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STATE PROSECUTOR SPECIALISING IN FOREIGNERS AND TRAFFICKING IN HUMAN BEINGS INTERVIEW.

In your experience, what would be the greatest challenges in terms of crime that we are currently facing through the Internet?

There is no doubt that through the Internet, networks have saved costs, on the one hand because they eliminate the figure of the physical recruiter who is still used, but well, let's say that is what it is, on the other hand it also guarantees anonymity, it is much more difficult to follow them, it also represents an investigative opportunity such as, for example, the possibility of introducing new investigative tools such as the undercover computer agent which until now is practically not used, it seems that it is a figure designed for other types of crime such as drug trafficking.

So these are the main investigative challenges, of course, we have no evidence so far that these networks are using cryptocurrencies as a financial formula, but there are many online payments, especially for, well, a lot of online money movement to carry out sexual exploitation, which can also determine a line of investigation to follow this money on the Internet.

And in this sense, do you think that the pandemic has led to an increase in crimes such as trafficking via the Internet?

Effectively, that is one of the consequences, one of the data that all police investigators always highlight, is that as a consequence of the pandemic, the Internet has played an important role in the activity of these criminal networks, to arrange meetings with people who are going to be exploited, to recruit victims, to get the victims a place in certain night clubs, This is also a communication that has been carried out via the internet and another of the consequences that is also evident is that the victims move from the brothels to flats where prostitution is practised and this, which was already being experienced before the pandemic because the police units carry out systematic inspections of these brothels, has been revitalised even more with the pandemic, and in the flats it is more complicated to carry out inspection visits due to the issue of the inviolability of the home and the consent of the owner.

And is this leading to the closure of these brothels, or are they still running parallel to the flats?

They remain in parallel to the flats, with less prominence, but they have not completely disappeared.

And from your perspective, is it easy or difficult to integrate financial investigations in human trafficking cases?

Well, this is one of the sensitivities that the European Parliament already highlighted in a resolution in 2016, the difficulty of integrating financial investigations into a crime of human trafficking, this has been improving and we can now distinguish two main types of financial investigations, those that follow up the money without further arguments that can serve as evidence that reinforces the victim's statement and that is something that can be done with an examination of the bank accounts, with an examination of the money transfers made through remittance companies, we can already have that information and that is something that does not take too long and that we can incorporate into the criminal process without any problem,

Then we would already have the big investigations for money laundering with front companies, with real estate, that want to look for front men, that would be more complicated to integrate in a trafficking procedure, above all to avoid that the human trafficking procedure is not delayed in its processing, but well, there are procedural ways such as taking the case to a criminal court, there are procedural ways of dealing with money laundering in a separate procedure and human trafficking in another procedure, and in Malaga this is what has been done, the human trafficking is dealt with in a procedure that has already been tried and now the money laundering and the crime against public finances are dealt with in another procedure whose trial will be held in a few months' time.

It is also important in the European Union to highlight the importance of joint investigation teams to develop effective financial investigations, i.e. when there are financial structures to investigate in several countries, the joint investigation team is the ideal investigation tool to carry out the investigation, rather than European investigation orders, rather than rogatory Commissions, rather than mutual legal assistance.

These joint investigation teams are key and then we will see how jurisdiction is divided up, maybe one country will take human trafficking and another country will take laundering, but this is a secondary issue, although it needs to be clarified before the team begins to function, but it is not an insoluble problem.

I was just going to ask you that, which teams or which European cooperation instruments were being used in this type of crime most often?

Joint investigation teams are already being deployed and with very good results, there is a piece of information that I can't remember from memory right now and it was a report from 2018 that talks about so many joint investigation teams for which the use of Financial Investigation has been something systematic and the European Union guidelines go along these lines, that joint investigation teams when there are financial elements in a transnational scope seem to be the most appropriate thing to do.

In that sense then, do you think there is an increased awareness of the use of financial investigations in this type of crime?

At all levels, in any protocol, in any way, in many judicial sentences we are already talking about Financial Investigation as something key, above all something key, not in a criminal scenario because in drug trafficking you have the drug which is evidence, but in the field of human trafficking, you have a victim who is possibly terrified, who believes in traditions and therefore finding a financial channel, money that is not known where it has come from and that agrees with all the police investigations that confirm a situation of domination of the victim by the slavers, is fundamental.

And we were also wondering whether special investigation teams are being used, for example, Big Data analysis technologies, digital forensic techniques, how are the investigation teams moving towards that?

Well, I know that there is a group specialised in cybercrime that has been created, for example, by the National Police Force, and at the judicial level, which is what I could talk about, I am not aware that these tools are being used, what they are in the indictments that we maintain, not in the evidence that we present in court, however, it is possible that these elements are being used for the purposes of police investigation.

And what tools are being most effective in combating transnational organised crime from this financial perspective? Do you think we have sufficient measures to tackle it?

