



Institute for Legal Support and Technical Assistance

Regional Conferences 2020

Luang Prabang, Khammouane, Champasak

Strengthening Capacities on Combating Transnational Organised Crime with a focus on money laundering, human trafficking, evidence in criminal proceedings and international cooperation in criminal matters.

Luang Prabang City,
Luang Prabang Province

July 28th – 30th, 2020

Thakhaek District,
Khammouane Province

October 13th – 15th, 2020

Pakse City,
Champasak Province

November 23rd – 25th, 2020

Organised by



Office of the Supreme People's Prosecutor (OSPP)



Institute for Legal Support and Technical Assistance (ILSTA)

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Luang Prabang, July 28th – 30th, 2020



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National Conference on Combating Transnational Organised Crime with a focus on money laundering, evidence in criminal proceedings and mutual legal assistance

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

The National Conference is a platform to strengthen the capacities and coordination of Lao law enforcement agencies in combating transnational organised crime.



The National Conference :

- Fosters awareness on the national and international legal provisions on organised crime, with a focus on **money laundering, human trafficking, evidence in criminal proceedings and international cooperation in criminal matters;**
- **Exchanges best practices** to address transnational organised crime;
- Provides and sustains a platform for **cooperation** between law enforcement agencies and the judiciary to counter transnational organised crime.



Map of Laos





Regional Conference in Northern Laos Luang Prabang Province

The first Regional Conference, held in Luang Prabang City, Luang Prabang Province from 28th – 30th July 2020, brought together judiciary and law enforcement agencies from seven northern provinces: Luang Prabang, Phongsaly, Houaphan, Luang Namtha, Bokeo, Xayabouly and Oudomxay.



Opening

Mr Khamsan Souvong

Prosecutor General

The Office of the Supreme People's Prosecutor of Lao PDR



With globalization, criminal groups have expanded their transnational networks. This poses a threat to national development. The Office of the Supreme People's Prosecutor has continued to develop legal instruments on combating organised crime to ensure uniformity and better cooperation among the concerned state agencies. The key agencies of law enforcement must continue to strictly perform their duties in accordance with the existing laws and regulations.

Mr Richard Philippart

President and Director General of the Institute for Legal Support and Technical Assistance

The COVID-19 pandemic has affected thousands of people's lives and caused difficulties in their living conditions. This may lead them to find opportunities in the black economy, where organised criminal groups can take advantage to expand their criminal activities, namely human trafficking, drug trafficking, money laundering and others.

The criminal groups have adapted to the changing environments and become transnational, which puts high-risk countries into a vulnerable position. Hence, mutual legal assistance is crucial in dealing with these crimes which are critical issues in the ASEAN region.



Presentations

Mr John Connolly

Director of ILSTA

“Crime Types and Organised Crime”

A crime is an unlawful act punishable by a state or other authority. Crime is classified into different typologies such as violent crime, property crime, drug offences and organised crime. Law enforcement agencies record annual crime statistics under the different classifications. An analysis of crime trends informs policy makers where to focus prevention and policing resources. The Lao Penal Code 2017 groups offences into specific chapters, such as drug offences, corruption, economic crimes and crimes against property.



Ms Alina Timus

Programme Officer of ILSTA



Ms Timus presented an overview of environmental crimes, cybercrime, human trafficking and white-collar crime. Lao PDR is a transit for criminal groups to transport endangered animals to destination countries such as Vietnam and China. Illicit logging, cybercrime and white-collar crime are also serious issues which require comprehensive regulations. International cooperation between the relevant authorities and agencies in combating these crimes is very important.

Mr Thavone Keophila

Head of the Division of Case Inspection, Ministry of Public Security

“Human Trafficking in Lao PDR”

The root causes of human trafficking are poverty, family status and lack of education. The Party and government have implemented the policy to prevent human trafficking with a focus on women and children by establishing the working group for human trafficking in 2015, the specific budget for activities in combating human trafficking, the five-year work plan and the Department of Preventing and Combating Human Trafficking. Mr Thavone emphasised the importance of international cooperation in combating human trafficking effectively.



Mr Vilasith Singkavongxay

Deputy Head of the People's Prosecutor of the Central Region

"Instruction on case proceedings, preparation and attempt for committing an offence in human trafficking"

The Joint Instruction on Case Proceedings, Preparation and Attempt for Committing an Offence in Human Trafficking was issued to ensure uniform implementation of the investigation and prosecution of the crime of human trafficking. This instruction is jointly issued by key law enforcement agencies, namely the Office of the People's Prosecutor, the People's Court and the Ministry of Public Security. Human trafficking is an offence which has to be distinguished from general crimes by identifying its specific elements. Examples of preparation and attempt in each form of human trafficking were raised to enhance an understanding of this instruction.



Dr Perrine Simon

Liaison Officer, University of Luxembourg and ILSTA

"Evidence in Criminal Proceedings"



Evidence is the foundation of every criminal case and must be carefully handled in all stages of the proceedings from investigation to consideration of the case in court. Police officers, investigators, prosecutors and judges have an important role in inspecting and evaluating evidence used in criminal proceedings. Article 36 of the Law on Criminal Procedure of the Lao PDR outlines the rules for collecting and testing evidence. The presumption of innocence of the accused is a guiding principle of criminal proceedings.

