



TRAINING TOOLKIT UPHOLDING RIGHTS!

Early Legal Intervention
For Victims of Human Trafficking



Co-Funded by the Prevention of and Fight against Crime Programme of the European Union





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UPHOLDING RIGHTS! EARLY LEGAL INTERVENTION

Speakers' Notes

Section 1

1.1 Introduction to the ELI toolkit

The following is intended to be guidance for anyone planning to deliver a session of the half-day training course 'Early Legal Intervention Project: Introduction to Human Trafficking'. The notes are aimed at those who have some experience of delivering interactive training courses and who have knowledge of issues relating to human trafficking. It is anticipated that the course will only be delivered within a European context and can be tailored to be relevant to any European country. It is recommended that trainers include information on their national legal context where relevant.

The session incorporates a variety of learning methods and interactive exercises to help delegates engage with the materials. Instruction on how to introduce and facilitate the exercises is included.

There are two possible groups of audiences for the course. It can be delivered to those who do not require detailed legal knowledge. Such delegates could be staff of relevant NGOs or perhaps those involved in education, housing or employment which are likely to encounter victims of trafficking. The training can also be delivered to lawyers, legislators, policy makers and those involved in the justice system. The trainer could decide to omit some of the slides which are more legally dense, in the sections on international law and on obligations of the state, or the trainer may decide to expand further on this section depending on the audience.

The course is intended to be delivered over half a working day, or around 3.5 hours. It should be emphasised to delegates that it is therefore very much an introduction to what is a very complex subject. The course could be delivered by a single trainer, although it is widely recognised that sharing the delivery with another trainer benefits delegates in a variety of ways.

1.2 Learning objectives

On completion of the course delegates will be able

1. To define trafficking and show awareness of its diverse forms
2. To describe the causes of trafficking and the impact of societal demand
3. To demonstrate increased awareness of the challenges of identifying victims of trafficking
4. To display improved understanding of the rights of victims and the impact of trafficking as well as an understanding of the importance of timely legal advice
5. To show basic understanding of the legal framework in relation to trafficking

1.3 *Related documents*

In order to deliver the following course, it is assumed that the trainer has copies of:

1. The PowerPoint set of slides Early Legal Intervention Project Introduction to Human Trafficking
2. ELI toolkit: case studies handout
3. ELI toolkit: indicators handout
4. ELI toolkit: missed opportunities handout
5. ELI toolkit: core principles handout
6. ELI toolkit: evaluation form

The powerpoint presentation is available on www.earlylegalintervention.eu and the handouts are annexes to this document.

Section 2

2.1 *Introductions*

Slides 1 to 4

The trainer should welcome delegates to the session, introduce herself/himself and describe the purpose of the course. Slide 2 contains some bullet points with information about the ELI project.

Upholding Rights! Early Legal Intervention for Victims of Trafficking (ELI) aims to establish best practice in securing the protection of victims of trafficking (VoT) through early legal intervention, thus enhancing their social recovery and their role as witnesses. The project builds on the existing international consensus that the fight against trafficking must include a rights-based approach to protection of victims. The EU has strengthened this position by adopting priorities and objectives that clearly outline the legal rights of victims of human trafficking, and support the prompt collaboration between the State and civil society in upholding these rights. The ELI Partners are: The Immigrant Council of Ireland (Lead Partner), Legal Services Agency Scotland, The AIRE Centre London, Centre for Women War Victims, Croatia, Bulgarian Gender Research Foundation and Klaipeda Social and Psychological Services Centre, Lithuania. The project identified and analysed ELI for victims of human trafficking in the EU. The key aim of the project is to impact on national and EU anti-trafficking responses to enhance the support and protection of victims, including for their key role as witnesses and to improve the civil society/state cooperation in upholding the victims' human rights. The trainer can refer to the project website www.earlylegalintervention.eu

There is also a slide which outlines the main sections of the course.

Slide 4 entitled 'Introductions' serves as a prompt for delegates to introduce themselves one by one, covering the elements listed: their name, organisation, relevancy of trafficking to their work and what they hope to learn from the session.

2.2 *What is trafficking?*

Slide 5

The title slide 5 marks the beginning of the first main section: 'What is trafficking?' It may be worth noting that the image of chained hands corresponds to the mental image that many people have about the nature of trafficking, but as the trainer will cover, the true nature is more diverse and complex than this perception.

Film

Slide 6

Following the title slide the trainer should show the short Finnish film, ‘*Satumaa*’ which translates as Wonderland. The film contains no dialogue, and is under 4 minutes long, but effectively portrays the experiences of one young woman who falls victim to traffickers. A number of elements of the portrayal are noticeably different from many people’s perception of how trafficking happens. Particularly, the woman is shown eating dinner in a restaurant on her own. This is a useful way of introducing the layers of control which victims of trafficking experience and dispels some of the myths. She is not locked into a flat, but is nevertheless under the control of her traffickers. The film is not graphic but does depict forced prostitution. The film can be accessed online here - <https://vimeo.com/54754998>.

