

Conclusions



“Combating labour trafficking in Europe: standards, realities and new strategies for action”

Conference organised under the joint European Union and Council of Europe programme “Horizontal Facility for the Western Balkans and Turkey 2019-2022”

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The regional conference "[Combating labour trafficking in Europe: standards, realities and new strategies for action](#)" was held on 20-21 September 2022 in Belgrade and online. It was organised in the framework of the joint European Union - Council of Europe programme [Horizontal Facility II for the Western Balkans and Turkey](#) (2019-2022). The conference brought together more than 100 participants involved in anti-trafficking policy making and action at the national and international levels who discussed persisting challenges and new trends in human trafficking for the purpose of labour exploitation and identified positive initiatives to strengthen prevention from a victim-centred perspective. The role of labour market actors and the private sector, as well as how to overcome challenges to victims' access to justice and effective remedies, were amongst the topics discussed.

The conference built on the work by the Council of Europe Group of Experts on Action against Trafficking in Human beings (GRETA) and lessons learnt from anti-trafficking projects implemented in Bosnia and Herzegovina, North Macedonia and Serbia. In September 2022, the Committee of Ministers of the Council of Europe adopted [Recommendation \(2022\)21](#) to the member States on preventing and combating trafficking in human beings for the purpose of labour exploitation. It takes into account the [Compendium of Good Practices and the Guidance Note on Preventing and Combating Trafficking in Human Beings for the Purpose of Labour Exploitation](#) issued by GRETA.

The conclusions below have been developed by the organisers on the basis of the discussions that took place during the conference. They do not represent a consensus view of all participants, nor do they represent the official view of the Council of Europe or the European Union. The conclusions and the recommendations stemming from the thematic discussions are to be understood as pointers for future policy development and action.

Devise effective prevention strategies

In order to devise effective prevention strategies, the national authorities need to understand the broader social and economic contexts and structural factors that make individuals and communities vulnerable to human trafficking. [Risk assessment studies](#) conducted in Bosnia and Herzegovina, North Macedonia and Serbia illustrate that there is a variety of factors that enhance the risks of falling victims of labour trafficking. These range from unemployment or informal employment, lack of implementation and monitoring of labour standards, lack of equal opportunities, marginalisation due to ethnic identity, low educational background or irregular migration status. The studies highlighted that in order to devise effective prevention strategies, the national authorities need to understand the broader social and economic contexts and structural factors that make individuals and communities vulnerable to human trafficking.

Representatives from at-risk communities, including Roma and migrant communities, should be invited to participate in anti-trafficking policy planning and implementation. Community level prevention needs to go hand in hand with addressing systemic barriers, such as access to education, decent work, health and social services.

First-hand experiences of victims and survivors of trafficking as well as at-risk communities, including Roma and migrant workers, should inform the design, delivery, evaluation and reform of policy and practice aimed at preventing labour trafficking.

✚ Strengthening labour market regulation and enforcement

Labour market analysis, policies, regulation and inspection need to be a standard part of the process of responding to and preventing labour trafficking. Anti-trafficking measures should focus on better integration of labour actors – labour inspection, as well as trade unions - on extending the protection of labour rights to all workers, and on licencing and monitoring of recruitment and temporary work agencies.

The presentations at the conference made it clear that the role of labour inspectorates is critical to prevent an environment where labour trafficking can occur. Labour inspectors should be provided with a comprehensive mandate, training and sufficient human and financial resources to enable them to be regularly and proactively present in all economic sectors, prioritising workplace inspections in economic sectors which are most prone to exploitation.

Measures to guarantee the right to organise (form and join trade unions), collective bargaining and the collective defence of common interests in all sectors of activity (especially in sectors with heightened risk of labour trafficking) should be strengthened.

✚ Placing the victims' rights at the centre of all anti-trafficking responses

The conference highlighted the need to reinforce and prioritise the detection of cases of human trafficking for the purpose of labour exploitation and the identification of victims. This would require rethinking the mandate and resources of labour inspectorates. Further, it is important to have a separation between immigration enforcement action and labour inspections. Labour inspections should include safe and confidential interviews with workers, using interpreters and/or cultural mediators, if required.

Speakers also highlighted the need to put into place safe reporting and effective complaint mechanisms, and concrete possibilities of regularisation of the trafficked person's residence status and access to the labour market.

