's Prosecutor; Ministry of Public Security; People's Prosecutor of Vientiane Capital; and the People's Prosecutor and People's Court of the Central Part.



Case Studies



The Conference put a focus on practical case studies in group exercises. This allowed for more interaction amongst participants with discussions on theory and practice.





Participants learnt how to trace the proceeds of crime and develop this intelligence into evidence for use in criminal proceedings. Experts highlighted the “follow the money” technique to be applied by attendees during these practical exercises. Specialised legal, financial accounting, analytical and investigation skills are essential for combating money laundering and the practical exercises proved an effective way to develop and improve these skills.



Q&A



Q : Question from Prosecutor General, Mr Khamsan Souvong :

What are the major challenges you have experienced, and what methods do you use to combat human trafficking with reference to financial matters?

A : The expert referred to a study undertaken by the Center for the Study of Democracy, Bulgaria, where researchers had collected field data in nine countries. They mostly used interviews with police officers, customs

officers, and some offenders. Interviews with the latter were particularly useful as they could gain insights into how criminals think and increase their understanding of their business models.

The biggest challenge was trying to get investigators to focus on financial matters in criminal investigations, rather than focusing solely on the crime. Because financial data is not always important for judicial purposes, it can be hard to access that data. Therefore, we need to promote parallel investigations, with each arm of the investigation supporting the other. A “parallel financial investigation” means a financial investigation that takes place alongside a (traditional) criminal investigation into human trafficking, drug trafficking and/or related offences.

Q : What methods of oversight should officials at the border use to detect human trafficking cases?

A: They should look for general indicators and consider the psychology and behaviour of victims. Usually the victim is travelling with someone and their passport is retained by this other person. Usually they cannot speak the language of the destination country so someone else responds for them when the border officer asks the purpose of their travel. Victims are afraid or in shock. Border officials should look out for victims giving signals of distress or pleas for help when crossing borders.





Q: Mr Saisomone President of Xaysomboune People's Court asked about the sale of body organs and specifically if it can be considered as a consensual transaction.

A : It is a regional problem, but not so widespread in Laos. The voluntary sale of organs is first and foremost a matter of ethics and morality at different levels, before the factor of economic motivation.

When it comes to the sale of body parts, this generally occurs in poor regions or countries, where people in economic difficulty are the most vulnerable. The body part transplant market is a very limited one and because it is also not accessible to everyone, there are those who take advantage of the economic possibilities and turn to the black market.

This relationship between the buyer and seller may become exploitative, the seller to be coerced or bonded by a debt. The seller of body parts may not be granted the best medical services and recovery after the surgery. Some other aspects should also be taken into account, such as performing a surgery without a medical license, setting up medical facilities without certification, the life risks that these operations entail, the organ seller loses something unique and irreplaceable, and many others.

Q : Ms Vilaysinh Dainhansa from OSPP asked about the prosecution of cumulative offences.

A : Dr. Perrine Simon replied that in most countries, solutions have been developed by judges adjudicating cases. French case law has for example developed some rules about how to choose between multiple legal qualifications. Generally, only one qualification (prosecution under one offence) should prevail: the offence with the harshest penalty. But there are some exceptions. The judge considers the plurality of the values protected by the offences in the Penal Code



and in some cases decide to cumulate several offences. For example, in the case of someone endangering someone's life by attacking a building, "attempted murder" protects life and the destroying of a building addresses a different interest – ie property - so cumulating sentences could be acceptable.



Q: *It is difficult for Laos to combat money laundering and organised crime. Only 2% of containers coming in to the country have physical inspections. Now the One Belt, One Road initiative will extend the freedom of movement of goods and people across our borders. What is your suggestion to prevent transnational crime crossing our borders?*

A: There are three things the Lao PDR can do right now.

First, recognise that threats exist from organised crime in this region.

Second, identify and document threats, which requires internal and external collaboration, and

Third, prioritise a response and identify resources to support that response.

Prioritising is important. The drug trade today is bigger than it has ever been. We must accept that organised crime may never be eliminated, but we can limit the damage it causes to Laos by identifying the areas of highest risk and putting resources into those areas.

Q: *How should we investigate money laundering based on the wealth of someone?*

A: Wealth on its own is not an indicator of criminality. All of the money accrued by suspected criminals must be investigated, so that it builds to the point where it can be proven that the person had to know the money was from the proceeds of crime. A sign that someone is receiving the proceeds of crime is if they are living beyond their legitimate income. Cybercrime and cryptocurrencies are also relevant to money laundering, and need to be considered in financial investigations.