Mr Souphasith Lorvanxay

Deputy Director-General of the Department of Criminal Case Inspection, OSPP

"Evidence in Criminal Cases"

This overview of evidence in criminal proceedings focused on the proper gathering of evidence which is used to confirm and prove the facts of a case. Evidence is vital in proving whether an offence was committed, particularly inculpatory and exculpatory evidence which are the basis for considering increasing or reducing sentences in criminal cases. The presentation covered the elements of a crime, the types of evidence, and the methods for inspecting and evaluating evidence. It is the duty of the prosecutors and the courts to assess evidence.



Mr Keith Farquharson

Programme Officer, ILSTA

"Money Laundering and the Predicate Offence"

Article 130 of the Lao Penal Code 2017 and Article 8 of the Law on Anti-Money Laundering and Countering Financing of Terrorism 2014 define and criminalise money laundering. Criminal groups launder money in order to conceal the connection between the proceeds of crime and the predicate offence. Enforcing the domestic legal framework through the seizure and forfeiture of assets derived from criminal offences will deny organised criminal groups the illicit gains from their illegal activities.



Mr Langsy Sibounheuang

Former Deputy Prosecutor General of Lao PDR

"Ethics of Law Enforcement Officers"



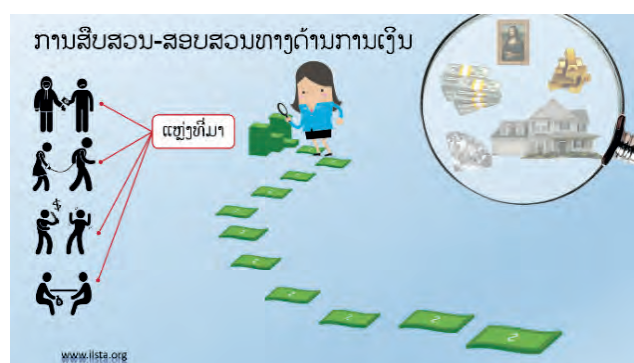
Legal professionals, namely judges, prosecutors and lawyers have a duty to know and practice ethics and integrity in their roles. Mr Langsy gave examples of both positive and negative qualities to which the law enforcement officers should be attentive. He looked at different types of biases that the authorities must avoid in order to ensure justice in proceedings. Moreover, past and current practices of ethics were raised to reinforce the central role of ethics in these professions as the guardians of law.

Mr Keith Farquharson

Programme Officer, ILSTA

"Financial Investigation"

An analysis of case studies of money laundering schemes was used to show how a financial investigation is carried out. The presentation went through the steps and methods used in conducting financial investigations such as analysing suspicious transaction reports and accessing information from other reporting units. A financial investigation follows the money and other assets during and after the commission of crimes. Tracing financial transactions and the acquisition or transfer of other assets is crucial in conducting parallel investigations.



Mr Kouysy Silaphone

Office of the People's Prosecutor in Houaphan Province



Question : In the case of Lao-Chinese marriage which involved a translator and escalated into sexual exploitation, should it constitute human trafficking? Who should be prosecuted?

Answer : Mr Vilasith Singkavongxay, Deputy Head of the People's Prosecutor of the Central Region, emphasised that in order to build a human trafficking case, the three elements of such offence must be considered, namely actions, means and purpose as well as the four elements of criminal offences. In the case of marriage, the authorities should consider whether such marriage has been

done only customarily, not legally in order to identify fraudulent marriage or whether there is an element of deception or exploitation. If these elements are fulfilled, the case constitutes human trafficking and the authorities may bring a prosecution.

Mr Souphasith Lorvanxay

Deputy Director-General of Criminal Case Inspection Department, OSPP

Question : Which law shall the authorities use for freezing or seizing assets relating to money laundering in the case that the accused escaped?

Answer : Mr Souphasith Lorvanxay : The law stipulates that the assets can be confiscated provided that there is sufficient evidence and Article 130 of the Penal Code applies. In this case the court has the right to issue an order to freeze assets as there is no provision in the law that states that the accused person must be present in the court hearing.



Mr Boun-om Phanthavong

Judge, People's Court in Xayabouly Province



Question : How to identify money laundering in the case of human trafficking as a predicate offence which brought the proceeds concealed by small businesses?

Answer : Mr Farquharson answered that, according to the Order on the Proceedings of Money Laundering and Financing of Terrorism Cases, Articles 8 and 9 provide that if, during the investigation of a predicate offence, indications of money laundering are discovered then a parallel financial investigation must be launched. The authorities may request the court to issue an order freezing the illicit assets.

Ms Chansamone Sounnalath

Office of the People's Prosecutor in Luang Prabang Province

Question : According to the law, obtaining evidence through torture and use of violence in any form would render such evidence inadmissible. How should the court deal with a claim by the defendant that his confession was forced?

