

**Submission to the Anti-Human Trafficking Unit on the
Second National Action Plan to Prevent and Combat Human
Trafficking in Ireland
2015**

Submission by



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Introduction

Doras Luimní welcomes the publication the second National Action Plan to Prevent and Combat Human Trafficking in Ireland (2015). As a front line service that provides advice and assistance to victims of trafficking this consultation document is both timely and significant. Doras Luimní (Doras) is an independent non-governmental organisation that works to support and promote the rights of migrants living in Limerick and the Mid West. The core areas of our work are direct support, advocacy and campaigning, and integration planning. Our expertise includes promoting migrant rights through our advice and information centre, and legal office. Doras also participates in advocacy and campaign work. Our key campaign areas are integration planning, anti-racism and anti-trafficking.

We welcome the opportunity to provide input and we urge the Department to implement the new National Action Plan (NAP) with immediate effect and to consider measures suggested by Doras Luimní and other relevant Civil Society Organisations (CSO) on this important issue.

Anti-Trafficking Work

Anti-Trafficking is a core campaign area and Doras has a dedicated Anti-Trafficking Officer and an intern. This office participates in local and national campaigns against forced prostitution and sex trafficking in Ireland. Doras Luimní, in collaboration with Limerick based sexual health charity GOSHH¹, coordinates a street outreach project to people affected by prostitution. Doras is a core member of the Turn Off the Red Light Campaign (TORL) which lobbies for the introduction of criminal sanctions against the buyers of sex as a way to discourage demand for prostitution.

Doras Luimní chairs a multi-agency Migrant Exploitation Steering Group in Limerick, ensuring that a regional response to the exploitation of migrants is represented at a national level.

While sex trafficking remains the highest reported type of exploitation in Ireland, we note with concern the increase in particular trends of Trafficking in Human Beings (THB) in Ireland. In the last 24 months Doras Luimní provided assistance to victims of trafficking for sexual exploitation, forced labour, forced marriage, and for criminal activity, including trafficking for drug distribution, and trafficking for forced begging. This presents new issues and challenges, particularly in the provision of adequate support services. Given the diversity and range of exploitation type, we hope that the new NAP reflects this diversity in victim identification procedures and in the provision of support services. In 2015-2016 Doras will

¹ <http://goshh.ie/>

coordinate an outreach programme to migrants in vulnerable work sectors. This project is being funded by the Dormant Funds Account under the supervision of the Anti-Human Trafficking Unit at the Department of Justice and Equality.

In this submission we will address the issues facing victims of trafficking who comply with the authorities in criminal investigations. This information is based on our practical experience of case work with victims of trafficking.

Doras Luimní Experience

Supporting Victims of Trafficking

In 2014, Doras Luimní assisted victims of trafficking for the following types of exploitation:

- sexual exploitation;
- labour exploitation or forced labour;
- forced marriage;
- forced begging.

We worked directly with men and women over the age of 18, primarily to access to mainstream support services. Victims of trafficking are without exception completely impoverished when they come to the attention of the authorities or when they exit exploitation. Their needs are complex and they require multiple supports. While victims of trafficking do have access to supports under the National Referral Mechanism it is our experience that support services outside of the capital are often insufficient to deal with the complexity of victims needs.

While we continue to work closely with the HSE Anti-Trafficking Team, due to the complex needs of trafficked persons additional resources are required to provide sufficient support to this vulnerable group. We would like to see the remit of care planning extended to include regional HSE health care providers. There is also a dearth of counseling services outside of the Dublin area. Victims of trafficking for sexual exploitation, in particular find psychotherapeutic counseling beneficial. Victims of trafficking for labour exploitation may have work-place related injuries and poor health in general due to deprivation during the trafficking experience.

While a range of assistance and supports are listed in new NAP not all victims can avail of these services. The current policy under the *Administrative Immigration Arrangements for the Protection for Victims of Human Trafficking* discriminates on the basis on nationality. EU victims that come to the attention of the authorities must rely on Reception and Integration Agency (RIA) accommodation, €19.10 per week and are generally not entitled to social welfare supports as they rarely meet habitual residency criteria (HRC).

Research by Doras Luimní (2015)² highlighted the practical issues facing victims of trafficking in obtaining supports, being identified in a timely manner, and the level of work involved to support vulnerable migrants on a daily basis. Additionally it demonstrated that:

- Victims are not identified in a timely or transparent manner;
- RIA accommodation causes additional distress and anxiety;
- HRC is a barrier for EU victims with many forced to remain for long periods in RIA hostels while investigations are on-going;
- Victims from EU member states are often left destitute;
- The temporary residency permit can lapse between renewals, causing distress and anxiety;
- Trafficking for criminal activity, as an emerging trend, is not sufficiently understood or recognised by authorities;
- Victims of forced marriage are not identified or supported under the NRM.

Additionally there needs to be increased access to early legal advice for all victims of trafficking. In our experience victims of trafficking receive legal advice quite late in the victim identification process. It is often when the stamp 4 visa has been applied that clients receive legal advice and information from the Legal Aid Board. While there are translated documents outlining victims' rights, these are often not made available until quite late in the identification process. It is often dependent on the supporting NGO or HSE care worker to make victims aware of their rights.

We welcome the Department's on-going commitment to the implementation of the European Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, which is a victim centered approach. We are further encouraged by the Department's on-going commitment to implementing fully the Council of Europe convention which forefronts the rights of victims. We are also encouraged by imminent implementation of the Victims Directive 2012/29/EU.

We would particularly like to see transparency/clarification in the new NAP in the following areas:

1. Independent Evaluation of the First NAP

The Council of Europe report for Ireland (GRETA, 2013) criticized the lack of evaluation of the NAP by an independent body and stressed the need to evaluate strategies and efforts to combat human trafficking and to what extent they are efficient in curbing this crime and ensuring that its victims are identified and protected. While there was a review of the first NAP with input from NGOs, the report lacks independent evaluation and analysis.