Other measures highlighted include the provision of targeted and tailored support services, including information about their rights, access to legal assistance, and a realistic chance of receiving compensation and back pay.

✚ Ending the impunity of traffickers

The conference brought to light existing difficulties in the investigation and prosecution of labour trafficking cases. All relevant professionals should be trained on the specificities of trafficking for labour exploitation. It is important to reduce reliance on trafficked persons' testimony and for this purpose, special investigative techniques and financial investigations should be used. The collection of evidence should facilitate the qualification of cases as human trafficking.

✚ Strengthening corporate responsibility and enforcing corporate liability

The conference also explored the role of businesses in combating labour trafficking. It is the role of governments to ensure that businesses undertake due diligence throughout their operations and supply chains. This should include control mechanisms, such as an early warning system, a monitoring and evaluating effectiveness of measures.

It is also important to ensure that businesses and representatives of businesses can be held liable for the commission of human trafficking offences in their operations and supply chains, and that the legislation is effectively applied in practice.

✚ Strengthen multi-agency coordination and international cooperation

More generally, combating labour trafficking requires multi-agency and cross-border cooperation in the identification of cases, the protection of victims, and the prosecution of offenders. A multi-disciplinary, integrated approach involving all relevant agencies (e.g. law enforcement, labour inspectorates, the judiciary, victim support services, NGOs, municipal authorities, trade unions) enables the sharing of information and intelligence, making it possible to complement each other while respecting their different roles and mandates.

Strengthening the role of labour market actors and the private sector in combating labour trafficking

Summary of the thematic discussion

Moderator and Rapporteur: Darryl DIXON, Head of the Single Enforcement Body Programme, Gangmasters and Labour Abuse Authority, United Kingdom

Panellists: Julia SCHELLHAAS, Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings, Organisation for Security and Co-operation in Europe; **Goran STANKOVIC**, Trade Union of Textile, Leather and Shoe Industry Workers of Republika Srpska, Bosnia and Herzegovina; **Danko RUZICIC**, President of the Trade Union of Textile, Leather and Shoe Industry Workers of Republika Srpska, Bosnia and Herzegovina; **Sasa TORLAKOVIC**, President of the Trade Union of Construction and Building Materials Industry Workers, Serbia; **Sasa PERISIC**, Assistant Director of the Labour inspectorate, Serbia; **Valentina DISOSKA**, President of the Association of Business Women, North Macedonia; **Mile BOSHKOV**, President of the Business Confederation of North Macedonia

Introduction

The thematic discussion explored the role of labour market actors and the private sector in combatting and preventing labour trafficking. It provided examples of exploitative practices that may lead to labour trafficking and examples of actions that can increase awareness of labour trafficking and reduce its risks. Whilst Labour Inspectorates have a role in tackling identified exploitation, prevention through awareness raising can contribute to reductions in levels of exploitation and numbers of victims that may otherwise arise. Furthermore, knowledge of good practices, and support from international initiatives, can be instructive in how to progress and raise the effectiveness of interventions by Trade Unions, NGOs, business, and business representative bodies.

The effectiveness of State intervention

Labour inspectorates have a key role to play in the protection of workers, identification of offences, and appropriate sanctioning of non-compliant practices. Crucial to the success of that role is the right level of resources, and appropriate powers.

An understanding of the indicators of forced labour is important to ensure that labour inspectors are able to recognise and tackle exploitative practices where they occur. This led to support from the Council of Europe to train the labour inspectors how to do so. Enforcement should always be a core response to tackle those individuals and organisations who exploit workers. However, in all countries, engagement with other stakeholders that operate within the labour market can assist the work of

the labour inspectorates. This includes through increased education, and awareness, to encourage their involvement in prevention and reporting of exploitative practices.

International benchmarks and support to protect workers in supply chains

Increased due diligence in supply chains is a key element of preventing exploitation. The OSCE explained their role in building capability and understanding in relation to the need to improve knowledge and action to prevent exploitation of workers in business supply chains. Increasingly countries, and the EU, are looking at the introduction of supply chain legislation to support such activity. The example of Norway was cited as one of the most recent to do so, passing new law (Transparency Act) that requires companies to perform human rights and decent work due diligence assessments of their supply chains.