Answer : Mr Souphasith Lorvanxay, Deputy Director-General of Criminal Case Inspection Department, OSPP: If the accused person confessed in the investigation, the concerned person will be regarded as the defendant in court. According to Article 36 of the Law on Criminal Procedure, confessions of the defendant are not a sufficient basis for a conviction. Hence, there must be other supporting evidence in order to convict the accused person. The testimony obtained through torture or force cannot be used in the proceedings.



Legal Knowledge Quiz



The Winner of the Quiz at the First Regional Conference in Luang Prabang
Mr Bounxai Bounkaen - Anti-Human Trafficking Division
Public Security Office of Xayabouly Province



Regional Conference in Central Laos Khammouane Province

The second Regional Conference, held in Thakhaek District, Khammouane Province from 13th – 15th October 2020, brought together judiciary and law enforcement agencies from five central provinces: Xiengkhouang, Xaysomboun, Bolikhamxay, Khammouane and Vientiane Capital.



Opening

Mr Bounyang Chandalasane

Deputy Prosecutor-General of the Office of the Supreme People's Prosecutor



Organised crime, especially money laundering, poses a challenge to national and global economic development. The crimes of human trafficking and money laundering are familiar issues in the Lao PDR, and we have adopted legislation focusing on these crimes. The law enforcement agencies, namely the Office of the People's Prosecutor, the People's Court and the Ministry of Public Security have issued a joint instruction to address transnational organised crime, particularly human trafficking with the aim to protect the rights and interests of the citizens to ensure justice in society.

Mr Richard Philippart

President and Director General of the Institute for Legal Support and Technical Assistance

Combating transnational organised crime requires active international cooperation, cross sector intelligence exchanges and modern investigation techniques. The government authorities need to adapt fast and build channels to exchange information. Mutual Legal Assistance is crucial for investigation, prosecution, adjudication, therefore we encourage the early adoption of the Lao Mutual Legal Assistance Law. As a partner of the Lao Government ILSTA will continue its support for these important efforts.



Presentations

Mr John Connolly and Ms Alina Timus

Institute for Legal Support and Technical Assistance

“Crime Types and Organised Crime”



Categories of crime related to violence, property, drugs, environment, including white-collar crime and organised crime were presented with reference to the Lao Penal Code 2017 and the United Nations Convention against Transnational Organised Crime (UNTOC).

The definitions of each crime type were illustrated with examples. Recording crime statistics under categories of crime builds up a picture of where governments need to direct their crime prevention and crime fighting resources.



Mr Vilasith Singkavongxay

Deputy Head of the People’s Prosecutor of the Central Region

“Joint Instruction on Criminal Proceedings, Preparation and Attempt for Committing an Offence of Human Trafficking”



Mr Vilasith emphasised the importance of a uniform understanding and implementation of the Joint Instruction on Criminal Proceedings, Preparation and Attempt for Committing an Offence of Human Trafficking, which provides a basis for investigating agencies to perform their duties in practice. He elaborated on the interpretation of its significant articles, such as Article 3, which stipulates the means in the case of fraudulent engagement or marriage such as planning, forging documents and other related forms.

Mr Chris Batt

Regional Advisor on Anti-Money Laundering and Countering Financing of Terrorism, UNODC

“Informal Mechanisms for International Cooperation in Criminal Matters”

International cooperation is of utmost importance in combating transnational crime. Apart from formal mechanisms for international cooperation in criminal matters, such as Mutual Legal Assistance (MLA), there are also many informal means which authorities should use. This includes exchange of information between financial intelligence units (FIU to FIU), the network of the Asset Recovery Interagency Network – Asia Pacific (ARIN-AP). In addition, authorities can also use the International Criminal Police Organization (INTERPOL), European Police Office (EUROPOL), Foreign Law Enforcement Community (FLEC), United Nations Office on Drugs and Crime (UNODC) and Foreign Embassies to the Lao PDR.



Ms Metmany Vannasy

Deputy Head of the International Cooperation Division,
Department of Planning and International Cooperation, OSPP
“Mutual Legal Assistance in the Lao PDR”



Laos is preparing to adopt a Law on Mutual Legal Assistance (MLA) which will assign the Office of the Supreme People's Prosecutor the Central Authority for dealing with MLA.

Ms Metmany explained the process of sending an MLA request on the basis of international treaties such as the UN Convention against Transnational Organized Crime (UNTOC) and bilateral treaties. In the case where there are no bilateral treaties, the MLA requests can be sent through diplomatic channels and the mechanisms of INTERPOL or ASEANAPOL based on existing principles.

Mr Thavone Keophila

Head of Investigation Division, Department of Anti-Human Trafficking, Ministry of Public Security
“Anti-Human Trafficking Activities in the Lao PDR”

Laos has enacted a Law on Anti-Human Trafficking and Article 215 of the Penal Code 2017 defines and sets out the criminal offence of human trafficking. Laos recognises the importance of international cooperation in combating human trafficking and is a state party to the relevant UN conventions and is a party to the ASEAN Convention Against Trafficking in Persons, Especially Women and Children. Mr Thavone pointed out the challenges faced in the implementation of anti-human trafficking activities, especially coordination with other countries when there is no Memorandum of Understanding with the Lao PDR.



