Every country in the world is affected by human trafficking, whether as a country of origin, transit, or destination for victims. In 2000, the United Nations General Assembly adopted the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the "Palermo Protocol"). Its definition of human trafficking contains three elements:

1. The Act: the recruitment, transportation, transfer, harbouring or receipt of persons;
2. The Means: by threat or use of force, coercion, abduction, fraud, deception, abuse of power or vulnerability, or by giving payment or benefits to a person in control of the victim;
3. The Purpose: to exploit the prostitution of others or other forms of sexual exploitation, forced labour, slavery or similar practices, servitude or the removal of organs.

Over 110 States have signed and ratified the Palermo Protocol, however, the United Nations Office on Drugs and Crime recently reported that “very few criminals are convicted and most victims are probably never identified or assisted”.

In 2002, the U.N. based Office of the High Commissioner for Human Rights noted the need to harmonize legal definitions, procedures and cooperation at the national and regional levels consistent with international instruments like the Palermo Protocol. The purpose of this questionnaire is to explore the extent to which member countries have implemented domestic anti-trafficking legislation and whether that legislation is effective in addressing these concerns.

Question 1: Has your country signed and ratified the Palermo Protocol? If yes, on what date?

Lithuania has signed and ratified Palermo Protocol on 22 April, 2003.

Question 2: Does your country have special legislation for the criminal prosecution of human trafficking? If yes, please answer Questions 3 to 10. If no, is there any such legislation presently under consideration?

Yes, Lithuania has special legislation for the criminal prosecution of human trafficking.

Question 3: How is human trafficking defined in your country’s legislation?

Article 147 of the Criminal Code of the Republic of Lithuania defines human trafficking as follows: A person who sells, purchases or otherwise conveys or acquires a person or recruits, transports or holds in captivity a person by using physical violence or threats or by otherwise depriving him of a possibility of resistance or by taking advantage of the victim’s dependence or vulnerability or by resorting to deceit or by paying or granting other material benefit to a person who actually has the victim under his control, where the offender is aware of or seeks involvement of the victim in prostitution or gaining profit from this person’s prostitution or using him for pornography purposes or forced labour shall be punished.
Question 4: Does the legislation criminalize:
   a) Attempts to commit a trafficking offence?
   b) Participation as an accomplice or party in a trafficking offence?
   c) Organizing or directing others to commit a trafficking offence?

All three types of conduct are, as a general rule, criminalized under legislation of the Republic of Lithuania.

Question 5: Can corporations be charged with human trafficking along with natural persons (i.e. employment agencies, travel agencies, escort services)?

A legal entity shall also be held liable for the acts provided for in the Article mentioned above.

Question 6: Does the legislation contain special provisions regarding the trafficking in children? If yes, please describe.

Legislation of the Republic of Lithuania does not discriminate between victims of trafficking to adults, children, etc. The article solely refers to persons, which naturally includes minors and children.

Question 7: What are the penalties for human trafficking offences? Do they include deportation/extradition? Do they include confiscation of instruments of trafficking and proceeds of trafficking?

Penalties provided by the Criminal Code of the Republic of Lithuania for human trafficking include imprisonment for a term of two up to ten years; and for a person who commits the act provided for in respect of two or more victims or by participating in an organised group or seeking to acquire the victim’s organ, tissue or cells shall be punished by imprisonment for a term of four up to twelve years.

The penalties for human trafficking do not include deportation/extradition; the criminal code provides that both nationals of the Republic of Lithuania, nationals of foreign states as well as stateless persons are all equally liable for the same offences.

Article 94 of the Code of Criminal Procedure of the Republic of Lithuania does not list offences specifically subject to confiscation; therefore as a general rule in case of human trafficking instruments, means, and proceeds of criminal offence shall be confiscated.

Question 8: Are there statistics available on the number of prosecutions and rates of conviction in your country for human trafficking offences since its antitrafficking legislation was adopted? If yes, please provide.

The National Courts Administration of the Republic of Lithuania is supposed to keep statistics on prosecutions and convictions of various crimes, including human trafficking. However, the statistics is currently not publicly available or complete; therefore guidance should be sort in scientific papers.

In brief, since 1999, when human trafficking was recognized in the criminal Code of the Republic of Lithuania, there was an increase in both the number prosecutions and rates of conviction.

Specific details will be provided at the conference, when necessary.
Question 9: To what extent does your country permit (through legislation or protocols) the pursuit of anti-trafficking investigations in cooperation with foreign intelligence or police services?

Due to the nature of specific human trafficking offence, the Republic of Lithuania actively engages in international cooperation in combating human trafficking, primarily through police authorities.

Question 10: Are there provisions protecting trafficked persons from being prosecuted or punished for their illegal entry or residence in your country as a result of having been the victims of human trafficking? Are there provisions preventing their deportation where there are grounds to believe that their return to their country of origin presents a significant security risk to them or their family members?

Article 292. “Unlawful Transportation of Persons across the State Border” states:
“1. A person who unlawfully transports across the state border of the Republic of Lithuania an alien not having a permanent place of residence in the Republic of Lithuania or transports or conceals in the territory of the Republic of Lithuania such an alien who has illegally crossed the state border of the Republic of Lithuania shall be punished by a fine or by arrest or by imprisonment for a term of up to six years.
2. A person who commits the acts provided for in paragraph 1 of this Article for mercenary reasons or where this poses a threat to human life, shall be punished by imprisonment for a term of up to eight years.
A person who organises the acts provided for in paragraph 1 of this Article shall be punished by imprisonment for a term of four up to ten years.
4. A legal entity shall also be held liable for the acts provided for in this Article.”
As criminal liability requires intent on the part of the subject, victims to human trafficking offences are not liable for illegal entry or residence in the country, unless they are aware and consent to illegal entry or residence. In this case the same persons would be liable under Article 291 of the Criminal Code of the Republic of Lithuania: Illegal Crossing of the State Border.

Article 130 of Legal Status of Aliens provides Prohibition to Expel or to Return an Alien as follows:
“1. It shall be prohibited to expel or to return an alien to a country where his life or freedom is under threat as he may be subjected to persecution on the grounds of race, religion, nationality, political opinion or membership of a social group or to a country from whence he may later be expelled into such a country.
2. An alien shall not be expelled from the Republic of Lithuania or returned to a country where there are serious grounds to believe that in the country the alien will be tortured, subjected to cruel, inhuman or degrading treatment or punishment.
3. The provisions of paragraph 1 of this Article shall not apply with respect to an alien who for serious reasons constitutes a threat to the security of the Republic of Lithuania or has been convicted by an effective court judgement of a serious or particularly serious crime and constitute a threat to the public.”

Thank-you for responding. The responses will be tabulated and discussed at the next meeting of the Third Study Commission in Senegal.

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