OSCE's support to other countries considering the development of new legislation recognises that different countries will need to adopt and adapt due diligence and corporate responsibility frameworks in different ways. Furthermore, it was emphasised that States should lead from the front and ensure that public procurement supply chains were reviewed to prevent exploitation within them.

The role of the State should therefore be to raise awareness of businesses of the risks of human rights violations, and the action to take when such risks are identified. This requires business support so that they are encouraged and incentivised in developing ethical recruitment and procurement practices. Such incentivisation could, for example, include additional fiscal allowances for compliant business. In developing such support States, and other actors – business, Trades Unions, NGOs - should compare approaches already adopted in other countries, and enacted legislation, and international protocols, on supply chains.

The role of Trades Unions

Experiences of the roles of Trade Unions to identify exploitation, protect worker rights, and work to improve their working conditions is a key element of preventing exploitation at any point in a supply chain. Insights into the experiences of Trade Unions in Serbia and the Republika Srpska, Bosnia and Herzegovina were discussed.

In cases that the Trades Unions had been engaged in there was evidence of workers identity documents being retained unlawfully, not having the correct visas, and potentially being controlled by criminal groups. In raising their own understanding, the Serbian Construction Trade Union had been supported by the ILO and ITUC. This demonstrates the need to learn and be supported by other international institutions so that comparisons of approaches, and what works, can be considered, and adapted to the individual domestic settings. Although Trades Unions do not have statutory powers, they have sought to visit construction sites to seek consensual access and engage with construction companies. Where they identify problems, they have notified the Labour Inspectorate of them so that appropriate enforcement action could be considered, and liaised with NGOs, such as Astra, who can support the workers.

Experience in the textile industry in Republika Srpska provided similar evidence on the activities of the Trades Union. They were instrumental in securing changes to legislation to ban harassment, evidencing the nature of treatment of workers that should be outlawed. Working towards collective agreements, and informing workers of their rights, is a significant activity to help workers protect themselves, as well as gain support from the Trades Unions. However, there is further work required, supported by the State, to address issues that include: employers cooperating in addressing complaints but then removing the worker who raised concerns; and the dismissal of female workers

if they become pregnant. In part this has improved following the introduction of new health insurance policy. Nonetheless, low wages continue to be an issue, and further engagement is required to raise understanding of the value of a trained and protected worker to the long-term economic sustainability and profitability of a business.

In both examples good co-operation with the Labour Inspectorates, and support to migrant workers were increasingly priorities for the Trades Unions, including producing information materials for workers in different languages.

The role of private industry and representative bodies

Ethical recruitment and employment practices protect workers' rights and employee retention, and can be critical to the success of a business. It is therefore important that business recognises the value of its workers and does not consider them as disposable commodities. Activity in North Macedonia demonstrated initiatives to improve the responsiveness of business to this issue. It was reported that 51% of small business enterprises were owned and operated by women, and 30% of larger companies. Women in the workplace had been disadvantaged and not received equality of treatment. Therefore work of the Association of Businesswomen worked to educate and empower those business leaders to practically support the conditions of female workers.

It is recognised that a lack of understanding of how to operate a business in compliance with labour laws can result in unintentional breaches. If such matters are not addressed greater non-compliances, with increased adverse impacts for workers, could occur. Changing the environment cannot be done in isolation and a platform for greater cooperation has been created in North Macedonia that includes 100 NGOs, ministries, municipalities, and business, developing tripartite engagement to improve the condition for workers, and in particular women, raising awareness of exploitation, victimisation, and domestic violence.

Business confederations also have a role in providing good practice policies, and securing support for their development against international standards. In North Macedonia this has included support from the ILO. It has also led to the development of an ethical code of practice on business activity, to prevent corrupt commercial and contractual practices, which can also result in exploitation of workers further down the business supply chain. Whilst it had taken approximately five years to negotiate new labour laws, it was important for business associations to take a lead and proactively encourage ethical practices rather than await legislation alone. This includes considering the future workforce, and educating young people about employment, rights, and risks of exploitation

Recommendations:

- In addition to appropriate powers, and resources, the role of labour inspectorates should be to work with other actors in the labour market, to raise awareness of the risks of labour exploitation, and encourage their role, whether in business, NGOs, or Trades Unions, in supporting prevention activities.
- States should consider due diligence legislation to improve supply chain compliance, and worker treatment, both in private and public procurement and commercial/contractual relationships.
- All labour market actors should support education of workers of their rights, and where to report concerns. This should include the education of young people who are due to enter the labour market, and pre-departure awareness for migrants recruited to depart to other countries.