The trainer should ensure that there are speakers available so that the sound is audible. Internet access may also be necessary if playing the film from the web. The text at the end in Finnish reads that ‘Trafficking is not a fairy tale but is the fate for hundreds of people in Finland’

It may be useful to invite delegate reactions to the film once it has been shown: ‘Did anything surprise you?’ or ‘Did the portrayal fit with your image of trafficking?’

2.3 European and national definitions of trafficking

Slides 7 to 16

The following slides are intended to correct any misperceptions delegates have about the nature of trafficking and also to explain the features required to meet the relevant definitions within the Council of Europe and the European Union legal framework.

The trainer can read through these slides and check for understanding. The ‘basic principles’ slide articulates the elements of ‘act, means and purpose’ necessary for the trafficking of adults, and compares this with the case for children. This is further developed in the slide ‘The three elements of human trafficking definition.’ Where the individual is under 18, it is not necessary for there to have been coercion or deception because a child cannot legally consent to what happens to them. Delegates should understand the different European legal frameworks that exist and some of the problems with the definition in practice.

Trainers should include a slide which covers the current national definition of trafficking. Slide 16 has been included as a prompt for this information. Discussion should highlight any differences between the national and European definitions and any issues this definition causes in practice.

2.4 Who is a victim of trafficking? - Case studies exercises

Slide 17

Many delegates will come to the training with quite a limited and stereotypical mental image of trafficking. This discussion exercise helps draw out and challenge this simplified image. Delegates are given a printed copy of the document *ELI Toolkit: case studies handout*. The case studies contain a wide diversity of potential victims and forms of exploitation.

Trainers should select the case studies that they feel are most relevant to their national context. Trainers are encouraged to adapt the case studies to reflect national patterns. For example, cannabis cultivation is a common form of exploitation in the UK but may not be an issue in the trainer’s country. Trainers could also consider including a case study that demonstrates a key issue within their own country.

Trainers should explain that the exercise is not meant to be a test, and they should not feel embarrassed if they are not certain of the correct answer. The purpose of the exercise is to have the delegates consider their own sense of what form trafficking takes. In many cases the conclusion of the exercise will demonstrate that they could have potentially overlooked a potential victim of trafficking if they had been making such an assessment in the real world.

The following are discussion points to be aware of in the case studies:

- The case studies are designed to be able to say that all of them arguably contain indicators of human trafficking.

Case 1:

- This is a clear case of human trafficking and one that most delegates should identify.

Case 2:

- This case study highlights that nationals of a country can also be victims of human trafficking. This is more relevant for countries often viewed as destination countries.
- Exploitation in the form of sexual violence.
- Dan recruited and transported R to his flat, and harboured him there to achieve his purpose.

Case 3:

- This type of case study will normally generate a discussion around what is exploitative labour.
- Questions will need to be asked around the extent of the chores, the conditions in which they stayed and what forms of control, if any, were in place. For instance what would happen if they refused to do the chores?

Case 4:

- This case study is inspired from the case of HMA v Kulova and others, at Dundee Sheriff Court, 14 January 2013, see also 'Three jailed for human trafficking of a Slovakian couple', BBC News, 14 January 2013 available at <http://www.bbc.co.uk/news/uk-scotland-tayside-central-21013814>.
- Arguably recruitment; receipt of persons; fraud/deception – is it possible that he is a genuine boyfriend if he is forcing her to marry someone else?
- Abuse of power? Other types of exploitation such as forced marriage.

Case 5:

- This case study is adapted from Victim or Criminal? Trafficking for Forced Criminal Exploitation in Europe, UK Chapter, published in 2014 which is available at http://www.antislavery.org/includes/documents/cm_docs/2014/u/uk_chapter_final.pdf.
- Recruitment, transport, transfer, harbouring and receipt; threat and use of force, coercion, abuse of vulnerability; forced labour.

Case study 6:

- This case study includes recruitment, transport, transfer, harbouring and receipt, threat and use of force, coercion, fraud, deception, abuse of power or vulnerability, giving payments or benefits, forced labour.

Case study 7:

- This case study highlights that there does not need to be exploitation for there to be trafficking, it just needs to be clear that it was the purpose to exploit the individual in bringing them to the country.

2.5 *Common misperceptions and the various forms of exploitation* **Slides 18 & 19**

Prior to showing the slide entitled ‘trafficking crimes’ the trainer could ask the group to suggest forms of trafficking that they are aware of or learned about through the case studies. The same could be done in small groups before returning to a full group discussion.

2.6 *Why does trafficking happen?* **Slides 20 to 25**

The purpose of this section is to explain that human trafficking is not something that happens in isolation but is a response to demands that exist within society. The following slides present trafficking as a business, subject to similar forces as any other, particularly the economic relationship between supply and demand influenced by a culture of consumerism as well as the commodification of women’s bodies. By emphasising the influence of demand, the trainer explains that there is a shared responsibility for creating the circumstances that result in trafficking. It is hoped that delegates will come to see that trafficking is not just a problem to be solved by law enforcement, but that tackling demand is a vital feature too. The comparison to other business models also helps delegates understand the reasons why many people have become human traffickers.

