

# COMPENDIUM of good practices in addressing trafficking in human beings for the purpose of labour exploitation



**GROUP OF EXPERTS ON  
ACTION AGAINST TRAFFICKING  
IN HUMAN BEINGS  
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## Introduction

The report by the former Secretary General of the Council of Europe, "[Ready for Future Challenges - Reinforcing the Council of Europe](#)", identified trafficking for labour exploitation as one of the major challenges in Europe, referring to the findings of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA). Subsequently, at the 129th Ministerial Session in Helsinki, the Committee of Ministers instructed its Deputies to examine ways of strengthening action against trafficking in human beings ([CM/Del/Dec\(2019\)129/2a](#)). On 21 November 2019, the Secretary General of the Council of Europe announced a Roadmap on strengthening action against trafficking in human beings for the purpose of labour exploitation, in order to implement the decisions taken at the 129th Ministerial Session.

For the second round of evaluation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), GRETA had decided to pay particular attention to measures taken by States Parties to prevent and combat trafficking for the purpose of labour exploitation.<sup>1</sup> GRETA dedicated a thematic section on this issue in its 7th General Report, based on the country reports published by the end of 2017.<sup>2</sup>

As noted in GRETA's 7th General Report, trafficking in human beings for the purpose of labour exploitation is one of the most challenging aspects of "modern-day slavery". It is challenging on many accounts: because differences arise in practice in the interpretation and application of labour standards and in defining labour exploitation, because victims prefer not to lodge complaints or stand as witnesses as they are often dependent on their traffickers for work and housing, and not least because combating trafficking for the purpose of labour exploitation requires co-ordinated action between the State, civil society, trade unions and the private sector.<sup>3</sup> Awareness among institutions of the specificities of trafficking for the purpose of labour exploitation has for a long time been limited compared to the level of awareness about trafficking for the purpose of sexual exploitation. This clearly has implications with respect to the lack of proactive identification of situations of labour exploitation.

At its 35th meeting (8-12 July 2019), GRETA decided to set up an ad hoc working group on strengthening action to combat trafficking for the purpose of labour exploitation. The terms of reference of this group included drafting a compendium of good practices in the area of combating human trafficking for the purpose of labour exploitation. The purpose of this compendium is to highlight the measures taken by States Parties to the Convention to prevent and combat trafficking for the purpose of labour exploitation, and to provide food for thought and direction in their future efforts.

The compendium is based on country evaluation reports drawn up by GRETA, which reflect the situation in each country at the time of the last evaluation, as well as updated information submitted by the national authorities in response to the Committee of the Parties' recommendations and to GRETA's questionnaire for the 3rd evaluation round. Care has been taken to present as wide a selection of countries as possible, as well as to have a balance of examples from countries of origin and destination. The compendium is intended as a living document and will periodically be updated in the light of new developments stemming out of GRETA's monitoring of the Convention.

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<sup>1</sup> GRETA's questionnaire for the 2nd evaluation round contains a number of questions related to this issue. It is available at: <https://rm.coe.int/16805ab825>

<sup>2</sup> Available at: <https://rm.coe.int/greta-2018-1-7gr-en/16807af20e>

<sup>3</sup> See 7th General report on GRETA's activities, para 70.

## Criminalisation of human trafficking for the purpose of labour exploitation

The internationally agreed definition of trafficking in persons, replicated in Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings, comprises three components: an “action” (recruitment, transportation, transfer, harbouring or receipt of persons), a “means” by which that action is achieved (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), and a “purpose”, namely different forms of exploitation (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). Further, the consent of a person to the intended exploitation is irrelevant where any of the previously mentioned “means” have been used, or where the trafficked person is a child.

The concept of “labour exploitation” in the context of trafficking in human beings is not defined as such in international legal instruments, but is taken to cover, at a minimum, forced labour or services, slavery or practices similar to slavery, and servitude, notions that are well acknowledged in international law, including in the case law of the European Court of Human Rights regarding Article 4 of the European Convention on Human Rights (ECHR). Notably, forced or compulsory labour is defined in Article 2(1) of the International Labour Organization (ILO) Convention concerning Forced or Compulsory Labour (No. 29 of 1930) as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”.

While a range of disciplines (economics, politics, philosophy, law) have sought to establish what “exploitation” is, the concept remains ambiguous and has both temporal and cultural dimensions. Within the context of human trafficking, there is general support for understanding “exploitation” – in the sense of taking unfair advantage – as a continuum, albeit one that is poorly defined and is not static. At one end lie situations which amount to labour law violations, such as failure to pay a mandated minimum wage, and at the other extreme are situations where the unfair advantage is acute and the resulting harm very severe.<sup>4</sup> At this moment, it is not clear where on this continuum labour exploitation turns from being considered a problem of labour law to becoming an issue not only falling under the human trafficking framework, but also under criminal law. Indeed, the absence of a clear definition of “exploitation” makes it difficult to draw the line between exploitation in terms of violation of labour rights and extreme exploitation amounting to forced labour.<sup>5</sup>

Practitioners in many states experience great difficulty in separating bad working conditions from situations that could or should be pursued as trafficking offences. Restrictive interpretations by courts of what constitutes human trafficking for the purpose of labour exploitation may result in acquittals or the cases being considered as labour law violations or exploitation which does not involve human trafficking. Similarly, restrictive interpretations of what constitutes exploitation by bodies responsible for the identification of victims of trafficking may result in victims being denied recognition and access to assistance, remedies, and protection.

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<sup>4</sup> UNODC, The concept of ‘exploitation’ in the Trafficking in Persons Protocol, Vienna, 2015.

<sup>5</sup> Klara Skrivankova, Between decent work and forced labour: examining the continuum of exploitation, Joseph Rowntree Foundation, November 2010. Available at: <https://www.jrf.org.uk/report/between-decent-work-and-forced-labour-examining-continuum-exploitation>

ILO has developed a list of indicators of forced labour, which include elements present in the trafficking definition, such as abuse of vulnerability, deception, intimidation and threats, as well as other indicators such as restriction of movement, isolation, physical and sexual violence, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.<sup>6</sup>

The following examples highlight national approaches which aim to define or clarify “labour exploitation” in the context of trafficking in human beings, either in law or through the provision of guidance, drawing from the ILO definition of forced labour as well as from other international standards.