- International benchmarks, and the support from international organisations, such as the Council of Europe, OSCE, ILO, IOM, can assist access to best practice comparisons from other countries to support the development of relevant domestic frameworks.
- All actors should consider whether women, and therefore also particularly migrant women, may be more prone to exploitation, and identify gender inequalities, and take action to align legal protections and treatment for all workers.

Overcoming challenges of victims' access to justice and effective remedies

Summary of the thematic discussion

Moderator and Rapporteur: Suzanne HOFF, International Coordinator, La Strada International

Panellists: Davor DERENCINOVIC, Judge at the European Court of Human Rights (online); **Mona CHAMASS SAUNIER**, Director of the Committee against Modern Slavery (CEM), France; **Sena UZUNOVIC**, Judge, Bosnia and Herzegovina; **Tamara MIROVIC**, Deputy Republic Public Prosecutor, Serbia; **Marija TODOROVSKA**, Open Gate/La Strada, North Macedonia; **Jelena RISTIC**, Vice President of the Bar Association, North Macedonia; **Irena ZDRAVKOVA**, Programme Manager, Macedonian Association of Young Lawyers.

Introduction

This thematic discussion explored the challenges to victims' access to justice and effective remedies with the aim to raising awareness of existing standards, and reflecting on strategies for ensuring that they are followed in practice. The panellists highlighted remaining bottlenecks related to the prosecution of human trafficking cases and collecting evidence, the impact of court procedures on victims, measures to improve victims' rights and their protection, including addressing the lack of adequate legal support, as well as difficulties to access compensation.

Relevance of ECtHR jurisprudence

The first two speakers, Judge Davor Derenčinović and CCEM Director, Mona Chamass referred to relevant case-law of the European Court of Human Rights (ECtHR) as well national case-law and good practices in supporting victims of labour trafficking to access justice. Judge Derenčinović explained and highlighted the significance of several landmark ECtHR cases, including Rantsev v Cyprus and Russia; Zoletic and Others v. Azerbaijan and Chowdury and Others v. Greece in which the Court found violations of Article 4 of the European Convention on Human Rights (which prohibits slavery, servitude and forced or compulsory labour). The Court concluded that Article 4 entails a positive obligation to prevent situations of human trafficking, to protect victims or potential victims, as well as a procedural obligation to investigate trafficking and to punish those responsible for trafficking. In the Chowdury case, the Court found that it is not a requirement under the Convention that a person's freedom of movement be restrained in order to classify it as forced labour or trafficking situation.

The CCEM has assisted over 1,000 exploited persons in France since 1994 and together with a network of volunteer lawyers, it has supported victims in over 400 lawsuits. CCEM initiated the landmark ECtHR case Siliadin v. France, where the Court found for the first time a violation of Article

4 in the context of trafficking for domestic servitude. CCEM brought another case to the Court, concerning two girls exploited in a diplomatic household in France (*C.N. and V. v France*). Mona Chamass raised concern about the challenges to get the diplomatic couple responsible for the exploitation prosecuted and mentioned that while the case at the ECtHR was still ongoing, the diplomatic couple brought in a new domestic servant from Burundi, whom they kept in their basement, in the same exploitative conditions as the two earlier victims. This new case the CCEM hopes to see prosecuted at the national level.

Ms Chamass highlighted the importance of having an adequate national legal framework which criminalises forced labour, servitude, slavery and degrading housing and working conditions, which is the case in France. She referred to multi-agency cooperation and exchange of information, including on ongoing cases, involving the police and the labour inspectorate. This cooperation is based on a victim-centred approach.

Difficulties to prove and prosecute human trafficking for labour exploitation

Judge Sena Uznovic and Public Prosecutor Tamara Mirovic, reflected on the difficulties to prosecute human trafficking due to the high threshold of the trafficking crime and the fact that cases are often requalified as labour law violations or other offences. A major challenge is the complexity of the crime and the fact that all the three elements of the human trafficking legal definition (acts, means and purpose) have to be proven in the case of adult victims.

According to Judge Uznovic, the court often finds that there is sufficient evidence only in respect of two elements of the crime (act and purpose), and acquits the defendants when there is a reasonable doubt as regards the means element. Such judgements are difficult to explain "as people do not understand that the court acquitted persons, while there have been so many victims and testimonies and there is detailed information on how they were exploited".