The flowchart slide entitled ‘What makes a successful business?’ describes elements that are required for any business to be profitable. The sense in which human trafficking has many, if not all, of the features is further explained in the slide entitled ‘Why is trafficking a lucrative business?’ The pie chart slide entitled ‘Trafficking: The market demand’ groups the types of demand that trafficking meets into three main types: services, products and personal subjugation. A further slide looks at the issue of demand in the context of sexual exploitation and the issue of demand reduction.

The Manolada case can be discussed further and delegates can be informed that they can read about it on the internet. The flowchart articulates the various stages of cause and effect that ultimately lead from a societal demand to the trafficking and exploitation of an individual person. One article on the case is available at:

<http://www.independent.co.uk/news/world/europe/greek-farmers-who-shot-28-workers-for-demanding-pay-walk-free-from-court-in-scandalous-racist-9639273.html>

A similar series of cause and effect relationships could be described with reference to any trafficking case. This flowchart also makes reference to the three elements of trafficking (for adults): the means, act and purpose.

2.7 *Indicators of trafficking* **Slides 26 to 30**

This section is intended to raise awareness of the many possible indicators that a person is a victim of human trafficking, and to emphasise the importance of identifying victims as early as possible. It is vital to stress at this point that indicators are only a guidance and do not provide an exhaustive list of

evidence that a crime has been committed. They should however provoke suspicion about a possible case of human trafficking. It is common for people to place too much emphasis on elements such as transportation or forced captivity, as explained in the slide entitled 'The use of indicators'. Delegates should be encouraged to focus on exploitation or the intent to exploit.

Any national set of indicators could be referenced at this point. *The ELI Toolkit: indicators handout* should be shared and delegates should read over them. The trainer can also refer to the internationally recognised ILO indicators or UNODC indicators available on their respective websites.

The industries in which trafficking is a common feature will vary considerably from one country to the next. Modelling or working in nail bars may be considered a possible indicator in some countries (or areas of countries), but not in others. It is important to convey local patterns in this section.

Section 3

Slide 31

This part of the course focuses on key issues relevant to a wider understanding of how we identify and protect victims of human trafficking in practice.

Trainers should consider in advance the level of detail that will most benefit the group of delegates in question. For some groups, the information on indicators will be most important, for others perhaps more time will be spent on rights and responsibilities. As early legal intervention is the core principle behind the course, it should always be given sufficient attention and discussion.

3.1 Early identification

Slides 32 to 34

The purpose of this section is to emphasise the importance of early identification. Without early identification, a victim will not gain access to the rights and protections he or she is entitled to under European Law.

The way that victims are identified within Europe tends to be through National Referral Mechanisms. It should be understood that the term "NRM" is not contained within the European legal framework but was a recommendation of the Organisation for Security and Cooperation in Europe (OSCE). It should be highlighted that national identification systems can be limited and often do not align to the OSCE principle.

3.2 Assessing the national referral mechanism (NRM)

Slide 36

Delegates could be encouraged to compare and contrast their own country's system of formally identifying victims with the recommendations for such systems put forward by the OSCE. The NRM could be looked at by asking some questions such as:

1. Who identifies victims of trafficking?
2. Are NGOs involved in the identification?
3. Can the decision be appealed?
4. Does the identification involve a written acknowledgment of victimhood?
5. How long does it take to be identified?
6. Is there a definitive identification? (as opposed to the status of 'suspected' victim)

3.3 *Barriers to disclosure*

Slides 37-39

There are two slides relating to the barriers that a victim may face in being able to disclose their experiences making it difficult for them to be identified as victims of human trafficking. It is designed to encourage delegates to think about the practical impact of an individual's background and experiences on their demeanour. There is also a slide on best practice in interviewing victims of trafficking which might facilitate disclosure.

3.4 *Rights of victims and responsibilities of the state*

Slides 40-56

This section provides a detailed presentation on the specific legal obligations placed on Member States in upholding the rights of victims of trafficking. It also addresses how states can be held accountable under the European legal framework. Trainers should insert a slide regarding any national legislation in this area and how lawyers can use this to ensure victims have access to their rights.

When showing the slide entitled 'Rights: the general framework' the trainer should emphasise that access to legal advice should be as early as possible.

Specific attention is given to the non-prosecution principle, compensation and the additional rights and safeguards for child victims of human trafficking.

Delegates should be referred to the helpful guide on The EU Rights of Victims of Human Trafficking published by the EU Anti Trafficking Co-ordinator's Office found at http://ec.europa.eu/dgs/home-affairs/e-library/docs/thb_victims_rights/thb_victims_rights_en.pdf

The trainer could decide to omit some of the slides in this section which are more legally dense depending on the audience.

