

Part 4

Recommendations



RECOMMENDATION 1

Consider Vietnamese nationals illegally employed in high-risk sectors as presumed victims of human trafficking (debt bondage) and apply the national referral mechanism



When frontline services discover the illegal employment of Vietnamese workers during checks in nail bars, restaurants, etc., and if they think that it may be a debt bondage situation, they should identify these Vietnamese as presumed victims of human trafficking and refer them to the specialised centres for trafficking victims.

Many Vietnamese victims who have been smuggled often find themselves forced to pay off their transportation debts by working in an exploitative situation (debt bondage) in a human trafficking context. The detection of such Vietnamese victims in nail bars or restaurants should be seen as a warning sign and a possible indicator of human trafficking. It is necessary to refer these presumed victims to specialised centres for trafficking victims, as they are in the best position to explain the status of victim of human trafficking. Social workers at these specialised centres can easily gain the trust of these victims and encourage them to accept victim status.

Training of frontline services in human trafficking indicators is therefore essential and should be actively pursued.

RECOMMENDATION 2

Be attentive to possible debt bondage situations in cases of forced criminality such as cannabis plantations



Frontline services and reference magistrates need to pay more attention to Vietnamese workers in cannabis plantations or to sellers of counterfeit goods, including illegal cigarettes. This could be a situation of debt bondage, potentially amounting to human trafficking. It is therefore important to apply the referral mechanism.

The Essex case and the literature review show that in several neighbouring countries, Vietnamese smuggling victims are exploited in cannabis plantations to pay back their smuggling debts. In addition, Vietnamese victims have to sell counterfeit products such as illegal cigarettes. These are forms of forced criminality that require complex investigations for which there are insufficient resources in Belgium as well as no longer being a real priority. As a result, no Vietnamese victims of forced criminality are detected in Belgium. However, this could reveal a gap in detection by frontline services.

RECOMMENDATION 3

Make the link to possible debt bondage situations for Vietnamese victims of human smuggling



If Vietnamese smuggling victims are detected, it is important for frontline services to be able to check their smartphones at the magistrate's request for any messages referring to exploitative debt bondage situations, to question them about this, and apply the referral mechanism.

During their hearing, Vietnamese victims of human smuggling should be asked about possible exploitation along the way and in Belgium, in order to establish a link between human smuggling and human trafficking. They could also be asked for whom and how loans to finance the smuggling are arranged. This can reveal the difficult circumstances in which the victims found themselves and the great vulnerability of a group of victims without autonomy (freedom of action or self-determination). Furthermore, it can add significant value to the investigation.

If the acts of debt bondage took place in Belgium, further investigations can be conducted to dismantle the entire criminal network with all its ramifications or to trace it back to another related human trafficking network. In the Essex case, the hearings revealed that one smuggling victim, based in a safehouse, had been exploited through one of their smugglers in a restaurant and another in the domestic work sector. This data could, therefore, sometimes lead to the initiation of a new human trafficking investigation. Acts of debt bondage in other countries over which Belgium has no jurisdiction, can in turn provide relevant information in the context of international cooperation and information exchange.

This can raise awareness among frontline services, the prosecutors and political stakeholders of the links between human smuggling and trafficking and the vulnerability of smuggled victims, as well as revealing the complex network structures through which the smuggling system spreads, and could be linked to exploitative debt bondage structures and sometimes associated with the mafialike credit.

RECOMMENDATION 4

Pay particular attention to and be aware of the cultural specificities of Vietnamese victims of human trafficking or smuggling in order to establish a relationship of trust



When detecting, hearing and supporting presumed Vietnamese victims of human trafficking or smuggling, it is essential to create conditions that foster trust. This includes having good knowledge of Vietnamese culture or of North-South rivalries in Vietnam which can have an impact on the hearing of a presumed victim if the interpreter has a different origin.

It is also important to be aware that a Vietnamese national feels a strong sense of shame, distrust, and indebtedness to the family that incurred the debt to enable them to undertake the clandestine journey. The pressure of the family back home to continue to repay the debt, which is itself under pressure from the criminal network, is also an element to be taken into consideration.

Confidence building with a reliable and trustworthy interpreter and, for minors, security measures such as temporary deprivation of their mobile phone, are likely to contribute more easily to the disclosure of the facts. Such security measures can help protect child victims from the criminal network that continues to exert pressure on them.

The training of all stakeholders by NGOs with expertise in Vietnamese culture, as has already been organised, is an example of good practice to be continued.

As noted in the Essex case, objective references to the victim's non-verbal behaviour (e.g. trembling, crying, etc.) in the transcripts is also likely to help understand sometimes incoherent statements.

