

## Trafficking for forced labour in cannabis cultivation

### European Directive 2011/36<sup>1</sup>

Member States shall take the necessary measures to ensure that the following intentional acts are punishable:

The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

Article 2 (1)

Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, **including begging**, slavery or practices similar to slavery, servitude, **or the exploitation of criminal activities**, or the removal of organs.

Article 2 (3)

### Background

Children and adults are trafficked across Europe for forced labour in cannabis factories. Although the nationality profile of those trafficked differs slightly in each European country, the vast majority derive from South-East Asia, and in particular, Vietnam. They are moved, usually by criminal networks, across borders and/or within European countries and made to work in cannabis farms set up in commercial or industrial properties, or private residential dwellings.

Those forced to work in cannabis factories are often made to live in them. The use of physical violence or threats of violence are common in order to ensure compliance and to prevent the victim from attempting to escape. Some victims are permanently locked in the cannabis factories. Increasingly, traffickers use

subtler and arguably more effective psychological control to ensure victims remain - such as debt bondage and threats against their family at home. Those trafficked may not know the country they have arrived in, the language spoken or their rights as a foreign national. They may have an underlying mistrust of authorities as a result of the corruption experienced in their home country or along their trafficking route. These factors increase traffickers' control, serve to disempower the victims and guarantee obedience.

The conditions within the factories are often hazardous. The hydroponic lights used to grow the cannabis plants expose victims to constant heat and light, as well as dangerous fumes. Extensive electricity systems, necessary to power the hydroponic systems, are often installed rapidly and illegally at the expense of safety, resulting in the risk of electrocution.



The 'RACE in Europe' project, funded by the European Commission is a two-year initiative by Anti-Slavery International and its partners to improve knowledge about the nature and scale of trafficking of children and adults for forced criminal exploitation and forced begging across Europe, with a focus on the UK, Ireland and the Czech Republic. Practitioners from across Europe will be trained to help them identify and protect the rights of the victims of this crime.

Race in Europe project partners include:  
**Anti-Slavery International**  
**ECPAT UK**  
**Migrant Rights Centre Ireland**  
**Specialist Policing Consultancy Ltd., UK**  
**La Strada Czech Republic**  
**Multicultural Centre Prague**  
**Police Academy of the Netherlands**  
**Vietnamese Mental Health Services, UK**

More information can be found at  
[www.raceineurope.org](http://www.raceineurope.org)

## Case Study: Trafficking for forced labour in cannabis cultivation in Ireland

B\*, a middle aged man, was offered a job to work in Europe as a gardener by a wealthy friend. He accepted the job as he believed it would allow him to pay off his debts. He was introduced to a group of men who arranged for him to be smuggled out of Asia. After a long and difficult journey B arrived at a bleak industrial estate in rural Ireland and was taken to a barn.

Inside the barn the heat was stifling. He saw hundreds of plants being fed and watered by hoses under artificial lights. He was shown how to control the hoses, the heaters and lights and told that it would be his job to look after the plants. The men locked him in and threatened him that he would be very sorry if anything happened to them. He only had an old mattress to sleep on and was brought food once a week. B had no idea what country he was in, but he knew that he was trapped in a cannabis factory.

When the police eventually discovered the barn, they found B still locked inside. With the assistance of an interpreter, he told them he had been kept as a slave, forced to tend to the plants, and had been threatened with violence. He told them that he had never received any money.

B was charged with possession of the cannabis plants. He faces a mandatory minimum sentence of ten years in prison.

*\* The victim's name has been omitted to protect his identity*

### Trafficking for cannabis cultivation in the UK, Ireland and the Czech Republic

**In the UK:** The number of cannabis farms identified within the UK has been increasing, from just over 3,000 in 2007 to almost 8,000 in 2011. The size and scale of these farms has been changing too. Now, a larger number of 'gardeners' tend a larger number of smaller-scale factories in order to minimise the risk of detection<sup>2</sup>. The increase in cannabis farms has been seen alongside a growing number of Vietnamese child and adult victims of trafficking.

In 2011, 30 victims (two-thirds of them children) were identified through the National Referral Mechanism (NRM) as trafficked and forced to work in a cannabis factory. 27 of these were Vietnamese<sup>3</sup>. 2012 saw a 45% increase in the total number of Vietnamese nationals referred into the NRM. Perhaps most tellingly, in 2012, Vietnam was the top country of origin for trafficked minors<sup>4</sup>; the number identified (93) through the NRM being a 63% increase from the previous year. The NRM does not capture the full picture of the extent of trafficking in the UK<sup>5</sup>; however

these figures alone indicate that the trafficking of South-East Asian children and adults for the purposes of forced labour in cannabis cultivation continues to be a significant issue within the UK.