Yes, the most effective ones are the analysis of bank current accounts, this is bearing a lot of results, bank current accounts are mechanisms for the deposit and flow of money that are subject to many administrative controls and therefore serve to detect money laundering behaviour, they are not the same as the very specific indicators of human trafficking that we are now building, but there are suspicious client behaviours, a series of parameters of corrupt conduct of a client, there are suspicious transactions, there is a total identification of the accounts that are used or that the slave traders, the big ones, also tend to use many people and these accounts sometimes belong to their relatives to launder these accounts, but let's say that money that we don't know where it has come from, this operates as an element of evidence and we can already obtain it with the examination of the current bank accounts.

The second important tool will be the analysis of money transfers through remittance companies, this is also important, the control is not as clear as with banks and traffickers use many tricks, especially the use of victims who they impersonate in the call centers to send money and in some cases they even impersonate real clients of the call centers, remittance companies, money transfers, are also used a lot, and sometimes it is possible to establish the flow of money and see where it goes, and sometimes the protected witness has said who was the one who captured her, she says she has to do with the criminal organization for different reasons, and so this also provides an important element of evidence.

Then there are other channels that use what is called informal banking or the informal money transmission system, which is the Hawala, the problem is that it has no control, the bank has it, the remittance companies have it, but the Hawala has no control system because there is also no hawala trading activity that you can effectively follow. Hawala is part of a money exchange mechanism that is linked to the diaspora of immigrants all over the world, you give a password to the hawalista, another transmits a password to the receiver of the money, and an agent of the hawalista in a third country receives the money without it having gone anywhere documented, all are benefits, because it leaves no trace and because it is cheaper than the use of remittance companies, although well, the hawalista also has to be paid a commission and I don't know if in the end it will end up compensating them and in this there is no tracking system, it doesn't exist, but this is a problem that we have in Spain and that we have in any country in the investigation of organised crime that uses this money transfer mechanism, as for example in cases of jihadist terrorism.

So there are some convictions that have been obtained above all through telephone tapping, people have been followed when they were carrying out these transactions and the phone of the hawalista and the phone of the trafficker are tapped and it can be seen that they talk on the phone about the use of these techniques, these modus operandi typical of Hawala.

Another trace that is difficult to control is the personal transport of money, which is also frequently used, using money that does not exceed the legally permitted limits to take it out, which is also used by remittance companies and is what is called the smurfing system, the euro to euro system, it has several names and is the most difficult to follow, unless there are random records in which you see that there is money, that is why it is often said that the accounts do not add up, what the victim says she has paid to the trafficker, you look at the remittance companies, you look at the current accounts and there is no money that the victim says she has

paid, but this is because they use many ways to take the money out of Spain, which is one of the key characteristics of the financial issue in the field of human trafficking and it is money that does not stay in Spain but migrates to the country of recruitment or transit and therefore, these are the two most opaque ways, the most difficult to follow.

And with regard to the dismantling of the chain, for example, is the confiscation of assets working, in other words, is it being an effective or efficient measure in the processes?

Well, the money is confiscated from the traffickers, this is reflected in several sentences in Asturias regarding Romanian women in brothels, high luxury vehicles are confiscated, I remember that a car was worth 110,000 €, so these vehicles are always put in the name of front men, they are in Romania, and an investigation has to be carried out to prove that these front men, that these people who supposedly have leased the car, are not real, that this lease does not exist, there are various mechanisms, for example, police tracking in which the person who uses the car is not the lessee, but the lessor, and the person who has all the documentation relating to the vehicle in the records is the dealer, and it is also said that this person who is in Romania has no known means of support, how can he pay for the lease of a vehicle valued at 110,000 euros, and this means that real fleets of vehicles are being kept.

Then in Salamanca an organisation is also being investigated now that is dedicated to the acquisition of real estate in Spain, which is very rare, in Spain they don't usually acquire real estate, they acquire it in their country, so let's say that this is the great challenge, the confiscation of the real estate and the confiscation of the brothels, the problem is that our law already provides for a measure to close these brothels and I believe that this measure makes the legal operator go before the closure measure rather than confiscation.

We have had some cases, I remember in Alicante, you have a villa where the criminal activities are taking place, that villa is rented, the tenants are the ones under investigation and a landlord appears who says he is the owner of the villa and under the measure of closure, what the court does is to decree the closure, returns the chalet to the owner, warning him that he cannot engage in prostitution, but of course, to the owner and this would theoretically be a confiscation of a property belonging to a third party which has its own procedures within the confiscation procedure and this proves that the confiscation is not being followed, other routes are being followed.

We do have a precedent of a Supreme Court sentence that affects the confiscation of flats in which prostitution is exercised and so I understand that it could also be extended to brothels where prostitution has been exercised, as long as we have the crime of prostitution or labour exploitation through brothels that may be taking place in these clubs.

Are there any other indicators of illicit flows that you would like to add?