Ms Mirovic raised concern about the burden of proof put on the victims and the high dependency on victim statements. Another issues of concern is the retraumatisation of victims who act as witnesses in court, which highlights the need to enhance the protection of victims during court procedures.

Both legal professionals stressed the need for enhanced training on the legal definitions and their interpretation and application, and encouraging the specialisation of legal professionals to deal with trafficking cases.

Obstacles related to legal assistance and access to remedies

The last three panellists from North Macedonia (Ms Marija Todorovska from Open Gate/La Strada, Ms Jelena Ristic from the Bar Association, and Ms Irena Zdravkova from the Association of Young lawyers) reflected on access and obstacles related to legal assistance and compensation. Ms Todorovska explained that in order to improve access to compensation, legal changes are needed in North Macedonia. She believed that some of the challenges could be resolved with the adoption of a new draft law, which will introduce state compensation to victims of violent crimes. Through the joint EU-CoE project "Preventing and Combating Human Trafficking in North Macedonia" a working group has been formed to draft secondary legislation related to the draft law.

Ms Todorovska also highlighted the importance of adequate identification of victims of trafficking, and referred to the recently created national operational body for formal identification, comprising the Police, the National Referral Mechanism, the Public Prosecution and specialised NGOs, which may be seen as way forward toward improving the identification of victims amongst marginalized

groups such as migrants, sex workers, Roma etc. Informing potential victims about their rights in a language they understand is another challenge, and is crucial for victims' access to justice.

Ms Ristic highlighted that as court and administrative procedures are often very complex, legal assistance is essential for victims to be able to claim their rights, including to take civil actions for compensation. She noted that pursuant to the new Law on Free Legal Aid in North Macedonia, free legal aid is provided only in civil court and administrative proceedings. An analysis of human trafficking judgements delivered in 2009 – 2019 showed that out of 19 first-instance judgements, the victims had legal representatives only in five cases. Legal representation is essential for ensuring fair trial and equal treatment of victims. She stressed the need for training for lawyers to be better equipped to provide effective legal assistance. The Council of Europe, through the HELP Programme for Human Rights Education for Legal Professionals, is providing training to legal professionals, law students and trainees on international and European standards and national legislation and case law. Further, a guide with practical legal information on human trafficking was developed for lawyers. The Bar Association also plans to establish an education centre for lawyers to enhance specialisation and the quality of legal assistance.

Ms Irena Zdravkova also stressed the need for better identification of victims, and in particular child victims. The Association of Young Lawyers provides legal aid to vulnerable groups of persons, including victims of trafficking, migrants and asylum seekers, via work in mobile teams and in migrant centres. She referred to cases of severe labour exploitation detected in the Western part of North Macedonia, which were not adequately investigated.

Recommendations

- Improve the proactive identification of presumed victims of trafficking amongst exploited marginalized groups (including domestic workers), and ensure that they are adequately informed of their rights related to identification, the criminal process, protection and reintegration, as well as their right to legal assistance and compensation, in a language they understand.
- The experiences of victims and groups at risks, including migrant and minority populations, should inform policies and measures.
- Pay increased attention to the identification of child victims and preventing their revictimisation.
- Labour inspectorates should take a more active role in the identification of victims of labour exploitation and refer them for adequate assistance and support.
- Safe reporting and complaint mechanism should be established to increase reporting by victims, as well as a clear separation between immigration enforcement functions and labour inspectorate roles.
- Strengthen multi-agency cooperation and exchange of information on detected cases of trafficking for labour exploitation, involving labour inspectors, law enforcement agencies, specialised NGOs and Trade Unions.
- Revise legislation to provide for victims' access to free legal aid and ensure their access to compensation.
- Systemic barriers that prevent access to compensation should be lifted. To enhance compensation payments, early financial investigations need to be ensured.
- Ensure that forced labour is criminalised and labour exploitation is defined in national law.
- Strengthen specialisation by improving knowledge on legal definitions and interpretation among legal professionals.

- Reduce the dependency on victim statements and the burden of proof put on the victims.
- Strengthen the protection of victims throughout the criminal proceedings.
- To prevent labour exploitation, there is need for more access to legal employment and a legal status for migrant workers.