3.5 *Missed opportunities case studies exercises*

Slides 57-59

The trainer should hand out the *ELI toolkit: missed opportunities handout* document. Not all case studies need be utilised. Trainers should select the case studies that they feel are most relevant to their national context and use a case study which reflects a particular issue within that context. Case studies are provided which will allow delegates to consider:

1. identification of human trafficking
2. rights and responsibilities owed to that individual
3. the impact of any failings on the individual.

They are particularly asked to consider the role of early legal intervention.

Delegates could also be encouraged to think about potential legal remedies at a national, European and international level. This could be particularly relevant if the audience includes those involved in the justice system

The following are notes on the case studies provided in the pack for trainers:

Case Study 8:

Early legal intervention could have prevented the Crown Court's failure to enquire into the age of O and the legal representative's failure to consider the two protocols incorporated in the Code for Crown Prosecutors in support of the European Convention on Action against Trafficking in Human Beings.

Case study 9:

Most of the issues here seem systemic to the court system. Better security measures in court, greater understanding of victims of trafficking and legal measures to assist them by the authorities would have helped. Similarly, a reply from the state authorities the first and second time would have been helpful.

Case study 10:

A proper plan for reintegration and recovery agreed with the victim and an experienced case worker deeply involved in support and managing the case, rather than those without training in dealing with trafficked persons, would have built rather than broken down trust and would have been much more likely to have secured a positive outcome in this case.

Case study 11:

ELI could have ensured witnesses are sufficiently protected from perpetrators, given judges training to understand human trafficking, denied bail to the perpetrator and allowed sufficient protect for the victim.

Case study 12:

The organisation has provided the victim with ongoing counselling from psychologists, free legal representation in her applications to the Bulgarian court, additional social support, and shelter. If her case is successful, it will constitute a breakthrough in the provision of effective legal remedies to victims of human trafficking throughout the EU. If their cases are unsuccessful, the organisation is considering the full scope of legal opportunities under EU law and international human rights law, and other international mechanisms, to ensure justice for these victims of trafficking.

Case study 13:

The partner organisation resorted to an extra-legal approach by reaching out to the judge through another member of the judiciary. The judge was reminded of her European and international legal obligations to protect trafficking survivors and decided to make the appropriate trial accommodations. The survivor was then allowed to testify via video link with the assistance of her specialised lawyer, and as a result she gave excellent testimony, which led to the successful conviction of the perpetrator. This case demonstrates the importance of early legal intervention, as without the early, appropriate and swift provision of legal support, after the Croatian legal system inadequately implemented its international legal obligations to protect trafficking victims, the survivor in this case would have been too intimidated to give evidence and would have not achieved retributive justice.

Case study 14:

The partner organisation prepared a careful risk assessment and arranged emergency accommodation for the victim for a few days as well as support for her children in her country of origin. With her consent, the organisation referred the case to the police and pushed them to refer the client to the local health services. Throughout the entire process, the organisation provided legal support, assistance with accommodation and referred her to another organisation for counselling.

Case study 15:

The partner organisation assisted with the victim's application for a change of status. They also liaised with a UK pro-bono firm for 6 months researching the possibility of a compensation case for her. The Immigrant Council assisted her to make an application for Irish citizenship. It took an awful lot of time and tenacity to explain the principle of non-punishment to the authorities.

3.6 Principles of Early Legal Intervention

Slides 60 to 62

Delegates should be given the *ELI Toolkit: core principles handout* and given time to read over it. This is an opportunity for trainers to draw together the learning from the course and reaffirm the merits of early legal intervention.

3.7 Group discussion and evaluation

Slide 63

Delegates should be asked to consider the benefits of the course to them and any changes that they will make in their practice. Delegates should be asked to consider early legal intervention as a workable model within their own work. Delegates should be asked to complete the *ELI Toolkit: evaluation form*.



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Case Studies Handout

Case study 1:

N is from China. She is fourteen years old. Her uncle arranged for her to travel to the United Kingdom where she and her family were told her immigration status would be regularised and she would be placed in school. She was told to claim asylum at the border and give her uncle's UK address. She was sent to live with her uncle's friend (posing as her uncle) upon arrival. He forced her to work in a brothel.

Is she a victim of trafficking? Why?

Case study 2:

R is an Irish citizen living in Cork. He is 15 and in school. He is gay but is in the closet. He met a guy named Dan on an internet chat website. Dan said they should meet up. They had a date in the afternoon and Dan said a lot of nice things to R about how good looking he is and how he could make a lot of money in Dublin. R wasn't sure what he meant. They met again.

After their second date, Dan drove R to his flat and sexually assaulted him. They met a third time and the same thing happened. R has now disclosed this to you.

Is R a victim of trafficking? Why?

Case study 3:

C.N. and V. are sisters, from Burundi. Their family arranged for them to come and live in Sofia with family friends, where they would go to school and have their status regularised. V (the younger sister, 8) went to school but C.N. (the older sister, 12) had to stay at home. Both were required to do many chores around the house, but C.N. also had to look after the family's children during the day and was not allowed out.

What questions would you ask to find out if they had been trafficked?