- ✓ The criminalisation of human trafficking in **Belgium** includes the purpose of “carrying out work or providing services in conditions contrary to human dignity”, which has a broader scope than the minimum list of exploitative purposes in the Convention. Similarly, in **France**, Article 225-4-1 of the Criminal Code (CC), which criminalises trafficking in human beings, refers to “working or accommodation conditions contrary to human dignity”.
- ✓ In the **Czech Republic**, in 2018, the Ministry of the Interior issued a “Common position on the interpretation of terms related to labour exploitation”, which was prepared in consultation with the Supreme Public Prosecutor's Office national correspondent for combatting human trafficking and the National Centre for Combating Organised Crime.<sup>7</sup> The interpretative position refers to the evolving case-law of the ECtHR in relation to forced labour. An analysis is also made of Czech case-law related to labour exploitation under Section 168 of the CC.
- ✓ In **Germany**, following a revision of the CC in 2016, Section 232 on trafficking in human beings specifies that a person shall be deemed to be exploited “if the work, in serving the ruthless pursuit of profit, takes place under working conditions that are in clear discrepancy to those of other workers performing the same or a similar activity (exploitative work)”.
- ✓ In 2013, **Ireland** amended the Criminal Law (Human Trafficking) Act 2008 by defining the term “forced labour” as “work or service which is exacted from a person under the menace of any penalty and for which the person has not offered himself or herself voluntarily”, in line with the ILO definition (reaffirmed in the 2014 Protocol to ILO Convention No. 29, which Ireland ratified in 2019). In addition, the amendment expanded the definition of “labour exploitation” to include forced begging.
- ✓ In 2016, **Italy** amended Article 603 bis of the CC (“illegal brokering and labour exploitation”, or “*caporalato*” in Italian),<sup>8</sup> criminalising labour exploitation regardless of the presence of a broker. According to Article 603 bis, which criminalises recruiting, hiring or employing labour in exploitative conditions, the existence of one or more of the following conditions represents exploitation:
  - 1) the repeated payment of wages in a clearly different manner from the national or territorial collective agreements stipulated by the most representative trade union organisations at national level, or in any case disproportionate to the quantity and quality of the work performed;

<sup>6</sup> The ILO argues that if two or more of the indicators are present, there is a strong indication of forced labour. See [https://www.ilo.org/global/topics/forced-labour/publications/WCMS\\_203832/lang--en/index.htm](https://www.ilo.org/global/topics/forced-labour/publications/WCMS_203832/lang--en/index.htm)

<sup>7</sup> Available, in Czech, at: <https://www.mvcr.cz/clanek/obchod-s-lidmi-dokumenty-924305.aspx>

<sup>8</sup> Article 603 bis (“*intermediazione illecita e sfruttamento del lavoro*”) was first introduced in the Italian CC in 2011 with a view to combating the labour exploitation of migrants.



- 2) the repeated violation of the legislation relating to working hours, rest periods, weekly rest, mandatory leave, holidays;
  - 3) the existence of violations of the rules on safety and hygiene in the workplace;
  - 4) subjecting the worker to degrading working conditions, surveillance methods or housing situations.
- ✓ In **Sweden**, legal amendments were made in 2018 in order to broaden the criminal liability for exploitation in cases of forced labour, labour exploitation, exploitation for begging and forced criminality.<sup>9</sup> In addition to the criminalisation of human trafficking for the purpose of forced labour in Chapter 4, Section 1a, of the CC, Section 1b was added to criminalise “human exploitation” (*människoexploatering*), defined as the exploitation of a person for forced labour, labour under clearly unreasonable conditions or begging by the use of improper means, such as unlawful coercion, deception or exploitation of another person’s position of dependence, defencelessness or difficult situation. These amendments were made following an inquiry into the practical application of the anti-trafficking legislation and they are expected to improve the investigation and prosecution of labour exploitation in cases not covered by the scope of the human trafficking provision.
  - ✓ In the **United Kingdom**, the “Modern Slavery Act 2015 – Statutory Guidance for England and Wales”, whose most recent update was published by the Home Office in April 2020, draws from the ILO definition of forced labour and provides that, for a person to be a victim of forced or compulsory labour, two basic components shall be found: means (threat of penalty) and service (as a result of the means, and including the provision of any service, not just manual labour).<sup>10</sup> The guidance clarifies that “penalty” may go as far as physical violence or restraint, but it can also take subtler forms of a psychological nature, such as threats to denounce victims to the police or immigration authorities when their employment status is illegal. On the issue of consent, the guidance affirms that consent is a factor in forced and compulsory labour, but a victim may have given consent in a situation where they felt they had no viable alternative, in which case they could still be subject to forced or compulsory labour.

## Policy and institutional framework

Article 29(2) of the Convention requires Parties to take measures to ensure the co-ordination of national polices and action against human trafficking, including through the setting-up of specific co-ordinating bodies. Further, Article 35 of the Convention requires Parties to encourage state authorities and public officials to co-operate with non-governmental organisations (NGOs), other relevant organisations and members of civil society in building strategic partnerships with the aim of achieving the purposes of the Convention.

In order to address the growing menace of human trafficking for the purpose labour exploitation, State Parties have set up multi-disciplinary working groups or other structures to address this problem, which involve civil society and other relevant organisations. Many countries have developed national strategies or action plans which specifically address trafficking for

<sup>9</sup> Available, in English and in Swedish, at: <https://www.government.se/490f81/contentassets/7a2dcae0787e465e9a2431554b5eab03/the-swedish-criminal-code.pdf>

<sup>10</sup> Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/896033/July\\_2020\\_-\\_Statutory\\_Guidance\\_under\\_the\\_Modern\\_Slavery\\_Act\\_2015\\_v1.01.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/896033/July_2020_-_Statutory_Guidance_under_the_Modern_Slavery_Act_2015_v1.01.pdf)

the purpose of labour exploitation. The policy framework is complemented by the establishment of National Referral Mechanisms (NRM) and the conclusion of agreements which strengthen the multi-disciplinary approach, co-ordination and international co-operation.

- ✓ In **Austria**, a working group on trafficking for the purpose of labour exploitation was set up in December 2012 as part of the Task Force on Combating Human Trafficking, which is responsible for co-ordinating and steering national anti-trafficking action. The working group is chaired by the Federal Ministry for Labour, Social Affairs and Consumer Protection and comprises representatives of other federal ministries (including officials from the Finance Police and the Labour Inspectorate), relevant social partner organisations (the Federal Chamber of Labour), the administrations of the federal states (*Länder*), as well as NGOs. The working group holds periodic meetings and publishes reports on its activities. It has put a strong emphasis on co-operating with the private sector and combating human trafficking in supply chains, focussing on the construction, agriculture, forestry and domestic work sectors, and developing indicators for the identification of victims of trafficking for the purpose of labour exploitation. Further, the working group has considering issues related to posted workers, temporary agency work, wage and social dumping, and false self-employment.
- ✓ In **Bulgaria**, the annual national programmes for combating human trafficking include specific measures concerning trafficking for labour exploitation, including awareness-raising campaigns, training and joint initiatives involving the police, labour inspectors, liaison officers of countries of destination, NGO and trade unions. The Ministry of Labour and Social Policy, the Labour Inspectorate and the Employment Agency are part of the permanent expert working group set up by the National Commission for Combating Trafficking in Human Beings (NCCTHB) and the NRM. The network of labour attachés posted by the Ministry of Labour and Social Policy has been gradually expanded to eight countries (Austria, Cyprus, Germany, Greece, Ireland, Spain, Switzerland and the UK) and they provide information and advice to Bulgarian citizens working abroad, serving as a link to the local services in the foreign country.
- ✓ In **Denmark**, an inter-ministerial working group was established in 2012 to strengthen efforts to combat trafficking for forced labour and improve identification and referral of victims. The Department of Gender Equality, under the Minister for Equal Opportunities, is the chairman of the group, which is also composed of representatives from the Centre against Human Trafficking (CMM), the Working Environment Authority, the Ministry of Employment, the Ministry for Children and Social Affairs, the Ministry of Justice, the Director of Public Prosecutions, the National Police, the Agency for International Recruitment and Integration (SIRI), the Ministry of Health, the Tax Agency, the Ministry of Taxation, the Ministry of Foreign Affairs, the Ministry of Immigration and Integration, and the Immigration Service. In addition, CMM and the Tax Agency, together with the police, the Working Environment Authority and SIRI, have established an authorities' group on the prevention of forced labour.<sup>11</sup>
- ✓ In **France**, the first National Action Plan for Combating Human Trafficking, adopted in May 2014, provided for the designation of contact persons for cases of human trafficking in each regional branch of the Labour Inspectorate, to make employers aware of the consequences of employing trafficking victims. On 18 October 2019, France announced the adoption of the second National Action Plan against Human Trafficking, which envisages an assessment of the situation in France with respect to trafficking for labour exploitation. The process will be led by the Inter-ministerial Task Force on

