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ORGANIZATION OF AMERICAN STATES (OAS)

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FINAL WORK REPORT "REPORTING GUIDE ON RED FLAGS
ASSOCIATED WITH MONEY LAUNDERING CASES LINKED TO
TRAFFICKING IN PERSONS" SUB-WORKING GROUP OF FIU AND
CRIMINAL INVESTIGATION ORGANIZATIONS

FINAL REPORT WORK "REPORTING GUIDE ON RED FLAGS ASSOCIATED WITH MONEY LAUNDERING CASES LINKED TO HUMAN TRAFFICKING" SUB-WORKING GROUP OF FIU AND CRIMINAL INVESTIGATION ORGANIZATIONS

Work Plan 2021–2022

This paper "*Reporting guide on red flags associated with money laundering cases for trafficking in persons*" is part of the strategic plan proposed by the 2021–2022 work plan, at the hybrid meeting (virtual – face-to-face) in Mexico City, held from November 15 to 17, 2021, and entrusted to the Sub-Working Group of Financial Intelligence Units [FIU] and Criminal Investigation Organizations [CIO].

The Sub-Working Group in Financial Intelligence Units and Criminal Investigation Organizations will be dedicated to:

1. Study of typologies in the field of Money Laundering based on foreign trade.
2. Red flag guide on reporting Money Laundering cases linked to Human Trafficking.
3. Analysis of money laundering cases linked to environmental crimes.

With regard to mandate number 2, the work was divided into two parts: the first to be carried out in the first half of this year 2022 focusing on the collection of information on typologies, warning signs and cases shared by member countries that have collaborated with the study; and the second part developed in the second half of 2022, in which the results of the analysis will be presented. The request for information to the member countries was made in a broad and flexible manner, so that they could provide all kinds of background information that could be of interest so that from this compilation, work on creating a Red Flag Guide could progress.

Introduction

The crimes of trafficking in persons (or human trafficking) and smuggling of migrants have the characteristics that they exploit persons for profit and are further exploited by organized crime networks that mainly take advantage of vulnerable groups to commit them. According to data from the International Labor Organization (ILO), it is estimated that the profits generated by human trafficking in this form of exploitation reach USD \$110,000 million, about a third of which compares to the most lucrative illicit business in the world:

drug trafficking (USD \$320,000 million). On the other hand, it is estimated that the smuggling of migrants can generate profits of up to USD \$31,600 million (FORBES, 2022).¹

Human trafficking and smuggling of migrants are a global concern, since they comprehensively affect countries that can be points of origin or transit and eventual destination where these crimes could manifest, and although there may be confusion among these crimes, they are clearly differentiated. The smuggling of migrants is a crime committed against States as it violates their legal limits to monitor the illegal entry of migrants within their territory. On the other hand, human trafficking is a crime committed against persons where their vulnerability is abused and exploited for labor or sexual purposes.²

In practice, it may be difficult to differentiate between smuggling and trafficking, as elements of exploitation and abuse may arise during the transit of migrants or at the destination point, even if the migrant had initially consented. Smuggling and trafficking may occur on the same routes and the former may give rise to the latter.³

The crimes of migrant smuggling and trafficking in persons are among the various criminal activities carried out by organized groups, achieving extremely lucrative results.⁴

Conceptual Framework

This report is part of the commitments made by a task force that brings together the Financial Intelligence Units and the Criminal Investigation Organizations. In this manner, this work will focus on the identification of red flags according to the levels of intervention by the different agencies that participate in the prevention and persecution system in AML / CFT matters.

In this sense, Red Flags will be presented to the obligated subjects, collaborating in their detection process, providing them with the signs and typologies that they should take into consideration in order to analyze them and determine if they may be facing a suspicious operation that must be reported. The next stage of the flow corresponds to the Financial

¹ Advisory Board of Coordination and unity of action in the field of prevention and control of organized crime, diagnosis and proposals for the human trafficking axis and illicit trafficking of migrants. Chile September 2022.

² Ibid.

³ Ibid.

⁴ "There is growing evidence that criminals are turning to human trafficking and the smuggling of migrants to a greater extent as these crimes are seen as highly profitable. According to the United Nations Office on Drugs and Crime (UNODC), [Trafficking in Human Beings] THB is the third largest source of income for organized crime groups after drug and arms trafficking". Money Laundering Risks Arising from Trafficking in Human Beings and Smuggling of Migrants. 2011.