The indicators would be more part of what would be the administrative and police work, of prevention of these criminal conducts, but well, this is one of the issues we are studying now in the Prosecutor's Office, there are a series of indicators that have been established by different international bodies, such as suspicious behaviour of clients, money moved by people who have no relationship with the client and who deposit money in accounts and, in short, the existence of nationalities suspected of human trafficking such as Nigeria or Romania, which require special attention, I don't know if in Spain the banks, financial institutions, remittance companies have these red flags, as I know they exist for drug trafficking, for example, if they have these indicators with respect to human trafficking, this is one of the things we are studying.

Speaking of economic means, what would be the emerging payment channels in the crime of human trafficking apart from the traditional Hawala or cryptocurrencies? I don't remember if it was you or another speaker at the Seminar who also talked about wallet cards, are there any new payment channels to pay attention to?

As new, in fact, these prepaid virtual cards are coming to light, and the investigations that are reaching the courts indicate that they are used by certain human trafficking networks, that they are virtual wallets that facilitate anonymity and that they are used by South American networks mostly.

However, Nigerian networks have also been detected using these forms of payment to carry out scams, not so much for human trafficking, but as a complementary activity to it, what we did not find is curiously the use of means of payment such as Paypal or Bizum as payment formulas, as for the moment they are not being detected in the investigations, let us say that at a virtual level only this mechanism has been detected.

And as far as I know, there is only one case of cryptocurrencies being investigated in Spain for the use of cryptocurrencies in a prostitution network, which seems strange, but it is certainly possible that these mechanisms are used in the network because drug trafficking networks already use them with a certain degree of regularity, human trafficking as a criminal industry of similar dimensions to drug trafficking is the same, hence the necessary specialisation that is being carried out in police units and we all have to learn, because cryptocurrencies or bitcoin also sound very strange to me.

In that sense, how are all the actors, our law enforcement agencies, the Public Prosecutor's Office, the Judiciary, responding to this professionalisation of Internet crime, that is, what kind of training, as I was saying, do we need to receive in order to deal with this?

Well of course very specialised training, we are lucky that both the Prosecutor's Office and the police investigative units are already specialised in this type of crime, so in the training meetings you explain some topics to them but it is really an exchange of information because they also bring to light things that you did not know and you find them very interesting, therefore, above all, we focus on the financial issue, this is a constant in the talks we are giving, in police units, also in Guardia Civil investigation units, we give talks on Financial Investigation of human trafficking because they are investigation units that are very oriented towards drug trafficking, which has specific mechanisms that are somewhat different from human trafficking, for instance, in human trafficking, something very important is, of course, the financial investigation of the trafficking network, but also the financial investigation of the victim, which does not exist in drug trafficking, knowing that the victim must be investigated and must undergo the same

financial examination, she has a current account, she has money, she has credit cards, if she has been working as a prostitute for a considerable time, then we are dealing with money that must be in her possession and if she does not have it, this confirms her version that she has been exploited.

Should this training on financial investigation be extended to financial institutions, labour inspectorates or tax inspectorates, for example, so that there is greater collaboration between administrations or private companies?

Yes, this training is of course essential with banking entities, with money remittance entities, with the Tax Inspectorate it is also essential, there is a very important dimension there of money that, although it is illicit in its origin, generates a taxation that means that the tax offence has to assume a key role and that the Tax Inspectors have to be trained and also have to train those of us who, in the criminal field, prosecute this type of offence, in what is the method of indirect estimation in the tax, to know what criteria we can follow, if the prostitution is an economic activity for VAT purposes, in short, a series of questions that are very important, and in any case we already have judicial precedents that condemn for a crime against the Treasury in these cases.

Do you think it would be possible to intervene or prevent the creation of internet pages dedicated to trafficking? Would the legal framework allow us to prevent them from being created?

Regarding the pages, we should distinguish that the “naked” human trafficking page as such inviting to human trafficking does not exist, it will be hidden by advertisements or contact pages and let's say that the level of these contact pages in the investigation is not aimed at prohibiting them but to use them as investigation mechanisms to know that there is an activity that is not a crime of human trafficking, it is prostitution, but it is a risky activity that you have to control in some way to know if there are victims, that is the mechanism that is being followed right now.

And one last question, do you think it is necessary to tackle this type of crime and its relationship with the internet, any legislative reform in the criminal field?

Well, right now there are already some mechanisms of interest, the undercover computer agent is regulated, the remote registration of computers and close ones is also regulated and the possibility of inserting Trojans, let's say that since the last procedural reforms we already have an important catalogue of investigation tools, some complements that provide greater possibilities could be of interest, I could mention the possibility of infiltrating undercover agents, not only physically, but as undercover companies within the network with the possibility of creating servers that police investigators can control and from these servers they can track, which would be like a kind of undercover server also to be used by police units, it would be very interesting to have this possibility legally enabled.