Q: If we have identified the target of a money laundering investigation, and we find out the source of their money is a crime, do you have examples or case studies of how we should proceed?

A : Article 130 of the Lao Penal Code defines the offence of money laundering, and clearly states that the money in question must come from a predicate offence. Not only that, but the person being prosecuted must have known that the source of the money was a crime. The benefit of investigating the source of the money is that it can help you prove the suspect knew where the money came from, and in doing so, you may be able to identify others in the criminal network.

One of the main drivers of criminal activity is the acquisition of profit. It also provides criminals with further resources to continue their illicit activities. Ensuring that criminals will not profit from their illicit activities is therefore a key issue for the prevention of criminality.



The recovery of proceeds of crime is crucial to ensure that the assets deriving from crimes are recovered and returned to the place of origin, thereby ensuring that the victims of crime and the economies from which the assets were taken do not suffer economic loss.

Asset recovery initiatives focus on the timely return of stolen assets. In cases where there are no specific victims, such recovered assets should be used to strengthen the system of law enforcement.



Legal Knowledge Quiz

All attendees at the regional conferences took part in a legal knowledge quiz focusing on human trafficking, illicit drugs and money laundering.



The winner of the First Regional Conference Quiz, Luang Prabang
Mrs Phonethip Thianmala - Public Prosecutor from Oudomxai Province





Regional Conference in Central Laos, Xieng Khouang Province



The Conference took place in Phonsavan, Xieng Khouang Province from 26th – 28th of June. Law enforcement and judiciary from four central provinces attended, as well as Vientiane Capital: Xieng Khouang, Bolikhamxay, Vientiane Province, and Xaysomboune.



Key Notes



Mr Bounyang Chandalasane, Deputy Prosecutor General of Lao PDR, stressed in his opening remarks “international support and expertise in the fight against transnational organised crime is important, this phenomenon poses significant challenges to all countries in the region.”

President of ILSTA, Mr. Richard Philippart, highlighted that “organised crime is a real and increasing threat to states. It is a commercial enterprise, impacting seriously the people and can put at risk economies and the national interests of a country, as well as their reputation on the international stage.”



Mrs Bounthai Pankeo, Director General of Department of Planning and International Cooperation, OSPP observed that “the exchange that we have in these workshops is very important to us and we appreciate the contribution of the experts, and the practices they have to share with us. We will continue our cooperation with ILSTA and will have many more events to come. ”





Mr John Connolly

Director, Institute for Legal Support and Technical Assistance

"Money Laundering and the Predicate Offence"

Mr Connolly explained the basic concepts of money laundering and predicate offences and how they are inter-related. He also introduced Article 130 of the Penal Code 2017 which makes money laundering a criminal offence in Laos.

Mr Keith Farquharson

Programme Officer, Institute for Legal Support and Technical Assistance

"Introduction to Financial Investigations"

Mr Farquharson described how financial investigations seek to "follow the money" produced by predicate offences in order to gather evidence which can be used in a money laundering prosecution. He explained the benefits of running a financial investigation in parallel with the investigation into the predicate offence from which the illicit funds or assets stemmed. Mr Farquharson led a group exercise which examined 24 documents for intelligence which might be useful during a fictitious investigation into potential money laundering and related predicate offences.



Mr Tom Hansen

International Anti-Money Laundering
Expert, ILSTA

"Practical Considerations for Law Enforcement Agencies for International Cooperation"

Drawing on his experience in law enforcement, Mr Hansen highlighted important issues which have to be addressed when law enforcement agencies in one country require the assistance of their counterparts in one or more foreign jurisdictions during the course of an investigation. He gave guidance on best practice in some situations which commonly arise.

Mr Hansen presented an investigation into a drug trafficker known as the "Ice Queen", who had fled from China to Canada. He guided attendees through the various stages of the investigation describing the steps taken by investigators and the reasons for those actions.



Dr Perrine Simon

University of Luxembourg/ILSTA

"Actors in Court"

Dr Perrine explained the difference between civil and criminal cases before focusing on criminal trials. She outlined the aims of a criminal trial and described the roles of the various parties involved in such trials.

Lieutenant Colonel Khampane Sayavong

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

"Legal Proceedings on Human Trafficking"

Lt Col Khampane presented the extent of human trafficking in Laos and the factors driving it. He stressed the cruel treatment of victims by their traffickers and the life-changing effects that this has. Lt Col played an excerpt of a telephone call made by a young Lao woman begging for someone to help her escape her captors.