Case study 4³:

A, a 28 year old woman from Slovakia was looking for a job in the UK to join her boyfriend, Nicola, who worked there for a while. Her boyfriend told her that he had found a job for her in a local bar and that since there are plenty of jobs in London, she could also bring her sister to live and work with her. Upon their arrival, Nicola told A and her sister that they had to give him their travel documents and IDs so he could arrange their employment status. A and her sister were told the next day by Nicola that in order to be able to work in the bar, she and her sister would have to get married to two of his Mexican friends, who were currently unemployed and their visas were about to expire.

Are A and her sister victims of trafficking? What element/s of the trafficking definition are relevant in this case?

³ Case study inspired from the case of HMA v Kulova and others, at Dundee Sheriff Court, 14 January 2013, see also Three jailed for human trafficking of a Slovakian couple, BBC News, 14 January 2013 available at <http://www.bbc.co.uk/news/uk-scotland-tayside-central-21013814>.

Case study 5⁴:

M, a 13 year old girl from Romania, was trafficked into the UK in 2008. Her father paid 200 to an organised criminal network to arrange her travel into the country. Once in the UK, M was placed with a family in Slough which was part of this criminal network. She was exploited in domestic servitude, having to do the household chores and care for the children. She was made to sleep on the floor and was only fed scraps. Every day M was driven to Surrey and forced to beg, steal and to sell the 'Big Issue' magazine illegally. After working for 12 hours each day she would be collected, searched and beaten by her traffickers. She was never allowed to keep any of her earnings. Although forced to work on the streets throughout the winter months she was never provided with a coat to wear or anything to eat or drink.

What elements of the definition of trafficking definition are relevant in this case?

Case study 6⁵:

Fifteen-year-old H grew up in a village in Vietnam and did not go to school. When his father died, H tried to make a living in the capital selling plastic bottles for recycling. A man approached him and said he could earn lots of money in Europe. H would have to raise several thousand dollars for an agent to take him. His mother took out a loan against their house and an uncle raised the rest. After 14 months of travelling, H was dumped at a service station in England. Here, he was met by another Vietnamese man called Cuong who drove to a house in Scotland. H was told that he now owed more money for the trip, plus interest. He would have to water cannabis plants to pay off his debt and be able to send money to his mother and sisters. H asked why he could not work in a restaurant, as promised, but Cuong said this was his only option. Cuong left H alone in the house with instructions and locked the doors from the outside. Cuong returned to the house every few days with bits of food and water. H asked Cuong if he could go home but Cuong hit him and said he mustn't go anywhere or the police would arrest and beat him.

Is H a victim of trafficking? Why?

Case study 7:

A is from Vietnam. When he was 12 years old, his father accrued a large debt to 'loan sharks' in Hanoi City. His father was unable to pay back the amount owed due to ill health. The loan sharks visited A and his father periodically to beat them and demand the money. One day, they suggested that A should go abroad and work to pay back the debt, because his father could not. A reluctantly agreed and travelled with 'agents' to Russia by plane and then by lorry to France.

In France, the agents gave A £50. They gave a mobile phone to another, older boy that had been travelling with A and would go with him to the UK. A had no idea what was going to happen in the UK. They were put in a lorry. When the lorry stopped in the UK, the boys got out and were chased off by the driver. They walked into a shop and the older boy asked the shop owner to call a taxi to London. A did not know why. Before the taxi arrived, however, the Police came and arrested both boys. A was released into the care of social work services after a few hours.

Do you think A meets the definition of trafficking?

⁴ Case study adapted from Victim or Criminal? Trafficking for Forced Criminal Exploitation in Europe, UK Chapter, published in 2014 which is available at http://www.antislavery.org/includes/documents/cm_docs/2014/u/uk_chapter_final.pdf.

⁵ Ibid

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Indicators Handout

Pre-trafficking experience:

- Deceived about conditions of work
- Deceived about living conditions
- Deceived about educational opportunities
- Deceived about wages
- Deceived about family reunification
- Deceived about legality of work contract

Travel Arrangements:

- Travel arranged by someone else
- Lack of knowledge regarding type of documents
- No knowledge on who the other people travelling are

Documents/Immigration status:

- Not in possession of passports and other travel documents
- Have false identity or travel documents
- Deceived about obtaining legal documentation
- Fear of revealing immigration status
- Lack of knowledge on current immigration status
- Deceived about immigration status
- Coerced to apply for asylum or warned not to apply for asylum

Journey:

- Escorted by someone at all times
- Confiscation of documents during travel
- Travel in a group, often with women who do not speak the same language

Freedom of movement and control:

- Limited or no social interaction
- No knowledge of home or work address
- Unable to move freely/independently

Work and pay:

- Dangerous work
- Deception regarding type of work
- Excessive working hours
- Receive little or no payment
- Debt bondage

- Disciplined with fines
- Withholding of money
- Wage manipulation
- Hazardous living/working conditions
- Unable to negotiate working conditions
- No respect of labour laws

Force, coercion and threats:

- Subjected to insults, abuse, threats
- Forced to act against peers
- Threatened to inform family or community
- Threatened with being handed over to authorities
- Threatened to harm family/loved ones
- Forced to lie to authorities, family etc.
- Abuse of cultural/religious beliefs
- Had others speak for them when spoken to directly
- Forced into criminal activity

Abuse and violence:

- Physical abuse
- Forced into sexual activity
- Lack of control on when, where, and how often a sexual activity occurred
- No say in the number of men/kinds of sexual activities performed
- Physical, psychological, or sexual abuse
- Unable to leave situation
- Unable to contact police
- Unable to communicate freely with others
- Isolation or confinement

Risk on return:

- Fearful to return home
- Lack of protection in home country
- Fearful of police corruption/lack of protection

Health indicators:

- People who have been trafficked may suffer from:
- Anxiety
- Depression
- Aggression
- Self-harm/suicidal ideation
- Lack of trust
- Nightmares
- Flashbacks
- Panic attacks

- Difficulty concentrating
- Feeling detached/isolated
- Frequent crying
- Headaches
- Fainting/dizzy spells
- Significant weight loss
- Physical injury
- Abdominal pain
- Painful urination
- Pelvic/vaginal bleeding
- Scarring from physical and/or sexual violence
- Difficulty sleeping/constant fatigue
- Sexual transmitted diseases

They may also have been:

- Forced into drug/alcohol use
- Forced into terminating pregnancy
- Left with untreated medical issues



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Missed Opportunities Handout

The case studies are based on clients of the Immigrant Council of Ireland, The Bulgarian Gender Research Foundation in Bulgaria and the Centre for War Victims in Croatia. Ireland, Bulgaria and Croatia were the three countries chosen to run a pilot project offering early legal intervention to victims of trafficking. Case study 8 is an exception and is a case study from the UK which was in the public domain.

Case study 8⁶:

R v O was an appeal against the conviction of a Nigerian national, O, for possessing a false identity document. She had run away from Nigeria to avoid a forced marriage but was forced into prostitution upon reaching England. Upon attempting to leave the UK using false documents, she was arrested by French passport control officers who recorded her as being “very young and possibly juvenile.” Despite the combined evidence of this recorded comment, as well as an assessment from the Poppy Project (an organisation for the assistance of trafficked women) that O was a trafficking victim and the appellant’s own comments regarding her situation (in broken English), she was convicted before a Crown Court.

How could Early Legal Intervention (ELI) have helped O in this case?

Case study 9:

A girl of Roma origin was sent abroad to pickpocket at the age of 17. She was illiterate and had been detained in a criminal gang’s home and taught how to pickpocket. She was sent to the Czech Republic and Greece for the purposes of criminal activity. She was later found on the streets and returned to Bulgaria through the national mechanism for returning Bulgarian children at risk. The family presented a risk for the child but she wanted to return to the father who still had parental rights. He showed hostility during the interviews with child protection. The family insisted on her return despite no assurances about proper education. She escaped from the crisis centre she was being kept in. She was returned again to the centre after she was arrested following a criminal incident in Bulgaria. She was placed in the crisis centre prior to a court case regarding her custody.

The family started threatening the crisis shelter (NGO) and influenced the social services and the court with bribes and threats. The court decided to return the girl to the father. In addition to this, a procedure for the approval of the marriage of the girl to her much older uncle was approved by the court. The partners of the centre informed the Anti-Trafficking Commission, the Agency for National Security, the Ministry of the Interior, prosecutors and the bodies of social assistance that this was a criminal family and people were afraid.

An act of indictment for pickpocketing from the Czech prosecutors’ office arrived. The NGO wrote again to the agencies, urging them to identify the girl as a victim of internal and cross-border trafficking, to work to apply Article 8 of the Anti-Trafficking Directive, for non-prosecution of the girl, but received no reply. The NGO has decided to take measures at international level.

What opportunities for ELI can you detect in this case study?

⁶ R v O [2008] EWCA Crim 2835 (02 September 2008)

Case study 10:

A Croatian national was exploited for prostitution and imprisoned by her trafficker in her hometown. The police recognised her as a victim of trafficking and the Red Cross took on her case despite their staff having neither training nor interest in dealing with traumatised trafficking victims. The trafficker was convicted but only for pimping. Contact became rarer and after a while the victim ceased contact with the Red Cross staff, the ELI solicitor and caseworker. The trafficker appealed, but by the time the appeal came around the victim had ceased contact with the Croatian ELI partner. Neither the victim nor the trafficker appeared for the appeal, so the judge issued a warrant to the police to find and apprehend him. The victim has a right to refuse testifying, so no warrant could be brought to find her. The partner project's lawyers had to inform the court that they no longer had power of attorney to represent her, as she was no longer reachable.

What opportunities for ELI can you detect in this case study?