RECOMMENDATION 5

Apply specific protection measures for (Vietnamese) unaccompanied minors, including a safe and secure environment



RECOMMENDATION 6

Pay attention to the protection of disempowered victims, who are the most vulnerable group of victims, such as Vietnamese victims in debt bondage



It is important that frontline services pay sufficient attention to the detection of Vietnamese minors and apply the protection measures for unaccompanied minors (reporting to the Guardianship Service with the mention of the presumption of trafficking/smuggling).

When such minors are detected, it is essential that they be taken into the care of a specialised reception centre for unaccompanied minors such as Esperanto. Here, they will benefit from tailor-made support and the security measures put in place allow to limit the risk of disappearance.

(Police) hearings in such a secure setting and with a person of trust also make it easier to establish a relationship of trust.

The Essex case demonstrated that several Vietnamese minors were successfully referred to and taken care of by such a centre.

Vietnamese victims in debt bondage represent a group of victims in a very vulnerable situation and in a position of strong dependence on their exploiters. They often have no freedom of movement or self-determination and are socio-culturally isolated as their exploiters are themselves Vietnamese. In the Essex case, the victims were locked in safehouses. Moreover, there is every reason to believe that many victims were unable to determine their final destination themselves. Contrary to other groups of victims who have more autonomy, they are unlikely to take the initiative to present themselves as victims to a frontline service or reception centre.

Frontline services need to be made aware of the vulnerability of this disempowered group of victims. However, the entire apparatus involved in the fight against human trafficking must also pay attention.

RECOMMENDATION 7

Provide the necessary resources to ensure a strong detection mechanism for the most vulnerable and disempowered victims such as the Vietnamese



Frontline services are the only ones able to detect and free vulnerable victim groups, such as Vietnamese locked in safehouses or trapped in debt bondage, from these appalling situations. The authorities must also be very aware of the important role of frontline services. To this end, it is of course crucial that they have the necessary resources, which is precisely the problem today.

Human trafficking is a major priority of the government agreement and the national security plan, but this priority doesn't stand up to the test of reality. In practice, resources dedicated to human trafficking at the frontline and judicial level have indeed been reduced or cut owing to other priorities or constraints. Some federal judicial police units dedicated to human trafficking have even been abolished. In some judicial districts, there are no longer any real reference magistrates, or they have been incorporated into a larger organised crime unit. This involves dealing with a range of criminal phenomena and therefore decreasing specialisation in human trafficking.

For instance, owing to a lack of time and resources, some investigations into human trafficking are no longer conducted, or far too superficially.

It is therefore essential that these services be strengthened. Myria hopes that the special commission on human trafficking in Parliament will make real progress on this point.

RECOMMENDATION 8

Use social media as an investigation technique



The analysis of the Essex case has shown how much the examination of social media and mobile phones contributes to the collection of evidence, both in terms of tracing the (financial) activities of the smugglers, making links between smuggling and trafficking (in particular a possible link through debt) and in terms of understanding how the victims were recruited, or locating the places they passed through. The involvement of the Federal Computer Crime Unit (FCCU) is an added value in this respect. Likewise, police training must be strengthened, such as through certain existing projects.

Magistrates must have access to facilities to be able to search computer systems and perform network searches. The collaboration of internet companies (Google, Microsoft, Facebook [Meta] in particular) is essential in this context.

RECOMMENDATION 9

Make greater use of international collaboration in complex human smuggling investigations to dismantle criminal organisations



The Belgian part of the Essex case is the result of an international investigation conducted by a joint investigation team in Belgium, France, the United Kingdom and Ireland, among others, and of letters rogatory conducted in the Netherlands and Germany. This underlines the importance of international collaboration, especially in such complex cases.

International collaboration is essential to dismantle the complex smuggling structure of Vietnamese criminal organisations. Human smuggling from Vietnam to Europe is generally carried out by well organised Vietnamese smuggling networks. These are international networks in the countries of departure, transit and destination, subdivided into small operational cells. It is therefore often difficult for national authorities to determine the true structure of a specific network. The Essex case and several recent Europol operations demonstrate the value of close international collaboration in dismantling Vietnamese smuggling networks.

RECOMMENDATION 10

Place large-scale financial investigations within the framework of an international chain approach



Placing a large-scale investigation within an international framework, involving joint investigation teams, one of whose tasks is to carry out financial investigations, allows the entire network to be apprehended and suspicious financial flows to be traced in order to get to the heart of the criminal activity.

In the Essex case, for instance, the financial investigation revealed a criminal financial benefit totalling EUR 7 million for all of the network's illegal transportations. Just for the transportation where 39 deaths occurred, the financial benefit amounted to EUR 460,000.

Smuggling networks are, in fact, run by criminal entrepreneurs who organise and run their business like a multinational. Good international collaboration and thorough financial investigations are the most effective means of tackling smuggling networks and drying them up financially through the 'follow the money' principle. This approach, which consists of seizing criminal assets in different countries, is part of an international chain approach in which all links must play their part. If one link is missing or defective, the chain breaks.