**In Ireland:** In 2012, 500 cannabis farms were discovered in Ireland and approximately 500 people were charged with cannabis cultivation. The majority of commercial cannabis farms found are believed to be run by Vietnamese and Chinese criminal gangs, although a recent increase in the involvement of Irish gangs has been reported. In 2011, 302 individuals of 'Asian'<sup>6</sup> origin were incarcerated for drug offences within the Irish prison service.

Although the nationalities and the working conditions of foreign nationals arrested for cannabis cultivation go largely unreported in Ireland, a few media articles have documented the duplicitous and exploitative conditions in which some were forced to work<sup>7</sup>. Migrant Rights Centre Ireland has also been referred a number of cases of Vietnamese and Chinese nationals discovered within cannabis factories who are suspected to be victims of trafficking.

**In the Czech Republic:** An increase in the number of cannabis farms has also been documented in the Czech Republic. In 2011, 165 cannabis farms were uncovered, the majority run by Vietnamese criminal gangs. As in the UK and Ireland, there are concerns that many of those found working within cannabis farms are victims of trafficking. Vietnamese nationals account for 61% of the total number of foreign nationals convicted in 2011 for cannabis production in the Czech Republic.

However, it is feared that those convicted may be the mere 'gardeners' who are in a situation of exploitation, rather than the sophisticated criminals who set up the factories and ancillary criminal operations, and to whom the majority of the considerable profits go.

A link appears to exist between the Czech Republic and the movement and trafficking of Vietnamese nationals elsewhere in Europe. The evidence from the project research revealed that many Vietnamese victims of trafficking in the UK either came via the Czech Republic or were previously exploited there.

## Case study: Trafficking chain – links between the Czech Republic and the UK

T\* was unemployed in Vietnam. She was approached by an agent in Hanoi who promised her factory work in the Czech Republic. She was aware of many Vietnamese that had made a good living there, so when the agent made her a lucrative offer, she did not hesitate or ask many questions. She travelled by plane to Prague along with several other women.

On arrival, they were separated and taken to different locations in the Czech Republic. T was told she would have to work as a prostitute to pay for her transportation and travel fees. She refused but was raped to ensure she complied. For several months, she had to have sex with large numbers of men, seven days a week. After a while, T developed a relationship with one of her regular Vietnamese clients, Hoang. He promised to help her, to take her away and to marry her.

Hoang helped her escape and smuggled her in a car across Europe into the UK. He was very nice to her for the first two weeks, and led her to believe that they were a couple. He said he would find her a good job through his friends. One weekend, he suggested they went for a trip to the countryside. However, instead of a romantic weekend, Hoang took T near to Birmingham and put her to work in a cannabis factory. She was told to water the plants and not to leave the factory. The only time she was allowed out was in the company of Hoang who took her shopping for food. She was threatened with violence and told not to speak to the police.

A few months later, the police raided the house and arrested T. When questioned she felt scared and confused, because despite being in a forced labour situation, she felt grateful to Hoang for helping her escape forced prostitution. The trafficking indicators in her case were not followed-up and she was sentenced to 18 months in prison.

*\* The victim's name has been omitted to protect her identity*

## Flawed response: prosecution of victims

Prosecution and conviction rates across Europe for human trafficking crimes remain low. For instance, in the UK in 2011, only 8 people were successfully convicted for trafficking offences<sup>8</sup>. Not only are the traffickers therefore enjoying impunity, there is a deep concern that those trafficked are instead being punished for the crimes that their traffickers have forced them to commit.

European legislation provides for the non-punishment of trafficking victims for their involvement in unlawful activities “to the extent that they have been compelled to do so”<sup>9</sup>. Article 8 of the European Directive states:

*“Member States shall...take the necessary measures to ensure that competent national authorities are entitled not to prosecute or impose penalties on victims of trafficking in human beings for their involvement in criminal activities which they have been compelled to commit as a direct consequence of ... their being trafficked.”*

However, research undertaken by this project has identified almost 100 cases in the UK and Ireland alone of Vietnamese nationals prosecuted and convicted (usually resulting in a 12-24 month prison sentence) for the production of cannabis where indicators of trafficking were present. These indicators include physical or emotional coercion into undertaking the work, little or no pay, or confinement in the premises of the factory.