<sup>11</sup> See Ministry of Foreign Affairs of Denmark, Action Plan to Combat Trafficking in Human Beings 2019-2021. Available at: <https://bsr-trm.com/wp-content/uploads/2019/10/Action-Plan-to-Combat-Trafficking-in-Human-Beings-2019-2021.pdf>



combatting violence against women and human trafficking (MIPROF), in partnership with the Ministry of the Interior, the Ministry of Justice and the Ministry of Labour, as well as involving NGOs, professional organisations and trade unions.

- ✓ In **Georgia**, in August 2015, the Ministry of Labour, Health and Social Services and the Ministry of the Interior concluded a Memorandum of Co-operation on promotion of detection of cases of trafficking in human beings. The memorandum aims at sharing information and reporting on possible cases of trafficking for labour exploitation. On the basis of this memorandum, the Labour Inspectorate Department provides the Central Criminal Police Department with a list of business organisations considered as being at a heightened risk of using trafficked labour.
- ✓ In **Germany**, a federal working group on combating human trafficking for the purpose of labour exploitation was established in 2015 under the leadership of the Federal Ministry for Labour and Social Affairs. It comprises representatives of federal and *Länder* ministries, the Federal Criminal Police Office, the criminal police offices of the federal states, public prosecutors, the Financial Monitoring Unit to Combat Illicit Employment (*Finanzkontrolle Schwarzarbeit*, FKS), social partners and NGOs. Three sub-groups have been set up within to address different aspects (prevention and public awareness, advice and support for victims, and prosecution and improvement of data collection) and to prepare a draft strategy for combating trafficking for the purpose of labour exploitation. Based on recommendations of the federal working group, the Service Centre against Labour Exploitation, Forced Labour and Human Trafficking was established in August 2017 in Berlin on a pilot basis.<sup>12</sup> The Centre is run by the organisation "Arbeit und Leben", set up jointly by the German Trade Union Federation and the Adult Education Institute (*Volkshochschule*), and financed by the Ministry for Social and Labour Affairs. It promotes and facilitates co-operation and networking amongst a wide range of stakeholders in the field of combating forced labour and human trafficking, focussing on training, identification of victims, providing information materials on labour exploitation, forced labour and human trafficking through an internet-based information platform, and promoting international exchange.
- ✓ In **Iceland**, in October 2018 the Minister of Social Affairs and Equality appointed a working group to combat social dumping in the national labour market, composed of representatives from the Icelandic Confederation of Labour (ASÍ), the Ministry of Industries and Innovation, the Icelandic Confederation of University Graduates, the Federation of State and Municipal Employees, the Ministry of Justice, the Ministry of Finance and Economic Affairs, the National Police Commissioner of the Icelandic Police, the Directorate of Internal Revenue, the Icelandic Association of Local Authorities, the Confederation of Icelandic Enterprise, the Administration of Occupational Safety and Health, and the Directorate of Labour. Further, a human trafficking team was formed at the Directorate of Labour and work procedures were put in place. The measures taken by this team include the provision of training and information to staff of the Directorate (i.e. labour inspectors), increased co-operation with other government agencies, such as the police, tax authorities and trade unions, with special focus on social dumping and joint inspectors, and a review of the process of issuing work permits, temporary work agencies and posted workers. Trade unions are involved in the human trafficking team.

- ✓ In **Italy**, the Operational Working Group for the definition of a new strategy to combat labour exploitation in agriculture, chaired by the Minister of Labour and Social Policies, introduced in October 2019 a “Plan against labour exploitation and labour exploitation in agriculture (2020-2022)”.<sup>13</sup> Following a mapping of territories and needs of agricultural workers, it provides for emergency interventions and systemic or long-term interventions, following four strategic axes: prevention; surveillance and contrast; protection and assistance; social and labour reintegration. An integrated reference system (referral) for the protection and first assistance of victims of labour exploitation in agriculture is included among the plan’s priority actions.
- ✓ In **Malta**, the third National Action Plan against Trafficking in Human Beings (2015-2016) had a strong focus on action against trafficking for the purpose of labour exploitation, including training of relevant officials and awareness-raising among various stakeholders and potential victims about the risks of labour exploitation. In January 2019, the Maltese Government signed the instrument of ratification for the 2014 Protocol to ILO Convention No. 29 and is currently promoting social dialogue at the national level by guaranteeing the involvement of employers and workers organisations at each stage of ILO’s standards-related activities. On the basis of the newly ratified instrument, the Government recognises the obligations to prevent and detect forced labour, protect victims, and provide them with access to remedies. Having identified the Philippines as one of the most represented countries among victims of labour exploitation, the Maltese Government engaged in discussions with the Philippine Overseas Labour Office in Rome in 2019, in order to reduce the risks of labour trafficking in the immigration process of Filipino workers.
- ✓ **The Netherlands** launched in 2018 an integrated programme called “Together against Human Trafficking”, developed by the Ministry of Justice and Security, the Ministry of Health, Welfare and Sports, the Ministry of Social Affairs and Employment, and the Ministry of Foreign Affairs, together with a wide range of stakeholders, including police, public prosecution, municipalities, NGOs, and social workers. One of the five lines of action of this programme is to further develop the approach to tackle labour exploitation. The Government of the Netherlands has also concluded bilateral agreements with Bulgaria, Poland and Romania to strengthen co-operation in the field of labour migration and in 2014, three extra policy officers were appointed at the corresponding Dutch embassies. The aim of the agreements was to make it easier for migrant workers to get information about working and living in the Netherlands. Another goal of the bilateral agreements was to strengthen the liaison function of the Dutch embassies between the Labour Inspectorate (SZW), the National Insurance Bank (SVB, which implements national insurance schemes in the Netherlands), and the Employee Insurance Agency (UWV, which implements employee insurance and provides labour market and data services), and the corresponding agencies in Bulgaria, Poland and Romania.
- ✓ In **Switzerland**, the second National Action Plan to Fight Human Trafficking (2017-2020) includes measures specifically targeted at combating trafficking for the purpose of labour exploitation, such as preparing information materials to raise awareness among labour inspectorates. Most of the cantonal authorities responsible for supervising the labour market have been integrated in the cantonal roundtables for anti-trafficking co-operation. For example, the roundtable of the canton of Bern has set up a specific working group on labour inspection processes. In the canton of Geneva, the cantonal roundtable has set up a working group devoted to labour exploitation, which includes the Interprofessional Union of Workers (SIT). Further, in the canton of St.