Intelligence Units, which seek to determine how those suspicious operations that were reported, may be part of an intelligence report that allows the prosecution to investigate; by this point Red Flags have been presented in which the Financial Intelligence Units must have in their crosshairs. Subsequently, the prosecution is interested in determining how to frame certain facts in a criminal charge and for its part the police authorities must seek to prove the facts. The whole process must conclude with a judge capable of determining whether, on the basis of the evidence presented, it is possible to prove certain facts, which constitute a criminal offense.

Objectives

General

Conduct a study and create a guide on red flags in terms money laundering reports for trafficking in persons, which has as users and beneficiaries the obligated subjects and the Financial Intelligence Units.

Specifics

Know what kind of documents the countries of the region possess, in terms of typologies, red flags and warning signs regarding money laundering, and how that is linked to human trafficking crimes.

Identify through the studies carried out by the OAS and the Financial Action Task Force of Latin America (FATF-GAFILAT) the red flags, typologies and warning signs of money laundering along its possible linkages to human trafficking crimes.

Identify, study, and extract the pertinent lessons from the red flags, typologies and warning signs obtained from the cases provided by the countries that have contributed to this study.

Methodology

For the preparation of this study, the cases provided by member and observer countries, open sources of information, such as the studies of the Latin American Financial Action Task Force (GAFILAT) and the instruments developed by the member countries, were consulted. The delegations of Chile, Mexico and Costa Rica had taken charge of the study by reviewing and systematizing the information. For the preparation of this report, the following have provided information: Argentina, Chile, Costa Rica, Ecuador, Guyana, Mexico and Uruguay.

Country	Information Provided
Argentina	Provided the necessary background on a relevant case of human trafficking, in which 3 different operations executed by the criminal organization are described and analyzed.
Chile	Guide pertaining to the warning signs, typologies, and background in a human trafficking case.
Costa Rica	Protocol for the derivation and detection of possible human trafficking cases.
Ecuador	Provided a relevant human trafficking case.
Guyana	Provided a typology guide.
Mexico	Contributed a study in the investigation of criminal money flows, as a strategy in the fight against trafficking in persons, conducted by the Secretariat of the Treasury and Public Credit.
Peru	Relevant human trafficking case provided.
Uruguay	He provided a relevant case of human trafficking.

DEVELOPMENT

I. Typification

For clarity on the following information to be presented in this report, some previous background regarding the conceptualization of human trafficking should be borne in mind. In this regard, article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, that supplements the United Nations Convention against Transnational Organized Crime (Palermo Protocol), notes:

“Trafficking in persons’ shall mean the recruitment, transportation, transfer, harbouring or receipt of 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.”

As an example of domestic reception as pertaining to this international norm, the first paragraph of article 411 of the Chilean Criminal Code contemplates a figure that covers several behaviors.⁵

As stated in the "Global Report on Trafficking in Persons 2020", most countries in the continent have criminalization statutes or laws that meets the standards imposed by the Palermo Convention.

In this context, the aforementioned report states that the economic effects generated by COVID-19 directly impacted the risk of human trafficking occurrences, due to the increase in economic need by the population as a result of unemployment. Among the most significant findings are the following:

- Human trafficking the world over continues to mainly affect women and girls; 65% of victims identified fall under this group. However, recent information reflects an increase in men and boys compared to the previous report (35% of the total identified victims).
- Sexual exploitation remains the main principle means of exploitation around the world (50% of identified cases), but there has been an increase in identified cases of

⁵ "Anyone who, through violence, intimidation, coercion, deception, abuse of power, taking advantage of a situation of vulnerability or dependence on the victim, or the granting or receiving of payments or other benefits to obtain the consent of a person having control over another, recruits, transfers, harbours or receives persons for the purpose of being subjected to some form of sexual exploitation, including pornography, forced labour or services, servitude or slavery or practices analogous thereto, or the removal of organs, shall be punished by imprisonment in any of its degrees and a fine of fifty to one hundred tax units per month."

forced labor with some other forms of exploitation, such as forced begging (from 34% in 2016 to 38% in 2020).

- The sectors where cases of forced labor have occurred in the highest proportion are domestic labor, the construction sector, in rural economies such as agriculture, extractive economies such as mining, the textile sector and in informal work.
- The main risk factors that are exploited by traffickers around the world, according to the cases analyzed, are economic necessity, uncertain migration status, history of familial conflict—mainly in cases of children and adolescents—and the development of affective dependency by the trafficker toward vulnerable persons as a mechanism of submission.
- More than 90% of the cases identified in South America originate from the same region. That is, most of the identified victims are from the same country or neighboring countries.⁶

Regarding how the phenomenon manifests itself in the subregions of South and North America, the report makes the following observations:

a) North America, Central America and the Caribbean.