Mr Keith Farquharson

Programme Officer, Institute for Legal Support and Technical Assistance
“Money Laundering and Predicate Offences”



The three stages of the money laundering process consist of : 1) Placement; 2) Layering; 3) Integration. The purpose is to conceal the source of the proceeds of crime coming from predicate offences. The definitions of money laundering and predicate offences provided in the related laws were explained. Real cases of money laundering showing the complex schemes criminals use to conceal, transform, transport, or transfer ownership of the illicit assets were presented. Common schemes involve buying high-value goods such as cars, watches, gold etc. and setting up shell companies in other jurisdictions.

Mr Souphasith Lorvanxay

Deputy Director-General of the Criminal Case Inspection Department, OSPP

“Evidence in Criminal Cases Under the Lao Law”



Mr Souphasith presented the different types of evidence which can be gathered and used as a basis for criminal proceedings. Evidence is used to prove the truth, identify elements of an offence and causes for increasing or reducing penalties. Each type of evidence was explained based on the Law on Criminal Procedure.

He further raised an issue in collecting evidence relating to financial matters by presenting the important sources such as 1) Open source: certificates of land, vehicles, businesses, bank accounts, etc.; 2) Closed source: interviews and forensic evidence. Mr Souphasith stated the roles of the agencies which have the rights and duties to inspect and assess evidence, namely the police, the Office of the People's Prosecutor and the People's Court.

Mr Keith Farquharson

Programme Officer, ILSTA

“Financial Investigation”

Financial investigation techniques used in actual cases demonstrate the methods and sources of information in money laundering cases.

Building up a financial profile of the suspect by tracking the assets, businesses and suspicious transactions can show whether the suspect is living beyond the means of his legal income. This can be done in parallel to an investigation into predicate offences.



Mr Chris Batt

Regional Advisor on AML/CFT, UNODC



“Article 130 of the Penal Code (Money Laundering) : Elements of Crime and What to Prove”

Article 130 of the Penal Code on money laundering meets all of the international requirements on combating money laundering. The evidence which can be used in the case proceedings of money laundering includes direct evidence, indirect evidence and evidence derived from inferences. The difficulty that the authorities often find in the parallel investigation is to decide whether to conduct the investigation of a predicate offence and money laundering case at the same time? Is it necessary to conduct the proceedings of a predicate offence before a money laundering case? These are questions that will be put to the test in the application of the laws in the Lao PDR.



Practical Exercise - Case Study

Ms Alina Timus and Mr Chris Batt

Programme Officer, ILSTA

Regional Advisor on Anti-Money Laundering and Countering Financing of Terrorism, UNODC



To strengthen capacity in practical aspects of investigation, a human trafficking case study was led by Ms Timus and given with the authorities from each province discussing the preparation and strategy for interviewing the suspected victim as well as exchanging best practices and techniques in investigating such cases.



Mock Interview of the Victim of Human Trafficking

The representatives from the Police Office in Khammouane Province and the Office of the Supreme People's Prosecutor took their roles in interviewing the suspected victim of human trafficking.

This simulation allowed them to demonstrate the challenges and important techniques which can be used to obtain information in the process of interviewing the victim, suspect, and witness.



Mr Vongphet Keosinuan

Judge, People's Court in Xieng Khouang Province

Question : If a potential victim of human trafficking was transported to China, but escaped from the trafficker, would this case constitute the preparation for committing an offence of human trafficking since exploitation has yet to occur?

Answer : Mr Vilasith Singkavongxay stated that according to Article 3 of the Joint Instruction on Criminal Proceedings, Preparation and Attempt for Committing an Offence of Human Trafficking, this case is regarded as the preparation stage for committing an offence of human trafficking since there is an element of transportation of the victim into the destination country although exploitation has yet to occur.



Ms Metmany Vannasy

Deputy Head of the Department of Planning and International Cooperation, OSPP



Question : Lao PDR faces challenges in implementing MLA successfully due to limited technical capacity and a lack of coordination between different agencies. What advice would you have to address these issues?

Answer : Mr Chris Batt, UNODC, recommended the establishment of a working group or central unit composed of the authorities from relevant state agencies such as investigation officers, prosecutors and police officers, charged with international coordination. The authorities could also request assistance from the international development organizations to strengthen the capacity in order to build expertise in MLA.

Mr Phonepasith Khamsavath

Deputy Head of Criminal Case Division, Office of the People's Prosecutor of the Central Region



Question : Based on your experience in investigations in your country, what techniques have you used to identify the properties owned by the perpetrator and how can you find out other properties within the country and in a foreign country owned by the perpetrator who does not cooperate with the authorities?

Answer : Mr Farquharson, ILSTA : We use open-source information and registration records of vehicles, land and bank accounts. Basically, the authorities usually attempt to track the flow of money by looking at bank statements and

the suspect's association with his family, transactions or wire transfers. In certain jurisdictions, such as the UK, if the suspect cannot justify his unexplained wealth and verify the source of his assets, money laundering is deemed to have been committed.