<sup>13</sup> Available, in Italian, at: <https://www.lavoro.gov.it/priorita/Documents/Piano-Triennale-contrasto-a-sfruttamento-lavorativo-in-agricoltura-e-al-caporalato-2020-2022.pdf>

Gallen, a working group on labour exploitation has been set up, which is led by a public prosecutor and aims at introducing a new approach to combating trafficking for the purpose of labour exploitation, by sensitisation, training and facilitating the networking of relevant stakeholders. In the canton of Ticino, a centre of expertise dedicated specifically to prosecuting situations of labour exploitation was set up within the cantonal police in 2016.

## Mandate, resources and training of labour inspectorates to address human trafficking

GRETA's reports have paid particular attention to the mandate, resources and training of labour inspectors, their collaboration with specialised anti-trafficking agencies (e.g. through joint inspections and joint training and events), and their involvement in National Referral Mechanisms (NRM) for victims of trafficking.

In some countries, labour inspectors have broad, including investigative, powers, as opposed to a more limited mandate in other countries. The mandate of labour inspectors as regards private households also varies between countries. In some countries, labour inspectors can inspect any place where work is performed, including domestic households, as well as do unexpected checks. It is important that labour inspectors perform inspections not only of registered companies, but also of unregistered companies ("grey economy"), possibly jointly with the police. At the same time, it is of paramount importance that firewalls are put in place between those who receive reports from, and provide assistance to, victims of labour exploitation, and immigration enforcement authorities, including the police.

- ✓ In **Austria**, labour market controls by the Financial Police and the Labour Inspectorate include every working place, including brothels and other sex work locations, with some restrictions in respect of the private sphere. In principle, inspections of domestic workers are possible, but there were ongoing negotiations with the social partners on extending the powers of the inspectors concerning domestic service employers. Supply chains are especially monitored in the construction sector because of contract structures that usually involve many sub-contractors working with companies from abroad. When migrant workers without residence or work permits are detected, the inspectors check if there is an indication of trafficking and inform the criminal police for further action. In 2017, the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection issued an update of the internal decree for labour inspectors on human trafficking, which includes guidelines on how to proceed when suspecting cases of human trafficking, a list of indicators for the identification of victims of trafficking for the purpose of labour exploitation, as well as relevant contact details. In 2018, the topic of trafficking for the purpose of labour exploitation was integrated into the basic training of new labour inspectors.
- ✓ In **Belgium**, labour inspectors' role and interaction with other relevant bodies in the fight against human trafficking are described in the Circular of 26 September 2008, (revised in 2016) on implementing multidisciplinary co-operation in respect of victims of trafficking and/or certain aggravated forms of human smuggling, which provides the framework for detecting, identifying and referring to assistance victims of trafficking (i.e. Belgium's NRM). The labour inspection services include the Directorate General of Supervision of Social Legislation of the Federal Public Department of Employment, Labour and Social Dialogue, and the Social Inspection Directorate General of the Federal Public Department of Social Security. While the former has the task of ensuring policy compliance in the area of collective and individual labour relations, the latter is

entrusted with supervising and ensuring the correct application of laws on social security, combating tax fraud and clandestine labour. Both labour inspection services carry out unannounced inspections in co-operation with other supervisory bodies and the police. Measures are taken against social dumping, irregular posting of workers and other situations which may result in, or amount to, economic exploitation. There is also a specialised team of inspectors trained to detect possible situations of human trafficking and labour exploitation, called ECOSOC, which has a mandate to investigate cases of human trafficking for labour exploitation.

Following amendments to the Social Criminal Code in February 2016, Article 183/1 makes undeclared work an administrative offence, punishable by a fine, in cases where it was performed knowingly and willingly. New guidelines for social inspectors state that if signs of trafficking were not detected at the time of discovering the administrative offence, the letter accompanying the fine should specify that should a person consider him/herself a victim of human trafficking, he/she may contact a specialised reception centre. In such cases, the Federal Public Department of Employment would be informed of the trafficking situation and the fine would not be applied.

- ✓ In **Bulgaria**, the Labour Inspectorate is part of the NRM, and labour inspectors have indicators available to them to identify victims of trafficking for labour exploitation. They report any signs of human trafficking to the police and prosecution and do joint checks, thus supporting the investigation. The Labour Inspectorate monitors work announcements in the media and on the Internet and co-operates closely with the Employment Agency, as well as other stakeholders, including NGOs and trade unions. In case of a complaint by Bulgarian workers abroad, the Labour Inspectorate checks the temporary employment company in Bulgaria and makes a request to the foreign country's labour inspectors to check the working conditions. Further, the Labour Inspectorate has agreements with the inspectorates of other countries (e.g. Belgium and France). Under an agreement with the French Labour Inspectorate, joint inspections started in the summer of 2019.
- ✓ In **Cyprus**, the mandate of Labour Inspectorate Service was expanded in 2017 as to include responsibilities for the enforcement of labour laws. Inspectors operate in close co-operation with the police and other public services, conducting risk analysis, checking workplaces, and informing the Ministry of Labour, Welfare and Social Insurance when the work conditions do not meet the minimum requirements. The Service also operates an anonymous hotline, and in cases of suspicion of human trafficking inspectors must inform the Police Office for Combating Human Trafficking and the Social Welfare Services. In 2019, in the framework of the Private Employment Agencies Law 126(I)/2012, the Labour Inspectorate Service inspected 150 private employment agencies and revoked the licences of 14 agencies who either failed to provide the information requested or were found to have availed of fake documents.
- ✓ In **Finland**, the Occupational Safety and Health Service (OSH) inspectors have the right to conduct inspections anywhere where work is carried out or where it may be presumed to be carried out, including in places of agricultural work. Inspections may take place in private homes if it is necessary for preventing a danger to the life of or a considerable health hazard for the worker. According to the authorities, the threshold for identifying possible victims of trafficking for the purpose of labour exploitation is low and OSH labour inspectors have a duty to refer such victims, if they consent, to the Assistance System set up to support victims of trafficking. An awareness-raising

flyer about the risks of trafficking is handed out by OSH inspectors during labour inspections, as is a brochure entitled "As a Foreign Employee in Finland", with information on labour law and employees' rights.<sup>14</sup>