- North American countries detect more adult women than any other victim, while Central American and the Caribbean detection efforts are characterized by a substantial level of underage and adult women.
- Most victims detected in North America, Central America and the Caribbean have been trafficked for sexual exploitation.
- In North American countries, there has been an increase in trafficking victims within their own countries; mostly women for the purpose of sexual exploitation.
- The countries of Central America and the Caribbean detect nationals and victims of some South American countries. At the same time, victims from these countries have been detected in richer countries in North and South America.⁷

b) South America

⁶ <https://www.unodc.org/colombia/es/reporte-global-sobre-trata-de-personas-2020.html>
Global Report on Trafficking in Persons 2020. Page 155.

- Women represent the majority of identified victims in South America, while 1 in 4 of victims identified is male.
- The majority of identified victims in South America are trafficked for sexual exploitation reasons, while more than a third are trafficked for forced labor.
- South American victims have been identified in large numbers across South America, Central America and the Caribbean.
- Victims from this subregion have also been identified or repatriated from North America, Europe, the Middle East and East Asia.

Regarding the situation of the Venezuelan exodus in South America, there is information and research that shows how the migratory flow has been accompanied by organized crime, with smuggling of migrants and trafficking in persons. ⁸

II. Risk analysis and management.

Trafficking crimes require certain special considerations in relation to the social and contextual elements involved. In the vast majority of cases "*... criminal groups exploit the ignorance, marginalization, insolvency or the needs of people and even personal desires according to various categories as related to identity (sex, gender, ethnicity, age, education, sexual orientation, etc.), the geographical area (country of origin / destination / receiver / sender, entity and locality) and the context (pandemic, impunity, insecurity, violence, etc.) to hook their victims*"⁹

In this order ideas, it is necessary to have special tools and elements to attack this illicit "*... As can be seen, specialized training, workshops, recommendations and the creation and consultation of reports on the subject are essential to obtain detailed information on the criminological and victimological phenomenon and the social elements of trafficking in persons, since they constitute very useful tools to update the systemic knowledge on trafficking in persons. In addition, education campaigns can sensitize the public service to the risk of human trafficking.*"¹⁰

⁸ Refuge and Migrant need Analysis. Issued 2022.

⁹ *Study on the investigation of the money flows of criminal groups, as a strategy in the fight against trafficking in persons.* Ministry of Finance and Public Credit.

¹⁰ Ibid.

The study conducted by Mexico indicates that human trafficking is the second most lucrative criminal activity after drug trafficking, and that cartels have moved beyond drug trafficking into incorporating other criminal activities, such as robbery, extortion, kidnapping and human trafficking.¹¹

III. Typologies, warning signs and red flags.

Before articulating the mandate in full of Gelavex concerning the elaboration of our Guide to Red Flags, it seems pertinent to briefly clarify the scope of the following concepts: typologies, warning signs and red flags.

In general, Typologies are defined as: "*Set of acts or procedures used by money launderers to conceal or disguise the illicit origin of certain assets, or the goods themselves. The different typologies identified have been detected from real cases, and do not constitute an exhaustive list.*"¹² In Chile, the Typology Report recognizes five, namely, "*Front men or figureheads, Legal persons (fictitious, front and/or shell companies), Layering, Gatekeepers, Black Market*".

On the other hand, the warning signs are defined as: "*Behaviors or characteristics of certain operations or persons that could lead to the detection of a suspicious money laundering operation.*"¹³

In the concept of red flags, we can generally encompass the two previous categories, as within this conduct; experience shows how large-scale acts or small specific behaviors has been used in the commission or perpetration of basic crimes and in behaviors designed for laundering.

However, below, we have developed a list of Red Flags extracted from the documents pertaining to typologies and warning signs that have been published by various state parties and based on the cases provided.

For prevention's sake, it should be taken into consideration that human trafficking is but one more edge of organized crime; many of the warning signs and typologies are

¹¹ Ibid., p. 8.

¹² VII Report on Typologies and Warning Signs of Money Laundering in Chile.

¹³ Ibid.