Mr Aphisith Thepphasone

Technical Officer, Office of the People's Prosecutor in Khammouane Province

Question : In your country, have you ever encountered the case where the bank suspended a customer's bank account as there have been international transactions and the concerned customer is suspected to be involved in money laundering. However, the suspect claimed that he/she gained profits from running businesses so he/she filed a claim against the bank for violating privacy rights by inspecting and suspending the account. In this scenario, how can the authorities check when the transactions of such account are legitimate? Should the authorities only rely on the information from the bank?



Answer : Mr Chris Batt, UNODC: When there is an investigation, suspending an account requires substantial grounds. There must be sufficient evidence presented to the court in order to suspend the bank account. Such evidence can be derived from the bank in accordance with the regulations on Know Your Customer (KYC), which provides that the bank has to collect personal information of every account holder, such as identity, address and occupation. If, for example, the suspect's income is excessive in comparison with their stated occupation, this appears to be suspicious, therefore the authorities can suspend the bank account. Banks have a duty to monitor accounts for suspicious activity like money laundering where large sums of money from criminal activity are deposited into bank accounts and moved around to make them seem as though they are from a legitimate source. The authorities should also look at other high-value assets belonging to the suspect such as land, gold or real estate.

Legal Knowledge Quiz



Winner : Ms Oychanh Vongchandeng, Head of Civil Case Division
Office of the People's Prosecutor District 1 in Khammouane Province

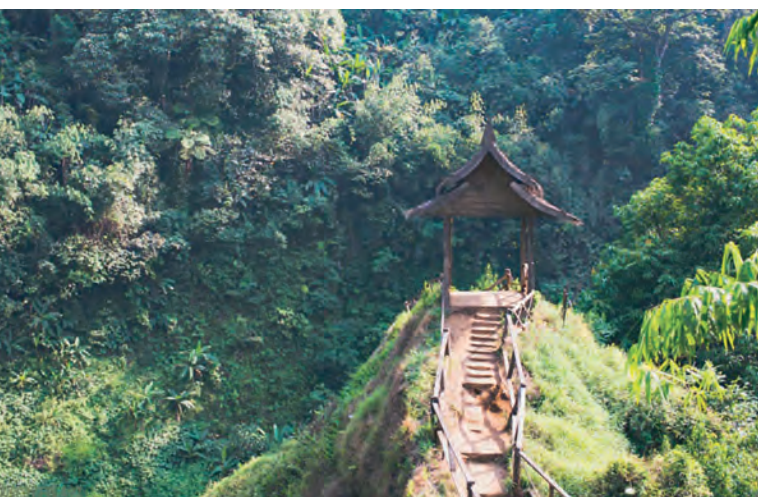
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Regional Conference in Southern Laos Champasak Province

The third Regional Conference, held in Pakse City, Champasak province from 23rd – 25th November 2020, brought together authorities from Vientiane Province and five southern provinces: Savannakhet, Saravan, Attapeu, Champasak and Xekong.



Opening

Mr Bounyang Chandalasane

Deputy Prosecutor-General of the Office of the Supreme People's Prosecutor

Transnational crime, especially human trafficking and money laundering, threaten human rights, the property of citizens, and pose challenges to national and global economic growth. In 2020, these crimes are no longer new issues in Laos. Law enforcement agencies therefore need to cooperate effectively in order to combat and prevent these crimes in accordance with the laws.

The Lao PDR has adopted the Penal Code 2017, Law on Criminal Procedure, other relevant laws, orders and instructions on money laundering and human trafficking, which serve as the basis for the prosecutions and punishments of the offenders. Recently, the Office of the Supreme People's Prosecutor and the People's Supreme Court have completed the issuance of the joint instruction on case proceedings, preparation and attempt for committing an offence in human trafficking. This conference is a great opportunity to strengthen the coordination and cooperation among law enforcement officers across the country from grassroots to central level, aiming to ensure uniform implementation of the laws and practice.



Mr Richard Philippart

President and Director General of the Institute for Legal Support and Technical Assistance



Addressing illicit flows from criminal activities such as money laundering, human trafficking, illegal drugs, timber and wildlife is crucial for sustainable development. Organised crime adapts to judicial and economic environments, tapping into structural and geographical weak spots of the countries to set up their activities and develop their illegal industry. In these times when organised crime can easily cross physical borders and even if the borders remain closed due to COVID-19, big seizures of narcotics have been made in the region. International cooperation and increased and swift information sharing between countries is crucial. Concerning Human Trafficking, it has been mentioned that carrying out pregnancies for other people, called surrogacy, is associated with human trafficking. That is not in line with the concept of exploitation in the Palermo convention. There is a need to consider drafting a law on bioethics, covering all aspects of medical treatment and intervention for commercial purposes.



Presentations

Mr Thavone Keophila

Head of Investigation Division, Department of Anti-Human Trafficking, Ministry of Public Security
“Anti-Human Trafficking Activities in the Lao PDR”

There are a number of different forms of exploitation, namely forced labour, sexual exploitation, fraudulent marriage and surrogacy. Surrogacy has become a hot issue in the region with cases taking place in Thailand, China and Cambodia. As some neighbouring countries have made surrogacy illegal, the Lao PDR has become a destination country. This requires a prompt response from the authorities.