- ✓ In **France**, the mandate of labour inspectors was extended in 2016 to include the reporting of human trafficking offences, pursuant to the amended Article L8112-2 of the Labour Code. Article L8271-3 of the Labour Code enables inspection staff to be accompanied by interpreters during inspections. Under French law, any employer established in another country wishing to second employees to France must make a declaration of secondment, failing which the employer is liable to a fine of up to €500,000. In the event of a failure to declare seconded staff, labour inspectors may refer the matter to the competent administrative authority, which may suspend the services provided for up to one month.
- ✓ In **Germany**, the FKS is responsible for monitoring the implementation of the Act on Illicit Employment, the Posting of Workers Act and the Minimum Wage Act. FKS inspectors carry out inspections at workplaces, which focus on detecting and combating unreported and illegal employment and ensuring that employees are insured in the social security system. The FKS' internal instructions were amended in 2017 and inspectors were asked to pay "foremost attention" to labour exploitation and forced labour. Guidelines and questionnaires have been developed for this purpose. In case of detecting possible human trafficking cases, FKS staff should secure evidence and transfer the investigation file to the police via the public prosecution office. In June 2019, Germany adopted the "Act to Combat Unlawful Employment and Benefit Fraud", including into the mandate of the FKS the powers to inspect and investigate cases of trafficking for the purpose of labour exploitation.<sup>15</sup>
- ✓ In **Italy**, the National Labour Inspectorate is responsible for ensuring the correct implementation of all labour and social security regulations, which includes prevention and combating of undocumented work. Labour inspectors have free access, at any time of day or night, to the premises, buildings and rooms of the inspected entities, can take statements from workers, may request all relevant documentation and seek information from all public offices, labour consultants, employers and social security institutions. Labour inspectors, as judicial officers in matters of their own competence, are obliged to send timely reports to the competent judicial authority if they establish offences under Articles 600 ("placing or holding a person in condition of slavery or servitude"), 601 ("trafficking in persons") and 603 bis ("illegal brokering and labour exploitation") of the CC. In addition to the Labour Inspectorate, the Carabinieri Command for the Protection of Labour, which is functionally placed under the Ministry of Labour, is tasked with the fight against illegal employment, severe labour conditions and exploitation. The National Labour Inspectorate has issued Circular No. 5 of 28 February 2019 concerning Article 603 bis of the CC, which provides guidelines on the initial investigation activities and the gathering of evidence. These activities must be carried out in close co-ordination with the competent public prosecutors and Carabinieri Command for the Protection of Labour.

At national level, two initiatives have been implemented. The first one took place as part of the project "Supreme", funded by the European Asylum, Migration and Integration Fund (AMIF), and aimed at creating an "Extraordinary integrated plan of inter-

<sup>14</sup> Available at: [https://www.tyosuojelu.fi/documents/14660/2426906/engl\\_ulkomaal\\_tyontekij\\_nettti.pdf/2131c409-81ec-44c5-a61e-0e3f32f4335b](https://www.tyosuojelu.fi/documents/14660/2426906/engl_ulkomaal_tyontekij_nettti.pdf/2131c409-81ec-44c5-a61e-0e3f32f4335b)

<sup>15</sup> For more information, see <https://www.bundesfinanzministerium.de/Content/EN/Standardartikel/Top-ics/Priority-Issues/Articles/2019-07-03-Act-Combat-Unlawful-Employment-Benefit-Fraud.html>



ventions to combat all forms of serious labour exploitation and serious social vulnerability" in the regions of Basilicata, Calabria, Campania, Puglia and Sicily. This project focused on the exploitation of third-country nationals in the agricultural sector and envisaged the use of cultural mediators. The second initiative, called "A.L.T. Illegal hiring! - Actions for the Legality and the Protection of Work", aimed at strengthening the fight against labour exploitation in the regions of central and northern Italy, in the sectors of construction, logistics and manufacturing. The projects involve training of labour inspectors, cultural mediators and relevant officials to ensure sharing of operating procedures.

- ✓ In **Latvia**, the State Labour Inspectorate carries out inspections of all economic sectors in order to check the respect of labour conditions, occupational safety and health standards. Inspections may be carried out without prior notice. In case of a registered employment of domestic workers, labour inspectors are entitled to inspect private homes, jointly with the municipal police. If a company or an individual employer has six or more employees without contracts, inspectors may decide to suspend the activity of the company. Labour inspectors have been trained on the Council of Baltic Sea States (CBSS) "Guidelines to prevent abusive recruitment, exploitative employment and trafficking of migrant workers".<sup>16</sup>
- ✓ In **Malta**, two entities are responsible for labour inspections. The first one is the Employment and Training Corporation (ETC), under the responsibility of the Ministry for Education and Employment. The ETC supervises adherence to employment legislation by checking the existence of employment contracts and their conformity with relevant legislation, but it does not control working conditions. The ETC in particular seeks to address three types of offences: employment of irregular migrants, employment of workers below 16 years of age, and unemployment benefit fraud. Labour inspections are also carried out by the Department of Industrial and Employment Relations, which is linked to the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties. These inspectors are known as EIRA inspectors after the Employment and Industrial Relations Act. Unlike ETC inspectors, EIRA inspectors inspect working conditions, including health and safety at work. They can enter private households to examine the working conditions of domestic workers or workers carrying out renovation work. Both ETC and EIRA inspectors have received training on how to identify victims of trafficking, and some victims have been identified as a result of EIRA inspector referrals.
- ✓ In **the Netherlands**, the Inspectorate SZW, which was set up in 2012 following a merger of the former Labour Inspectorate, the Work and Income Inspectorate and the Social Security Intelligence and Investigation Department, is competent for supervising adherence to labour regulations as well as detecting and investigating labour exploitation and human trafficking cases under the supervision of the Public Prosecution Service. Labour inspections are unannounced and may take place at any time. Inspectors can enter private households either with permission from a judge, or if there is a concrete tip-off about a violation. An additional €50 million was made available for the Inspectorate SZW by the Dutch Government in 2017, to recruit some 300 more staff members and expand its operations. Approximately 75% of the additional funding was used to expand labour inspections and criminal investigations. Information exchanges between the Inspectorate SZW, the Tax and Customs Administration, the Labour Standards Foundation (a private certification scheme for employment agencies) and the Foundation for Compliance with the Collective Bargaining Agreement for Temporary Workers have helped to fight rogue employment agencies.