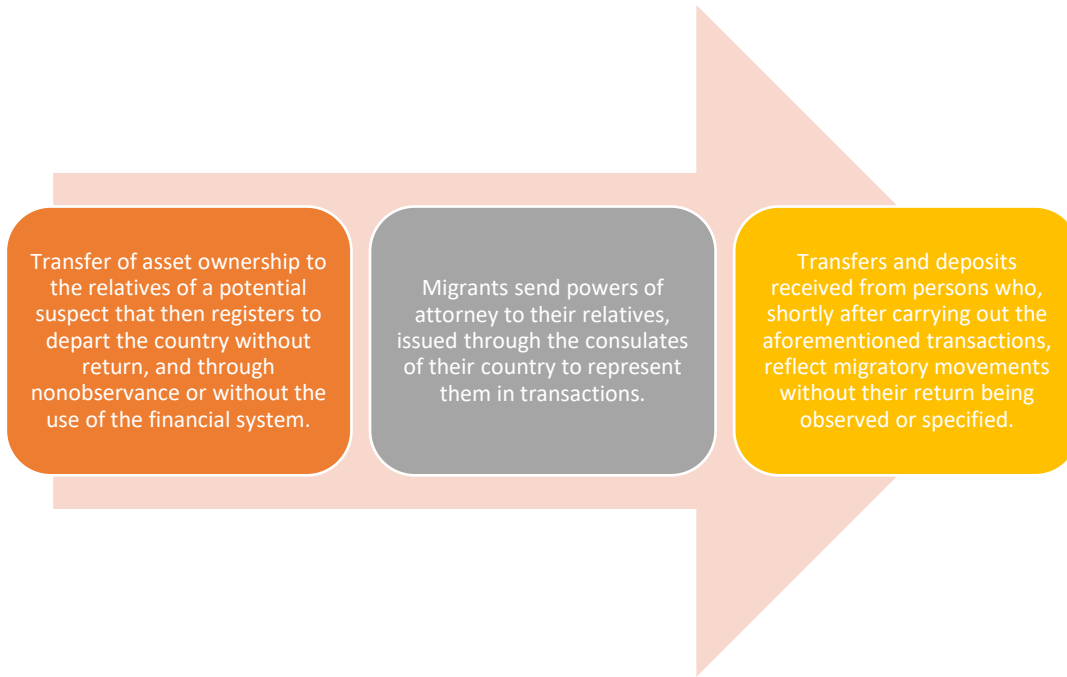
often repeated in various instances within criminal behaviors deployed by organized crime. In this sense, the effort has been to identify the red flags exclusively tied to trafficking.

IV. Red Flags Guide

- 1) Rental payments corresponding to addresses where a sex trade is known to exist, or payment of airfare and hotels for the women or girls involved.
- 2) Letters of employment provided by an employment agency specialized in providing job offers for workers for the agricultural, food and manufacturing industry (risk sectors).
- 3) The key or PIN number is changed once the bank account is opened and the code is shared with other accounts along with common phone numbers, addresses and common work references. Money is quickly withdrawn from accounts, from one or several nearby ATMs.
- 4) Bank account of a company (such as a hotel) or business bank account that receives only cash and social benefits.
- 5) Transfer of asset ownership to the relatives of a potential suspect that then registers to depart the country without return, and through nonobservance or without the use of the financial system.
- 6) Migrants send powers of attorney to their relatives, issued through the consulates of their country to represent them in transactions.
- 7) Money orders received and sent abroad from persons whose family ties were not identified.
- 8) Transfers and deposits received from persons who, shortly after carrying out the aforementioned transactions, reflect migratory movements without their return being observed or specified.
- 9) Individuals who operate as credit guarantors granted to people who subsequently travel abroad with no return date specified.

10) Entities whereby the development of activities are susceptible to the intensive use of cash: automotive transport services, management of sports entities and operation of gambling houses.

Red Flags: Operation Diagram



The key or PIN number is changed once the bank account is opened and the code is shared with other accounts along with common phone numbers, addresses and common work references. Money is quickly withdrawn from accounts, from one or several nearby ATMs.

Bank account of a company (such as a hotel) or business bank account that receives only cash and social benefits.

Entities whereby the development of activities are susceptible to the intensive use of cash: automotive transport services, management of sports entities and operation of gambling houses.

Money orders received and sent abroad from persons whose family ties were not identified.

Individuals who operate as credit guarantors granted to people who subsequently travel abroad with no return date specified.

Rental payments corresponding to addresses where a sex trade is known to exist, or payment of airfare and hotels for the women or girls involved.

Acquisition of property or vehicles for a value that does not match the profile and economic capacity of the person being investigated