The changing methods used by human traffickers create challenges for law enforcement agencies. Hence, it is important to strengthen cooperation among national authorities as well as with foreign authorities in criminal matters in order to deal with human trafficking cases effectively.



Mr John Connolly

Director of the Institute for Legal Support and Technical Assistance

“Preparation for Interview (PEACE)”

The PEACE interviewing model consists of five important stages: 1) Preparation and planning; 2) Engage and explain; 3) Account, clarify and challenge; 4) Closure; and 5) Evaluation.

Effective interviews require skilled questioning by the officers in charge of the interview. The ‘Funnel Approach’ is a questioning technique to obtain maximum information during the interview. It is vital that the officers are observant and take into account the behaviour and expressions of the witness/victim or suspect during the interview.



Mr Chris Batt

Regional Advisor on Anti-Money Laundering and Countering Financing of Terrorism, UNODC
“Informal Mechanism for International Cooperation in Criminal Matters”



Informal mechanisms for international cooperation in criminal matters, include financial intelligence units and the network of the Asset Recovery Interagency Network – Asia Pacific (ARIN-AP), International Criminal Police Organisation (INTERPOL), European Police Office (EUROPOL), and Foreign Law Enforcement Community (FLEC). Informal exchange of information is important to facilitate the conduct of anti-money laundering activities, particularly investigations. Mr Batt encouraged the Lao authorities to opt for this mechanism before proceeding to send a formal request for mutual legal assistance.

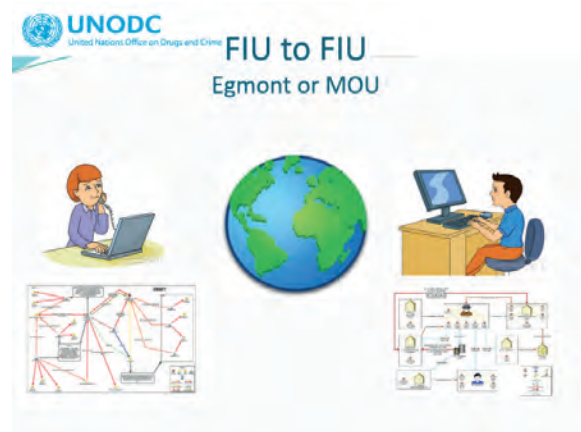
“The Role of the Financial Intelligence Unit with a focus on Suspicious Transaction Reporting (STR) and Cash Transaction Reporting (CTR) Regime”

The Financial Intelligence Unit (FIU) has a significant role in providing information on suspects of money laundering as well as predicate offences. The Financial Action Task Force (FATF) Recommendation 29 defines the FIU as a central agency for the receipt of suspicious transaction reports (STR) and other relevant information including cash transaction reports (CTR), wire transfer reports and other threshold-based declarations/disclosures.

There are three kinds of FIU. The Anti-Money Laundering Intelligence Office (AMLIO) under the Bank of the Lao PDR is an example of an administrative FIU. In some jurisdictions the FIU has law enforcement powers as a police/national/federal agency, and thirdly, the hybrid FIU which extends its powers to investigations.

The FIU can offer useful sources of information, namely STRs and analysis including bank accounts, transactions, addresses and relationships between the suspect and other persons or entities.

In the case of money laundering or other predicate offences, the authorities can also obtain information related to the suspect or other persons who are suspected to be involved in the commission of the crime outside the country through the FIU-FIU network.



Mr Vilasith Singkavongxay

Deputy Head of the People's Prosecutor of the Central Region

"Joint Instruction on Criminal Proceedings, Preparation and Attempt for Committing an Offence of Human Trafficking"



Mr Vilasith presented the Joint Instruction on Criminal Proceedings, Preparation and Attempt for Committing an Offence of Human Trafficking, which is an important instrument for the proceedings of human trafficking cases. He distinguished the differences and elements of preparation and attempt in committing an offence of human trafficking pursuant to Article 215 of the Penal Code. It is necessary to identify the stage of the preparation and attempt in committing an offence before the exploitation of the victims occurs in order to seek and prevent such practice.

Ms Metmany Vannasy

Deputy Head of the International Cooperation Division, Department of Planning and International Cooperation, OSPP

"Mutual Legal Assistance in the Lao PDR"

Mutual Legal Assistance (MLA) is divided into three forms : judicial cooperation in criminal matters, extradition and transfer of prisoners. The purpose of MLA is to facilitate the gathering of information, evidence and arresting criminals outside the territory of the Lao PDR. This ensures the conduct of case proceedings based on the principle of reciprocity.

The Law on Mutual Legal Assistance has been successfully adopted by the National Assembly. This law specifically defines that the Office of the Supreme People's Prosecutor is the Central Authority for MLA related matters and the Ministry of Public Security has the duty to implement MLA requests.