- ✓ In **Poland**, the powers of the National Labour Inspectorate directly result from the provisions of the ILO Convention No. 81 concerning Labour Inspection in Industry and Commerce and allow the National Labour Inspectorate to enter places of work in principle at any time, in order to control the employment conditions. Thus, within the limits of powers granted, labour inspectors may identify potential victims of trafficking working under forced labour conditions. To this end, since 2010, a methodology for labour inspectors in case of suspected forced labour has been applied, indicating how to recognise a potential victim, how to obtain information from the victim, what institutions to notify about the suspicion of trafficking, and what kind of assistance, including legal assistance, the victim is entitled to. The National Labour Inspectorate conducts training sessions for inspectors on trafficking in human beings and forced labour.
- ✓ In **Spain**, the Labour and Social Security Inspectorate (ITSS), under the Ministry of Employment and Social Security, checks the labour conditions of workers, social security registration and work authorisation for foreign workers, in all economic sectors. Labour inspectors can also check labour aspects (wages, working hours, contracts), occupational risks and other social security aspects (contributions, benefits) or employment matters. Inspections are unannounced and can take place at the weekend and at night. The Labour Inspection checks employment agencies to ensure that they abide by the regulations and monitors compliance with the regulations by companies in subcontracting chains. Law 23/2015 introduced improvements to the organisation and functioning of the ITSS, such as the creation of a new anti-fraud office and an increase in the resources provided to the ITSS. The Master Plan for a Decent Job 2018-2020 points out that the ITSS plays an essential role in identifying potential cases of human trafficking. Labour inspectors are covered by the Framework Protocol for the identification of victims of trafficking and are instructed to inform the Prosecution Service and law enforcement agencies about detected evidence of human trafficking. Since 2014, new labour inspectors receive a specific training course on human trafficking.

Since 2013, a collaboration agreement has been in place between the Ministry of Employment and Social Security and the Ministry of the Interior on co-ordination between the ITSS and law enforcement agencies in the fight against irregular employment and social security fraud. Joint visits to workplaces, such as clandestine workshops or agricultural sites, are conducted. Further, the ITSS participates regularly in Joint Action Days focusing on combating trafficking for the purpose of labour exploitation, under the umbrella of the European platform EMPACT and co-ordinated by Europol.

- ✓ In the **United Kingdom**, the Gangmasters Labour Authority (GLA) was set up 2005 to prevent the exploitation of workers in the agricultural, forestry, horticultural, shellfish gathering, food processing and packaging industries by setting up and operating a licensing scheme for labour providers across the UK. In January 2016 the UK Government decided to extend the GLA's remit and rename it the Gangmasters Labour Abuse Authority (GLAA) to reflect its broader functions. In addition to licensing businesses who provide workers to the fresh produce supply chain and horticulture industry, the GLAA also has the power to investigate reports of worker exploitation across the economy in England and Wales, as well as to investigate offences under the National Minimum Wage and Employment Agencies Acts, in partnership with the police and the National Crime Agency. GLAA is also a First Responder organisation and can refer potential victims of modern slavery and human trafficking directly into the NRM.

## Training on combating trafficking for labour exploitation

Training is being provided to a growing range of professionals to raise their awareness of indicators of human trafficking and to provide them with tools to detect vulnerable persons or those who are already subject to labour exploitation. In addition to labour inspectors, the professionals targeted for such training should include tax and customs authorities, police officers, prosecutors, judges, border guards, migration officials, consular staff, social workers, local/municipal government officials, NGOs, trade unions, private employment agencies and companies.

GRETA stresses the benefits of multidisciplinary training, which enables professionals from different agencies to exchange experience, create trust and build networks for addressing trafficking for labour exploitation together. The training should be integrated in the regular training curricula of different professional groups and impact assessment of the training should be carried out at regular intervals.

- ✓ **Austria's** fifth National Action Plan (2018-2020) foresees the organisation of a number of training and other measures aimed at tackling human trafficking for the purpose of labour exploitation. Particular attention is paid to the prevention of labour exploitation in supply chains and there is a specific action to examine public procurement law in relation to human trafficking. Police and immigration officers, child and youth welfare officials, financial police and labour inspectors, the judiciary as well as consular staff are among the target groups. Most training activities are carried out in co-operation with NGOs, in particular LEFÖ-IBF and ECPAT, and whenever possible, a multi-stakeholder approach is promoted.
- ✓ In **Bosnia and Herzegovina**, a comprehensive manual for labour inspectors with guidelines and indicators for the detection and identification of victims of trafficking for the purpose of labour exploitation was developed in 2016, with the support of the US Embassy. Training on the basis of this manual was organised in 2016-2017 for labour inspectors.
- ✓ In **France**, the Central Office for Combating Illegal Labour (OCLTI) organises two general training courses a year with regard to trafficking for the purpose of labour exploitation, each lasting four days, targeting junior and senior investigators. These training courses are also open to police and gendarmerie officers, judicial customs officials and judicial tax officials, as well as labour inspectors and inspectors from the Social Security and Family Allowance Contribution Collection Office (URSSAF). The initial training of labour inspectors is delivered by the National Institute for Labour, Employment and Vocational Training (INTEFP) and contains a module on human trafficking, involving OCLTI trainers.
- ✓ In **Germany**, the training centre of the Federal Criminal Police Office (BKA) organises every year a three-day training module on trafficking for the purpose of labour exploitation, with input from FKS. Further, in 2016, the BKA organised a multi-disciplinary networking meeting on trafficking for the purpose of labour exploitation, attended by police officers, prosecutors, FKS staff, representatives of trade unions and specialised counselling centres for victims of trafficking.
- ✓ In **the Netherlands**, the Royal Netherlands Marechaussee (KMar) launched in 2014 a compulsory course of 16 weeks for officers tasked with interviewing and recognising possible victims of human trafficking. Most labour inspectors of the Criminal Investigation Department of the Inspectorate SZW receive general training about human trafficking, and some undergo training at the Police Academy to become certified human trafficking investigators. Judges and prosecutors are continuously trained by the Training and Study

Centre for the Judiciary. In 2017, KMar and the NGO CoMensha trained staff of commercial airlines, who in turn trained inflight staff, on how to report any suspicions of human trafficking to KMar. Further, KMar has developed an e-learning module to train private companies, such as ground handling companies at airports, on detecting signs of trafficking.

- ✓ As part of the implementation of the EU-Council of Europe Programmatic framework “Horizontal Facility for the Western Balkans and Turkey”, the majority of labour inspectors in **North Macedonia** and some 83% of the labour inspectors in **Serbia** have received training on detecting and identifying victims of human trafficking for the purpose of labour exploitation. Pocket guides and indicators for identifying victims of trafficking for labour exploitation have been developed and widely disseminated as part of the respective projects. Further, in North Macedonia, indicators on identification of child victims of trafficking for labour exploitation were developed for education professionals, and 50 professionals from the central municipality of Skopje were trained to use them.
- ✓ In 2019, the **UK** Government launched resources to support public sector organisations identify and mitigate modern slavery risks in their supply chains. This included the Modern Slavery Assessment Tool, to help public bodies work closely with their suppliers to introduce robust modern slavery due diligence; a Procurement Policy Note and guidance published by the Cabinet Office, which sets out how UK Government departments must take action to ensure modern slavery risks are identified and managed in Government supply chains; and an e-learning course on Ethical Procurement and Supply that provides introductory training on modern slavery and other ethical procurement issues. In Northern Ireland, the Department of Justice hosted specific training for public sector procurement leads and engagement events to highlight the issue of transparency in supply chains and promote best practice. In England and Wales, the Modern Slavery Police Transformation Unit provides an internal toolkit containing guidance for investigators on all elements of a successful modern slavery investigation, including information on financial investigation and criminal injuries compensation. Similarly, guidance to prosecutors alerts them of the need to advise on early financial investigation to support confiscation and compensation.
- ✓ In **Ukraine**, the Ministry of Social Policy, in co-operation with the International Organisation for Migration (IOM) Mission in Ukraine, conducted training for labour inspectors throughout 2019. Labour inspectors are involved in the NRM, which has resulted in the increased identification of victims of trafficking for the purpose of labour exploitation.