² <http://dorasluimni.org/wp-content/uploads/2015/02/No-Chances-No-Choices-Soft-Copy.pdf>

2. Data Gathering and Statistics

In order to understand the nature and extent of human trafficking in Ireland statistics should be made available in report form on a yearly basis. The new NAP should commit to providing annual statistics in a timely manner.

3. Prevention

The GRETA (2013) report on Ireland recommended greater involvement of the NGO sector in the planning and implementation of national policy given its important role in the prevention of human trafficking and the protection of victims. It also pointed out that efforts to discourage demand for the services of trafficked persons for the purposes of labour exploitation should be increased substantially. The new NAP should ensure appropriate provisions to develop awareness raising and training strategies to discourage the demand for the services of trafficked persons. It should also endeavor to collect data on emerging trends and experiences of trafficked persons in Ireland. This could ensure effective prevention strategies.

4. Enhanced Co-ordination and Co-operation

The new NAP states that an examination of the consultative structures will be undertaken to ensure that the various working groups remain relevant, to review operations on the ground, and to monitor differences between policy and practice where they arise. This is a welcome inclusion in the NAP. However, it would be beneficial if the review of the consultative structures included a review of operations on the ground in order to identify differences between policy and practice. This review should also be carried out by an independent body.

6. Non-Punishment Principle

We note with concern that victims of trafficking for criminal activity (drug distribution or drug cultivation) are not recognised in a timely manner and many face criminal prosecution in the Irish courts. This means that the non-punishment principle, as envisioned in the Council of Europe convention, is not being fulfilled. In light of the recent cannabis cultivation case (*High Court Judicial Review between 'P' and the Chief Superintendent of the Garda National Immigration Bureau, the Director of Public Prosecution and the Attorney General*³), the victim was never identified as a victim of trafficking and still awaits a decision from the DPP regarding a possible prosecution. The Judge commented that the EU Directive

³ Record no: 2013/795 JR

had not been fully transposed to protect victims of trafficking for criminal activity. We urge the Department to consult with recognised expert groups on this phenomenon (trafficking for criminal activity) to ensure understanding and appropriate training for front line responders.

7. Independent National Rapporteur

The GRETA (2013) evaluation report for Ireland recommended the appointment of an independent National Rapporteur to monitor the implementation of legislation and policy developments. There are numerous NGO reports that highlight inconsistencies relating to the protection and assistance to victims of human trafficking. The independent Rapporteur could have responsibility for ensuring effective implementation of the new National Action Plan, thus ensuring efficiency of victim services, including a review of new or emerging trends.

8. Victim Identification

A heavy burden falls on victims to come forward and self-identify in order to be identified as a victim of trafficking. Additionally the lack of a timeframe for identification impacts negatively on the effectiveness of the identification process and persons can remain in the system for months without being granted suspected victim status. It is essential that the State put in place a system for proactive identification of victims of trafficking, irrespective of nationality or immigration status. This could guarantee that, in practice, identification is dissociated from the suspected victim's co-operation in the investigation. Early legal intervention is also essential if victims are to be aware of their rights in Ireland.

9. Victims of Trafficking in Direct Provision Centres

Direct Provision centers are inappropriate and unsuitable accommodation for all victims of trafficking. We note with concern that under the new NAP victims will continue to be accommodated in RIA hostels. We urge the Department to discontinue this policy with immediate effect. As per Doras Luimní research (2015), victims that are accommodated in Direct Provision hostels face on-going anxiety and distress while they await the outcome of their case.

We welcome in the new National Action Plan that victims of trafficking who have a claim for international protection are identified and given access to the necessary supports and legal advice. As per the GRETA (2013) report which urged the authorities to review the policy of accommodating victims in accommodation centres for asylum seekers, we recommend the setting up of specialized shelters for victims of THB for sexual exploitation with the involvement of NGOs as support providers.

10. Recovery and Reflection

In our experience a victim of trafficking has never been offered a Recovery and Reflection period. In most cases a client will cooperate in the first instance with Gardai and provide detailed statements without any legal advice or information. As per the GRETA (2013) report we urge the Department “to ensure that all possible victims of trafficking, including EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period” (GRETA, 2013). We also urge the Government to ensure that this basic level recognition is given to all victims, regardless of their nationality. It is essential that all victims are offered the same protections from first contact with the authorities.

11. Rights of Victims

Doras Luimní continues to advocate for the rights of all victims to be equal, with full protections given to victims from EU/EEA countries. Currently only victims of trafficking who are undocumented at the time of identification are given full benefits in the form of a stamp 4 residency permit. This constitutes nationality discrimination and leaves cohorts of victims without full access to supports. Victims of trafficking have complex needs; if they cooperate with authorities, and provide vital information to criminal investigations, they should be allocated full protections regardless of their immigration status.

Recommendations

Based on the above, we recommend the following:

- Extend full rights and protections to all victims regardless of nationality;
- Ensure that the rights of trafficked persons are enshrined in primary legislation;
- Discontinue the use of RIA hostels to accommodate victims of trafficking;
- Appoint an independent Anti-Trafficking National Rapporteur to oversee the implementation of the National Action Plan to Prevent and Combat Trafficking in Human Beings (2015);
- Extend the remit of HSE care planning to local area providers;
- Increase the participation of relevant NGOs in the victim identification process;
- Increased training and resources for local front line responders, with particular emphasis for specific training on trafficking for criminal activity for An Garda Síochána;
- Fully transpose the EU Directive to assist and protect victims of trafficking for criminal activity;

Doras Luimní

27th of July 2015