Mr Souphasith Lorvanxay

Deputy Director-General of the Department of Criminal Case Inspection, OSPP

"Evidence in Criminal Cases"

According to Article 28 of the Law on Criminal Procedure, there are three types of evidence, namely physical evidence, documentary evidence and evidence from persons. Mr Souphasith explained all types in detail with visual examples and further guided on proper methods for gathering evidence according to specific characteristics of each type. Evidence is central in criminal proceedings as it is a tool to determine the facts of the case and is used to prove the guilt of the accused person. He strongly emphasised that it is important for the law enforcement to strictly comply with the law when it comes to gathering evidence as provided in Article 36 of the Law on Criminal Procedure.



Mr Keith Farquharson

Programme Officer, ILSTA

“Financial Investigation” and “Money Laundering”



What is a parallel investigation? This is the process of identifying the link between crimes and the source of the suspect's assets based on the Instruction on Case Proceedings of Money Laundering and Financing of Terrorism No.01/AMLC dated 8 January 2020. Tracking the assets, businesses and transactions of the suspect is part of the investigation. The source of this information is the basis for the financial investigation in money laundering cases and can be derived from vehicle and land registry officers, currency exchange shops, money transfer services, banks, lawyers and accountants.

The definition, purpose and process of money laundering was defined with reference to the Penal Code 2017 and the Law on Anti-Money Laundering and Countering Financing of Terrorism 2014. Money laundering can be in any form, which is the reason why its definition is broad and the punishments are stipulated against not only an individual, but also a legal person. Denying criminal groups the illicit profits from their crimes is the most effective means of shutting down organised crime.



Mr Chris Batt

Regional Advisor on AML/CFT, UNODC

“Article 130 of the Penal Code (Money Laundering): Elements of Crime and What to Prove”



Direct evidence and indirect or circumstantial evidence can be used to prove whether a suspect knew or suspected that the assets were connected to a crime. Direct evidence refers to confessions, detected information and conversations, while indirect evidence refers to inferences. Examples from actual cases revealed some of the methods of money laundering such as transportation of cash across the border or co-mingling the proceeds of crime into a legitimate business.

In order to prove whether the suspect is involved in money laundering, the authorities need to compare their lifestyles and legitimate incomes by building financial profiles. This helps the authorities to find out whether their wealth is excessive in comparison with their legal incomes, which indicates money laundering.



Practical Exercise - Case Study

Ms Alina Timus

Programme Officer, ILSTA



A case study of human trafficking was introduced to the participants with tasks to identify an offence of human trafficking as well as to determine important steps in the investigation process, particularly the gathering of evidence in order to build a case.

Mock Interview from Human Trafficking Case Study

The interview of the victim from the human trafficking case study replicated the real work situation for the law enforcement officers and demonstrated questioning techniques and interview skills. This activity engaged police officers and prosecutors who showcased best practices and provided other participants with sufficient information to determine whether human trafficking had taken place. Groups then discussed the next steps in investigating the case.



Following group discussions, the main ideas shared by each group were highlighted. Their conclusions covered important strategies of launching the investigation into the suspected case of human trafficking.



The participants appreciated the session as it provided them with an opportunity to exchange best practices and to learn from their respective counterparts from different provinces.



Practical Exercise on Financial Investigation

The investigation of organised crime is complex and presents a great challenge to law enforcement agencies. Mr Batt shared his practical experience on investigation techniques based on the case study of human trafficking. Attendees were taken through the stages of the investigation, linking the predicate offence to the discovery of money laundering. Evidence was drawn from both open and closed sources, from a Facebook account and press reports to STR/CTR reports, bank statements and other related documents.

Participants were introduced to modern methods in conducting parallel investigations. This practical exercise allowed attendees to enhance their capabilities and follow the practical steps in conducting a financial investigation as well as an investigation of a predicate offence.



Group Presentations

Each group presented the strategy for the next steps of the investigation in order to bring prosecutions. Discussion focused on an assessment of evidence to date and what further information or lines of enquiry could be pursued.



Q&A

Lt. Col. Xaychit Xayadeth

Public Security Office in Champasak Province

Question : Is it possible that the Central Anti-Human Trafficking Unit assists in the coordination between provincial/local authorities and foreign countries on matters related to human trafficking?

Answer : For coordination with foreign countries, Mr Thavone clarified that the authorities at the central level rely on the existing MOU which divides the cooperation into two types: formal cooperation and informal cooperation. For instance, the authorities in Champasak province can formally coordinate with the province of another country which shares a border with it.



Mr Saenpaseuth Phommaluexa

Office of the People's Prosecutor in Champasak Province



Question : In the case of embezzlement of assets committed by a foreign national in Laos and the concerned person escaped to their home country, is it possible to request for extradition through the OSPP?

Answer : Ms Metmany responded that where there is a bilateral treaty on extradition between Laos and the third country, Lao authorities can send a request for extradition. However, it is important to note that for an extradition request to be successful, there must be sufficient evidence and an indictment provided in the case file attached to the request.

Mr Phou Souliya

Public Security Office in Savannakhet Province

Question : In the event where a person left money derived from committing a predicate offence with his/her friend for a certain period of time, is the friend considered a money launderer?