## Enforcement of labour law standards in all sectors of the economy and over undocumented workers

Labour legislation and workplace inspections, including on health and safety, compliance with labour standards and revenue laws, play an important role in deterring instances of human trafficking for forced labour and identifying possible victims. Effective regulation of labour supply and workers’ rights, including the protection of unionisation of workers, are also important for preventing human trafficking. The extension of the scope of labour protection over all sectors of the economy and over undocumented workers is essential for preventing vulnerable workers from exploitation. It is also crucial to ensure that irregular foreign workers can report their condition without running the risk, even hypothetically, of being reported to the immigration offices. The rights enshrined in various ILO conventions and the European Social Charter (ESC) are relevant in this respect.

The carrying out of joint inspections by labour inspectors and other agencies, such as the police, migration or border agencies, tax agencies and social inspection, enables a multidisciplinary approach and the pooling of information, which can improve effectiveness. At the same time, it is important to delineate the roles of different agencies, in particular when irregular migrants are involved, as they might be reluctant to provide information for fear of expulsion.

The licensing of employment and recruitment agencies and the monitoring of their activities, with a view to avoiding fraudulent practices, is a further tool for preventing trafficking for the purpose of labour exploitation. Another area where some countries have taken action is the monitoring of employers registered in EU countries and recruiting posted workers<sup>17</sup> to other EU countries, with a view to preventing the economic exploitation of these workers.

- ✓ In **Albania**, the National Anti-Trafficking Co-ordinator, the Director of the Labour Inspectorate and the Director General of the National Police signed an agreement in October 2014 on co-operation for identifying cases of forced labour and trafficking for the purpose of labour exploitation. In February 2018, the Council of Ministers adopted Decision No. 101 "On the organisation and functioning of private employment agencies", according to which the State Labour Inspectorate and Social Services conduct periodic inspections to determine compliance of the activity of such agencies with the relevant legislation, and notify the Ministry of Health and Social Protection when they detect violations.
- ✓ In **Austria**, the Anti-Wage and Social Dumping Act aims to ensure equal pay conditions for everyone employed in Austria and to ensure a fair competition between Austrian and foreign companies. Penalties to companies are imposed if wages and salaries (as provided for in the collective agreements) fall short. In 2017, the concept of customer liability ("*Auftraggeberhaftung*") in the construction sector was introduced to the Anti-Wage and Social Dumping Act to secure remuneration claims for foreign employees working in the construction industry. The new law also improves aspects of cross-border administrative prosecutions.
- ✓ In **Belarus**, lists of agencies licenced to advertise and mediate employment in foreign countries are published four times a year. The website of the Ministry of the Interior contains detailed information about the procedure for obtaining a license related to employment outside Belarus.
- ✓ In **Germany**, temporary work is regulated by the Act on the Temporary Supply of Employees. All temporary work agencies in Germany must obtain a license from the Federal Employment Office, regardless of whether they are domiciled in Germany or another country of the European Economic Area, as long as they supply workers to Germany. The supply of workers from third countries is prohibited. A supplier license is denied if the supplier fails to comply with the regulations concerning the employment of foreigners and the provisions of labour and social security law. Private employment agencies are subject to the general trade and commercial law and the special protection provisions of the employee under the Third Book of the Social Code (SGB III), such as the requirement for a written supply contract and a maximum threshold for payments to private employment agencies. In cases involving a third party, such as agencies or so-called mediators for domestic work, examinations and preliminary investigations can be carried out if there are indications of false self-employment or non-payment of the minimum wage. Employ-

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<sup>17</sup> As envisaged under Directive 2014/67/EU of the European Parliament and of the Council of 15 May 2014 on the enforcement of Directive 96/71/EC concerning the posting of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System ('the IMI Regulation').

ers in the domestic care sector based abroad who are sending their employees to Germany have to report the place of work to the customs administration when providing outpatient care services, due to their reporting obligations under the Posted Workers Act.

- ✓ In **Ireland**, following reports of alleged abuses of migrant workers on board Irish fishing vessels, the Government established a Task Force on non-EEA workers in the Irish fishing industry in November 2015. As a follow-up to the report of the Task Force, the Atypical Working Scheme (AWS) for Seafishers was launched in February 2016 to facilitate the employment of fishers on boats of 15 metres and over in length. The AWS provides that employees will be guaranteed, at a minimum, the national minimum wage and statutory terms and conditions in accordance with national law, which will be underpinned by the requirement for employers to provide a legally binding contract of employment. There have been a number of operational interventions in the fisheries industry, resulting in the identification of victims of trafficking. In 2019, the International Transport Worker's Federation (ITF) and the Minister for Justice and Equality presented the terms of a mediated settlement agreed between them to the High Court, which includes amendments with respect to the flexibility granted to non-EEA fishermen to move to another vessel within a defined time period without incurring in the risk of visa cancellation and deportation, and without the need for the approval of the previous employer. The agreement further foresees a plan of promotion of awareness among non-EEA fishermen of their rights and entitlements, and the streamlining of the inter-agency collaboration between the Workplace Relations Commission (WRC), the Marine Survey Office and the Gardaí to combat exploitation on board fishing vessels.
- ✓ In **Malta**, following the entry into force of Subsidiary Legislation 452.116 in January 2019, employers are required to issue payslips to employees on a monthly basis. Payslips ought to include the number of hours worked, the number of hours worked at overtime rates and leave balances, amongst others. Failure to abide by these conditions will subject employers to a fine. The new law aims at facilitating the collection of data by national enforcement bodies, mainly the Malta Police Force and Department for Industrial and Employment Relations (DIER), during the investigation of potential cases of labour trafficking.
- ✓ In **Poland**, under the Act of 20 July 2017 amending the Act on the Promotion of Employment and Labour Market Institutions and certain other acts, which entered into force on 1 January 2018, provisions were introduced to tighten the simplified procedure of employing foreign workers. The amended legislation imposed an obligation on the entity entrusting work to a foreigner to notify the competent county employment office in writing on the day of commencement at the latest. The Act also constitutes the legal basis for the National Labour Inspectorate to access to the central registry of cases concerning work permits, seasonal work permits and statements on entrusting work to foreigners. The control of compliance with the above obligations fall within the competences of the National Labour Inspectorate and is carried out as part of routine controls conducted by labour inspectors. In cases of grave breaches (e.g. unauthorised conclusion of specific task contracts with a significant number of persons), a labour inspector may submit a notification of suspicion of a criminal offence under Article 219 of the CC. If, in the course of the control, the labour inspector suspects that the crime of trafficking in human beings has been committed, the inspector shall proceed with the notification to the Public Prosecutor's Office.