A large proportion of the Vietnamese nationals trafficked for forced labour in cannabis cultivation are **children**. As with adults, children often fail to be identified and protected by police who raid the cannabis farms, despite existing guidance<sup>10</sup>. Many



of these child victims are then prosecuted for drug and immigration offences.

Worryingly the criminal justice professionals involved in these cases often acknowledged the exploitation the defendant was subjected to, yet either failed to fully investigate their circumstances (thereby failing to comply with the judgement in *Rantsev v Cyprus and Russia*<sup>11</sup>) or disregarded the guidance on non-punishment of victims of trafficking and continued with their prosecution. By failing to identify victims and punishing them for crimes they have been forced to commit, the individual may suffer secondary victimisation and may be vulnerable to re-trafficking. Treating victims of trafficking as criminals rather than protecting them, perpetuates the crime and guarantees impunity to traffickers.

A significant number of trafficked children discovered in cannabis factories later go missing from local authority care<sup>12</sup>. This occurs whilst they are waiting to be age assessed or once they have been released on bail or from custody, often because of the provision of inappropriate accommodation. Evidence indicates that many children who go missing end up back in the hands of their traffickers. They may feel pressured to return to situations of exploitation in order to pay off debt bonds to their traffickers who threaten both them and their families back home if they fail to do so. These debts are sometimes secured against relatives' land in Vietnam as insurance, further increasing victim compliance. The same risk of re-trafficking also applies to adults.

### Police response

The number of cannabis farms discovered across Europe in recent

years has significantly increased. Despite this, tackling the organised crime, including the supply of forced labour that underpins it, has not been prioritised in Europe. The dismantling of cannabis factories is still primarily seen as a short term solution, driven by local and national police targets. However, this approach, which results in only small scale disruption, is a missed opportunity. It will have little impact on the sophisticated criminal networks behind the

cannabis farms that can easily move their operations elsewhere. Instead, those who end up being prosecuted are very often victims of human trafficking.

Trafficking for cannabis cultivation is a transnational problem and the police response needs to reflect this. Within the European Union, effective tools such as Europol or the Joint Investigation Teams ought to be deployed to put an end to this large-scale criminal activity.

## Conclusions

- Full transposition of EU Directive 2011/36 by member states is essential to ensure that those who exploit individuals for forced criminal activities are brought to justice.
- Victims of trafficking should not be prosecuted, but given the support and protection they are entitled to. If there is evidence to suggest that the individual is a victim of trafficking and forced to cultivate cannabis, the prosecution brought against them should be discontinued.
- Children found in cannabis factories shall be referred to social services immediately for a safeguarding assessment. If indicators of trafficking are present, they shall be provided with immediate protection and support, and safe and appropriate accommodation.
- The dismantling of the organised criminal networks responsible for establishing cannabis factories and supplying forced labour across Europe must be made a policing priority at national and international levels.

### Notes

<sup>1</sup> Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA

<sup>2</sup> ACPO- UK National Problem Profile (2012)

<sup>3</sup> See <http://www.soca.gov.uk/about-soca/about-the-ukhtc/national-referral-mechanism/statistics>

<sup>4</sup> 17 years or under at the time of first claimed exploitation

<sup>5</sup> Many victims choose not to be referred into the NRM or fail to be identified as a potential victim of trafficking.

<sup>6</sup> The data available from the Irish Prison Service was not further disaggregated beyond this broad category.

<sup>7</sup> <http://www.independent.ie/irish-news/courts/chinese-farmers-tricked-into-growing-cannabis-28945889.html>

<sup>8</sup> First Annual Report of the Inter-Departmental Ministerial Group on Human Trafficking, 2012, p. 35

<sup>9</sup> Article 26 of the Council of Europe Convention on Action against Trafficking in Human Beings, 2005.

<sup>10</sup> Child Protection and Abuse Investigation Group: Position from ACPO Leads on Child Protection and Cannabis Cultivation on children and Young People Recovered in Cannabis Farms (ACPO, August 2010).

<sup>11</sup> *Rantsev v Cyprus and Russia* [2010] ECHR 25965/04 (7th January 2010)

<sup>12</sup> See, for instance, *'Missing Out: A Study of Child Trafficking in the North-West, North-East and West Midlands'* (ECPAT 2007) and *'Strategic Threat Assessment: Child Trafficking in the UK'* (CEOP, 2010).