Ms Alina Timus

Programme Officer, Institute for Legal Support and Technical Assistance

"Human Trafficking"

Ms Timus described the elements which constitute the crime of human trafficking and several of the indicators which can alert law enforcement agencies to the fact that people are being trafficked in their jurisdiction. She also stressed that the victims of human trafficking can be young or adult, female or male, and that it is important to identify the victims in a human trafficking case in order to prevent them from being treated as offenders.

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 provided some statistics relating to the number of drug users in Lao PDR and the various narcotics to which they are addicted. He displayed a satellite image which showed that opium cultivation is on the increase in the country and outlined the steps which the authorities are taking against this and the production of other drugs, including synthetic narcotics.



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 described the changes to the conduct of criminal proceedings in the Criminal Procedure Law 2017, which was disseminated to all participants. He gave details on the 44 amended articles in the 2017 law.



Mrs Bounthai Pankeo

Director General of the Department of Planning and International Cooperation

Office of the Supreme People's Prosecutor

"Extradition"

Mrs Bounthai outlined the framework for extradition in Lao PDR and the roles and duties of the parties involved in the extradition process. She noted that many of the checks undertaken during an extradition are the same as those carried out in countries bordering Lao PDR.

Mr Thongmay Mounbandith

Judge and Deputy Director of the Criminal Court Chamber
People's Supreme Court

"Decisions of the Court"

Mr Thongmay addressed a number of challenges for prosecutors and judges in certain criminal cases. He highlighted the fact that some laws, such as the criminalisation of money laundering, created new cases of which prosecutors and judiciary had little experience and that although the Penal Code 2017 had replaced or amended articles in several existing laws other articles in those laws remained in force and available to prosecutors to bring charges.



Mr Inthapanya Khieovongphachanh

Department of Legislation

Ministry of Justice

"Penal Code 2017"

Mr Inthapanya introduced some of the notable changes to Lao criminal law brought in by the Penal Code 2017. He drew attendees' attention to the criminal liability of legal persons, prescription of penalties, offences relating to narcotics and offences concerning corruption.



Case Studies



Organised crime extends to different countries and regions, involves many actors, and significant amounts of money. Mr Tom Hansen shared his practical experience as a former police officer on investigation techniques and international judicial cooperation for combating organised crime. Attendees were led through a case study of a drug kingpin which covered a number of jurisdictions.

In the context of fast-growing economies and hi-tech development, law enforcement agencies need to be fast, agile and smarter than the criminals, keeping pace with the latest technological developments. During this practical session, the participants were able to follow step-by-step an investigation involving several jurisdictions.



Q&A



Q: If someone has become abnormally wealthy but with no identifiable commission of predicate offences, how should we proceed with a financial investigation?

A : Basically, a financial investigation is an enquiry into the financial affairs related to a criminal activity. One of the main aims is to identify and trace the proceeds of the crime. It can also be used to develop evidence for use in criminal proceedings. The “follow the money” technique should lead you to the source of this abnormal wealth, and it should also lead you to the criminal activity. Parallel investigations, therefore, are very important in finding leads and linking dots in complex cases.

Q: When the victim is in a foreign jurisdiction, Laos usually deals with the relevant consulates to have the person repatriated. How could we improve the procedure?

A : The first step to solve and facilitate this issue in Laos would be the adoption of a Mutual Legal Assistance Law, which would regulate the procedures of gathering and exchanging information with foreign counterparts, and also establishing harmonised procedures at the national level.



For judicial cooperation to be effective the respect and enforcement of mutual legal assistance treaties (whether regional or bilateral) are crucial. If treaties are not in place the extradition procedures will have to go through lengthy processes and will often take much more time, especially when a temporary arrest warrant has to be put in place. The designated central agency in charge of extraditions will have to be notified and further delays will be encountered as matters are handled via diplomatic channels.





Q: How should investigations for predicate offences be conducted?

A : Following the FATF recommendations, in all cases related to major proceeds-generating offences, these designated law enforcement authorities should develop a pro-active parallel financial investigation when pursuing money laundering and associated predicate offences.

When conducting investigations on money laundering and terrorist financing, authorities should access all necessary documents and information, including information relevant to the investigation which is held by the Financial Intelligence Unit. Countries should ensure that authorities conducting investigations are able to use a wide range of investigative techniques such as undercover operations, intercepting communications, accessing computer systems and controlled delivery.

Q: In Luang Namtha Province, which borders China, there are cases of human trafficking. How can we provide assistance to victims?