Answer : According to Article 130 of the Penal Code, money laundering takes place where a person "knows, knew or suspects that the money or assets is derived from predicate offences." Money launderers usually use this method of depositing with friends, relatives or close parties to conceal the money. Thus, he/she could be considered as an accomplice or money launderer if such element is fulfilled.



Mr Soulisack Keopaseuth

People's Court in Champasak Province

Question : In the case of embezzlement of assets by a wife from her place of employment in the amount of 1 million Baht which was used to build a house for the husband later on, does this constitute money laundering? And who shall be found guilty?

Answer : Building a house is one way that criminals use to launder money. With regards to the guilt of the persons involved, there should be an investigation in order to find out whether the husband is an accomplice. In this case, it could be argued that the husband should have known his wife's legitimate income and suspected therefore that the money could be derived from illegal activities.



Mr Saenpaseuth Phommaluexa

Office of the People's Prosecutor in Champasak Province



Question : In Champasak province, the transportation of \$500,000USD has been discovered while crossing the border. During the investigation, the suspect admitted that he gained such money from committing drug trafficking. Can the authorities prosecute him on the charge of money laundering?

Answer : Mr Chris Batt, UNODC, responded that the authorities shall not prosecute the suspect immediately on the charge of money laundering. Several points need to be taken into account. Firstly, pursuant to Article 2 of the Law on Anti-Money Laundering and Countering Financing of Terrorism, the suspect's act does not completely constitute money laundering as he only transported money which has yet to be transformed.

Secondly, if the suspect knew the source of money is derived from the commission of drug trafficking, the authorities may prosecute him on the charge of being an accomplice to money laundering. The money found shall be confiscated into the state's property.

Legal Knowledge Quiz



Winner : Mr Saenpaseuth Phommaluexa
Office of the Supreme People's Prosecutor in Champasak Province



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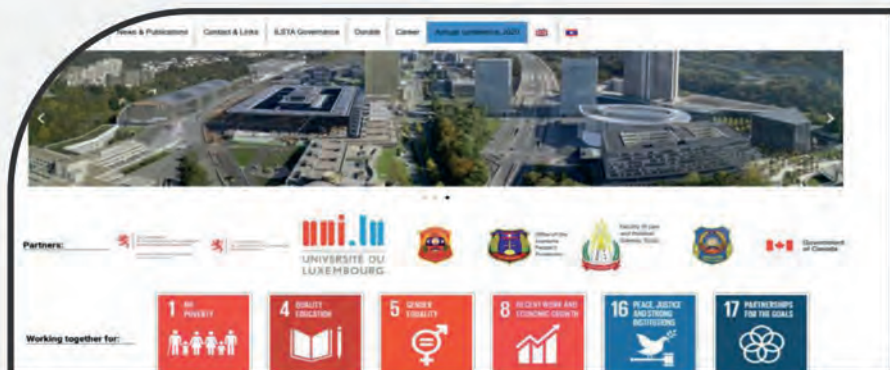
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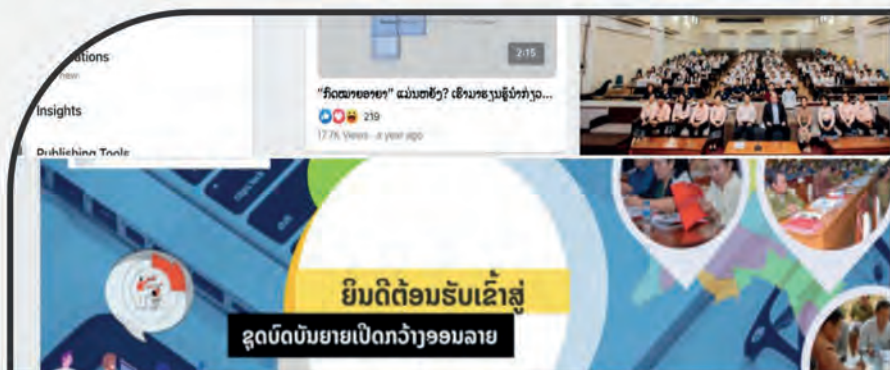
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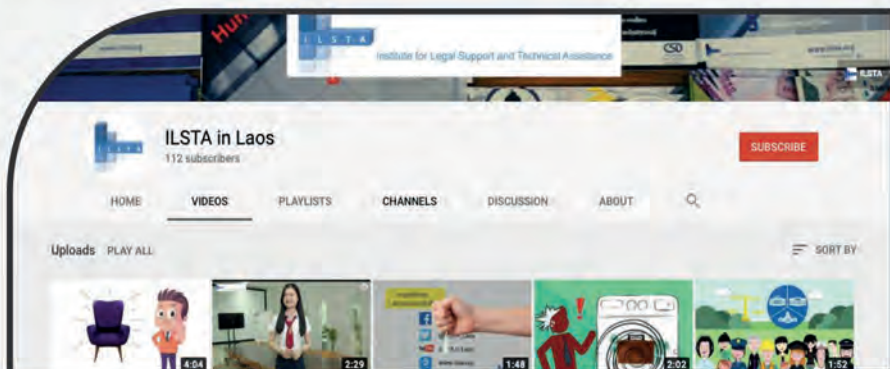


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