I. *Non-punishment and non-prosecution*

Case study 11:

A victim of trafficking in Croatia escaped from her trafficker and reported him to police. Police identified her as a victim of trafficking for sexual exploitation in Zagreb. The victim's mother was a client of the Centre for Women War Victims in the past for domestic violence related issues, so when the victim received an invitation to testify in court in the process against the trafficker (who was charged for the crime of forced prostitution because it would be easier for the prosecutors to prove) she came to them for legal support for her daughter. Since the trial was scheduled to take place a few days later there was no time for good preparation of the testimony, but the victim was informed about the procedure and her experience of surviving the crime was checked by the solicitor and caseworker who both empowered her to testify. The ELI funded lawyer represented her in court.

At the hearing, one of the witnesses who had obviously been influenced by a perpetrator did not tell the court what really happened, but stated that the victim had been voluntarily engaged in prostitution. The judge found no elements of force needed to prove the crime of forced prostitution, so he dropped all charges against the perpetrator despite the fact that the perpetrator admitted he was acting as a pimp, sexually exploiting the victim in prostitution. The case is currently pending before the European Court of Human Rights.

In the meantime, due to the risk of the perpetrators taking revenge, a risk assessment was made and necessary steps for protection of the victim were agreed. She changed address, left her mother's home and is living independently with a boyfriend. She still gets information from her friends that the perpetrator is continuing with his crime against other women, using the same system of threats and fraud.

What could have been done to ensure the perpetrator was punished for his crime?

II. *Right to compensation*

Case study 12⁷:

A woman was trafficked from Bulgaria to Austria. The case against her traffickers was heard before the criminal court in Vienna and they were found guilty. The woman was granted €26,000 in compensation. However, she was unable to obtain the compensation directly from that verdict; she would need a court in Bulgaria to apply the ruling. She returned to Bulgaria. Unfortunately, the courts in Bulgaria would not simply apply the ruling and compensate the victim without additional steps and documents. She currently seeks the judgment in Vienna to be made effective by the Bulgarian court, and a further civil claim to compensate her to the full extent of the harm done to her by the traffickers. In addition, Bulgarian legal aid was not available for her case, and the traffickers and others from the same criminal network are still in the region in Bulgaria.

How might ELI have helped her?

III. *ELI in practice*

Case study 13⁸:

A minor female from a small city in Croatia was identified by the police as a survivor of trafficking for forced labour and forced marriage. The girl was referred to a shelter for minor trafficking survivors and assigned a legal guardian by the Centre for Social Welfare. A caseworker at the shelter organised psychological and medical help as well as primary school education for the survivor. A specialised lawyer was assigned to her case, but problems arose when the case reached the trial stage. The judge wanted to assign a non-specialised lawyer (who may have been male) to the survivor. He would not allow the survivor to appear in court via video link despite the fact that the perpetrator would also be present in the courtroom and he decided to hold the trial at a courtroom five hours away from the location of the survivor's shelter. These could all have potentially re-traumatised the survivor.

How might ELI have helped in this situation?

Case study 14⁹:

A suspected victim of trafficking was referred to the Immigrant Council of Ireland's Law Centre by a health centre working with women involved in prostitution. When at the ICI Law Centre, the client disclosed that she was a victim of trafficking and was still vulnerable to exploitation, but she was concerned that leaving the situation would put herself and her children at risk.

The ICI prepared a detailed risk assessment and arranged emergency accommodation for her for a few days as well as support for her children in her country of origin. The Law Centre explained the legal routes to protection, including the Dublin III Regulation, to the client. With her consent, the ICI referred the case to police and pushed them to refer the client to the local health services.

Apart from the clear benefit of ELI for the victim in this case, it was also confirmed that survivors must be allowed time to recover from their traumatic experience before giving statements. This extra support has helped the client to progress towards rehabilitation.

How did ELI help with this victim's rehabilitation and legal situation in this case?

⁷ This is the summary of a case study provided to the ELI Project by one of the partner organisations of the ELI project.

⁸ This is the summary of a case study provided to the ELI Project by one of the partner organisations of the ELI project.

⁹ This is the summary of a case study provided to the ELI Project by one of the partner organisations of the ELI project.

Case study 15:

A victim was trafficked from central Africa to Spain at a very young age where she was exploited for many years and then later trafficked to Ireland and exploited across the whole Island. Following a raid on a brothel she was arrested by the police and prosecuted. She was also charged with immigration offences and offences under the Sexual Offences Act.

She was later identified as a suspected victim of trafficking and assisted by an NGO. She cooperated with the police fully and was prepared as a witness in a high profile case. The trafficker was prosecuted in the UK and imprisoned. Assets belonging to the trafficker were frozen and property confiscated.

She came to Immigrant Council of Ireland at the stage of change of status, namely permission to have a long-term status after assisting the police for a period of three years and having concurrent temporary permission to remain in the state as a victim of trafficking.

The Immigrant Council assisted with her application for a change of status. They also liaised with a UK pro-bono firm for 6 months researching the possibility of a compensation case for her. Time frame problems, residency requirements and evidence of injury were all difficult to overcome but the main obstacle to any compensation claim was her criminal record. Further problems now exist for the victim in making a naturalisation application with a criminal record.