A : Human trafficking is a traumatic experience. First of all, the survivors have to get access to assistance and special protection after their experience. Victims need access to medical and psychological care, immediate basic needs, employment assistance, transportation services, and immigration and legal services. This will help the victims to reintegrate to the home communities.

Awareness raising plays an important role in preventing these crimes and informing communities and potential victims of the risks.



Q: How can we improve awareness raising on human trafficking?

A : Awareness raising campaigns are aimed at two main audiences, namely the potential victims and the general public. They have two functions: to prevent human trafficking and to assist victims in need of legal or social services. Another way of raising awareness is specialised centers with the contribution of persons who had the

unfortunate experience of being trafficked, but who are willing to share their stories in the hope of stopping other people from making the same mistakes.

Public education campaigns are another way of raising awareness and spreading information about the risks of human trafficking, combating disinformation and reaching vulnerable people.

Legal Knowledge Quiz



Winner of the Second Regional Conference Quiz, XiengKhouang
Mr Xeu Xeng - at People's Court, Xieng Khouang Province





Regional Conference in Southern Laos, Khammouane Province



The third Regional Conference took place in Thakhek, Khammouane Province from 28th – 30th August and was attended by law enforcement and judiciary from six southern provinces: Khammouane, Savannakhet, Saravan, Attapeu, Champasak and Xekong.



Key Notes



Mr Xaysana Khotphouthone, Deputy Prosecutor General of Lao PDR, highlighted in his opening speech that "organised crime is a highly important topic to consider, law enforcement agencies have to be ready to cope with this issue that is threatening the citizens as well as the wellbeing and security of a country as a whole."

President of ILSTA, Mr Richard Philippart, underlined that "Laos has now the legislative tools (a Penal Code, a criminal procedure law, an anti-money laundering law, a law on narcotics, a law on human trafficking) but the enforcement of these laws remains of major importance to combat organised crime and to protect society."



Mrs Bounthai Pankeo, Director General of Department of Planning and International Cooperation, OSPP, underlined the importance of inter-institutional cooperation and exchange, encouraging the participants to take advantage of the presence of international experts and use it to benefit their professional skills.



Mr John Connolly _____

Director, Institute for Legal Support and
Technical Assistance

"Organised Crime"

Mr Connolly considered how best to define organised crime before looking at some specific examples. He also described the various structures which organised criminal groups adopt in carrying out their illegal activities.



Mr Keith Farquharson _____

Programme Officer, Institute for Legal
Support and Technical Assistance

"Introduction to Financial Investigations"

Mr Farquharson stated that, although money laundering is criminalised, financial investigations are not systematically undertaken in Laos when predicate offences related to organised crime

are discovered. Proceeds of crime, therefore, remain with the criminals who use them to finance their lavish lifestyle and to commit further crimes. Using a case study, he explained how to "follow the money" via financial investigations.

Dr Perrine Simon _____

University of Luxembourg/ILSTA

"Actors in Court"

Dr Perrine stressed the importance of the judiciary and the role of judges in delivering justice by adjudicating on individual cases and deciding on legal issues which creates jurisprudence.



The presentation also identified the main actors in a criminal trial. Dr Perrine Simon noted the role of the prosecutor in collecting the evidence against the accused, on the one hand, and, on the other, the rights of the defence, in particular the presumption of innocence, which in Laos is protected by the Criminal Procedure Law.

Lieutenant Colonel Khampane Sayavong

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

“Legal Proceedings on Human Trafficking”

Lt. Col. Khampane explained that traffickers are attracted by the tremendous profits they make out of a little investment in “buying” a human being sometimes for as little as 1 million Kip (USD\$110), which is exacerbated by the high level of poverty along with poor education. Mr Khampane also detailed the offence of human trafficking and its three components (act, means and purpose) highlighting the exploitation taking place and the severe effects on the physical, mental and sexual health of the victims.



Ms Alina Timus

Programme Officer, Institute for Legal Support and Technical Assistance

“Human Trafficking”

After recalling the global threat caused by human trafficking and the particular vulnerability of children and young women, Ms Alina Timus detailed the definition of human trafficking given by the new Penal Code (article 215).

The offence consists of three components. She listed some indicators for investigators to identify human trafficking such as the use of threats or of force, the deprivation of food and sleep or the debt bondage of the family of the victim. She also noted the distinction between human trafficking and other offences such as the smuggling of migrants (article 128 Lao Penal Code), forced prostitution (article 253 Lao Penal Code) or forced marriage (article 268 Lao Penal Code). Following her presentation, Ms Timus led the participants in a group exercise based on an actual human trafficking case study.