Can you identify the main benefits ELI had in this case? Had the victim sought advice at the earliest instance and straight after arrest, how might ELI have helped her then?

UPHOLDING RIGHTS! EARLY LEGAL INTERVENTION

Core Principles Handout

The ELI Project has set down the following best practice principles around early legal intervention in cases of human trafficking: ELI should be available for all legal proceedings. ELI should be provided as soon as there is an indication of human trafficking. There is a need for broader dissemination of ELI and training.

For there to be effective ELI, ensure:

- Partnerships and cooperation with all stakeholders.
- Evidence gathering which supports a victim's case.
- Frontloading.
- Holistic support.
- Tenacity.
- Establish previous interventions and redress any inaccuracies.
- Specialist legal knowledge.
- Clarity about legal boundaries.
- Checking of records and interviews.
- Client centred pacing of the case.
- Availability and accessibility of lawyers.
- Regular liaison with client.
- Client reassurance and person-centred approach.
- Backup following any decision.

Recommendations from the project:

Best Practice for Member States

- Efforts must be intensified to identify all types of victims. Working in partnership with other stakeholders can help prevent re-traumatisation.
- Member States should aim to:
- Enhance and formalise the role and input of specialised NGOs in identifying potential victims
- Improve and increase cooperation between law enforcement and NGOs
- Proactively screen for indicators of trafficking
- Allow victims to be eligible for services irrespective of criminal proceedings

Obtaining evidence to support the Client's case and front-loading

- Obtaining written detailed disclosure as early as possible
- Early gathering of external evidence to support the claims made by the individual
- Early gathering of records and documentary evidence obtained by other organisations/ authorities with which the individual may be or may have been involved
- Setting out written arguments explaining the position as early as possible
- Supporting VoTs at legal meetings and statement giving to prevent re-traumatisation due to repeat disclosures

Holistic approach

- Risk assessment of immediate protection needs
- Decision on the best/most appropriate route for protection by the State
- Ensuring that a recovery and reflection period is obtained prior to interviews
- Assessing criminalisation risks i.e. immigration offences
- Legal advice and assistance should be provided to VoT on various matters arising

Tenacity

- Show willingness to challenge systems and state authorities persistently and at all levels in a professional manner to achieve the best result for the VoT
- This includes challenging clients themselves so that they make the best decisions and maximise their chances of a positive outcome
- Taking the long view in terms of a client's protection and safety and not just limiting any involvement or legal advice to the immediate issue in question

Other practical tips for organisations

- Prepare in house training for all staff members to be aware of trafficking incidents
- Set up the interview room in a client-friendly manner
- Ensure the interviewer and the interpreter have been properly trained

Taken from: *The Comparative Report: Upholding Rights! Early Legal Intervention for Victims of Trafficking 2015* by Dr. Monica O' Connor

UPHOLDING RIGHTS! EARLY LEGAL INTERVENTION

Evaluation Form

1. To what extent did the training slides meet your expectations? (Please tick)

Poor	Further Comments:
Okay	
Good	
Excellent	

2. To what extent did the case studies handout meet your expectations? (Please tick)

Poor	Further Comments:
Okay	
Good	
Excellent	

3. To what extent did the missed opportunities case studies handout meet your expectations? (Please tick)

Poor	Further Comments:
Okay	
Good	
Excellent	

4. To what extent did the ELI principles handout meet your expectations? (Please tick)

Poor	Further Comments:
Okay	
Good	
Excellent	

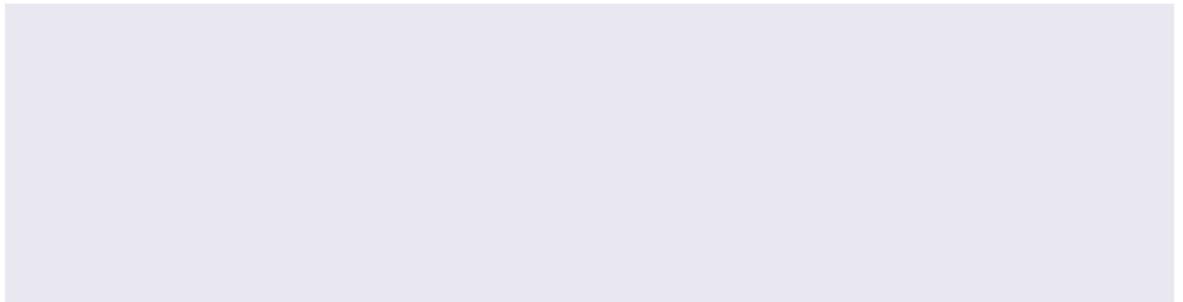
5. To what extent did the Indicators handout meet your expectations?

Poor	Further Comments:
Okay	
Good	
Excellent	

6. What was the most interesting thing you learnt today which you will bring with you from the training?



7. How do you plan to use what you have learnt?



8. Will what you have learnt today bring any changes in your everyday practice?



9. Do you have any other comments?









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