Mr Inthapanya Khieovongphachanh

Department of Legislation
Ministry of Justice

“Penal Code 2017”

The presentation focused on the new Penal Code adopted in 2017. This is a codification of more than 20 pre-existing laws and also contains some new criminal offences. Mr Inthapanya insisted on the need for proper enforcement of this new piece of legislation, stressing that enforcement authorities should know and act on the basis of the law.





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"

Mr. Vongphet gave an overview of the current situation in Lao regarding drug trafficking. Drug trafficking is on the rise as the increase in drug seizures shows, although this is only a small portion of actual crime related to

narcotics. After listing recent high-level seizures in different provinces, Mr. Vongphet detailed the challenges law enforcement authorities face. These include drug seizures and accurately weighing and measuring synthetic drugs as this is important evidence in a prosecution and in applying the right penalty following a guilty verdict.

Mrs Bounthai Pankeo

Director General of the Department of Planning and International Cooperation
Office of the Supreme People's Prosecutor

"Extradition"

Mme Bounthai introduced the participants to the general principles and procedures of extradition, looking in particular at the institutional procedures which a request for extradition must follow. She drew attention to the principle of dual criminality (offences which are criminalised in both requesting and executing country) and on the principle of specialty.

Mme Bounthai also listed the existing bilateral conventions binding Laos (with China, Vietnam and North Korea) and put the emphasis on the few numbers of bilateral agreements as well as on the low number of actual extradition cases.



Mr Thongmay Mounbandith

Judge and Deputy Director of the Criminal Court Chamber
People's Supreme Court

"Decisions of the Court"

Judge Thongmay gave an overview of the steps to bring a case to a criminal court, insisting on the link between the pre-trial phase (police investigation and evidence gathering by the prosecutor) and adjudication of the case by the courts. He recalled the inclusion in the Lao

criminal procedure law of the principle of "presumption of innocence" meaning that convictions have to be based on evidence. Without evidence judges are compelled to declare the accused innocent. Suspects should not be convicted based only on their confessions.



Mr Souphasith Lorvanxay

Deputy Director of Criminal Case Inspection Department
Office of the Supreme People's Prosecutor

"Monitoring Legal Proceedings on Drug Cases"

Mr. Souphasith Lorvanxay presented the new legislation on criminal procedure adopted in 2017 together with the Penal Code and amending the preexisting law on criminal procedure from 2012. Mr. Souphasith gave an overview of the principles and rules related to criminal procedure to clarify the correct way in which to deal with criminal cases.

Mr Tom Hansen

International Anti-Money Laundering Expert, ILSTA

"Practical Considerations for Law Enforcement Agencies for International Cooperation"

Mr Hansen shared with participants international best practices in judicial cooperation. He highlighted important issues which have to be addressed when law enforcement calls upon Mutual Legal Assistance and gave some guidance from his personal experience as a police officer in Canada.

Mr Hansen presented a case study of the "Ice Queen", a drug boss who fled to Canada from China. He guided attendees through the various stages of the investigation describing the steps taken by investigators and the reasons for those actions.



Case Studies



In Khammouane the practical exercises were highly appreciated by the law enforcement agencies and representatives of government institutions. The case studies enhance skills to analyse, investigate and prosecute complex offences, such as organised crime, financial crime, money laundering and human trafficking cases. An additional benefit of these practices is improved inter-agency collaboration.

The practical exercises incorporate country-specific laws, commercial and banking records and enforcement procedures, making it directly useful to participants' everyday work.



Q&A



Q: As we already know, many Lao people cross the border to Thailand in order to find a job. A lot of times the employers take advantage of them, like paying lower wages or even no wages at all. So, if the employer does not pay his workers, is this human trafficking or not?

A : Mr. Thongmay Mounbandith, Judge and deputy of Criminal Chamber of the People's Supreme Court responded that this cannot immediately be assumed to be human trafficking. We have to look through the stories and the facts and find out whether this really is forced labour. However, forced labour is not the same as human trafficking and they are two different

offences in the Penal Code. For example, if you work without receiving a salary, but you can go wherever you want and your employer does not prevent you from contacting other people, this cannot qualify as human trafficking. On the other hand, if you were detained, beaten, tortured, not allowed to go outside, paid no salary and forbidden to contact your family, then this could be considered human trafficking.



Legal Knowledge Quiz




Winner of the Third Regional Conference Quiz, Khammouane
Mrs Maneehone Oudomkhathi - Director of Criminal Cases Inspection Division of Salavan



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

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