## FOCUS: Co-operation with trade unions

In **Austria**, steps have been taken by the trade union PRO-GE to inform seasonal agricultural workers of their rights by sending trade union representatives to agricultural sites, as part of an information campaign on the rights of agricultural workers launched by PRO-GE in co-operation with the counselling centre for undocumented workers UNDOK, the Austrian Trade Union Federation (ÖGB), and the NGOs LEFÖ-IBF, MEN VIA, Nyéléni Austria, Migrare, Südwind Oberösterreich and Working Globally. As a result of Romanian seasonal workers contacting trade union representatives, the police carried out an inspection and a criminal investigation was launched, human trafficking being one of the charged offences.

In **Bulgaria**, the Confederation of Independent Trade Unions (KNSB) is working actively on combating labour exploitation through awareness raising, direct field work and international co-operation. Two projects were implemented in 2018-2019. The first one was with the German trade union Deutscher Gewerkschaftsbund ("Fair posting" and "Fair mobility") and was aimed at counteracting labour exploitation of Bulgarian workers in Germany. The second project ("Raise Up") was implemented by a consortium of 11 organisations, including the Bulgarian Federation of Agricultural Unions (FNSZ), the Bulgarian Labour Inspectorate, and FLAI CGIL, the largest Italian trade union in the area of agriculture. Under this project, a report on undeclared work in agriculture in Bulgaria and a vademecum of good practices to combat illegal work in agriculture were published, and awareness-raising campaigns were conducted. Further, field work was implemented in Italy, resulting in the identification of cases of labour exploitation in the region of Puglia.

In **Iceland**, the Icelandic Confederation of Labour (ASÍ) implemented the project "Equal Rights - No Exception!" in co-operation with the police, tax officers and other stakeholders. As part of this project, leaflets with information about the rights of foreign workers in Iceland, collective agreements and other employment terms were issued in a range of languages. Further, trade unions representatives have been trained on recognising indicators of human trafficking. They are entitled to enter workplaces, demand to see work-related documents, and can take cases of violation of collective agreements to the labour court. There are joint inspections of work sites by the Department of Labour, the police, the tax authorities, the internal revenue agency and trade unions.

In **Italy**, trade unions such as the Italian General Confederation of Labour (CGIL), the Italian Federation of Agro-industrial Workers (FLAI), the Italian Confederation of Workers' Trade Unions (CISL), the Italian Labour Union (UIL), and the Basic Trade Union (USB), play a pivotal role in preventing and addressing the exploitation of migrants in agriculture. The trade unions not only negotiate labour conditions through collective bargaining agreements and participate in the national debate on how to end the exploitation of agricultural workers, but they often provide legal assistance and other support. In cases of labour exploitation, FLAI-CGIL facilitates access to justice for the victims, also drawing the attention of the police and the judiciary to instances of exploitation, and supports exploited workers throughout legal proceedings.



## Awareness raising

Raising awareness of trafficking for labour exploitation, how to avoid it and where to look for assistance is important as many people still lack information about this phenomenon. GRETA's country evaluation reports provide examples of a variety of awareness-raising measures by national authorities, in partnership with civil society and international organisations, with a view to preventing human trafficking for the purpose of labour exploitation. The awareness-raising activities have targeted the general public as well as specific groups, such as young people seeking employment, migrant workers and asylum seekers.

GRETA stresses the importance of carrying out impact assessments following awareness campaigns to evaluate whether knowledge has increased, and behaviour changed, in order to plan future campaigns and other activities based on concrete evidence and data.

- ✓ In **Belarus**, in 2019 the NGO Gender Perspectives/La Strada Program conducted the campaign "Ask while you are here" to prevent labour exploitation and violation of the rights of Belarusian migrant workers in Poland. As part of this campaign, thematic articles were published in the media and on the website of Gender Perspectives/La Strada Program, and a YouTube channel for safe migration was opened, where videos were posted on safe employment, preventing labour exploitation, and protecting the rights of labour migrants.
- ✓ A campaign to raise awareness of human trafficking in **Estonia**, entitled "1 Life", was carried out in 2017, covering the largest towns of the country. The campaign was co-funded by the Ministry of the Interior and the European Commission's Internal Security Fund, and was implemented jointly by the Ministry of Justice, the Ministry of Social Affairs and the NGOs Living for Tomorrow and Estonian Human Rights Centre. During the campaign, information was disseminated on YouTube and Facebook and through commercials in shopping centres, cinemas, bus stations, the airport and port of Tallinn, and ferries. The information communicated during the campaign included issues of trafficking for the purpose of labour exploitation. An impact assessment was carried out, based on interviews and a web-based survey with 300 respondents in the age group 15-55. An on-line awareness-raising campaign was conducted in 2015 in order to provide information about safe employment abroad, including a checklist of issues to verify before accepting a job offer abroad. The impact assessment of this campaign demonstrated that general awareness about labour rights and recruitment policies had increased by around 3%, and among special focus groups by around 7%.
- ✓ In **Malta**, as part of the third National Action Plan (2015-2016), a brochure containing information about labour conditions and wages in the country was published in the English, Chinese, Arabic, Russian and Filipino. It explains the risks of trafficking for labour exploitation and provides phone numbers of institutions which can be contacted for assistance in case of exploitation. The brochure is distributed by Maltese consular representations to foreigners who plan to work in Malta.
- ✓ In **Poland**, in 2017, a series of conferences were organised in towns in the Świętokrzyskie Voivodship in order to raise awareness of the risks of seasonal work abroad among university students and secondary school graduates. The conferences were attended by around 1,300 persons and, on the basis of surveys given to the participants, a report on the awareness of young people of the risks of trafficking in human beings and forced labour was prepared.

- ✓ In **Romania**, in 2018, the National Agency against Trafficking in Persons (ANITP), together with the NGO Save the Children Romania, launched the campaign "Work safely abroad!". One of the main aspects of this campaign was preventive action in relation to the risks of trafficking in children which may occur when parents work abroad and leave their children in Romania, in the care of other adults. Further, at the beginning of 2018, ANITP launched the campaign "Know your rights! Respect your duties!", as part of the project "Reducing human trafficking through better information for citizens", financed through the EU Internal Security Fund. The campaign aimed at reducing demand for services of victims of trafficking. The campaign's message was "Both the employer and the employee must earn from the job. Using the services of a victim of THB is punished by law".
- ✓ In **Slovenia**, the Slovene Philanthropy - Association for Promotion of Voluntary Work implemented the project "Countering trafficking in human beings – spreading information is a weapon against exploitation" in 2018. It involved individual seven information workshops for refugees and migrants and five workshops for professionals (migration officials, asylum officials, staff working in institutions for children, NGOs and other organisations) and volunteers. In 2018, awareness-raising and identification of potential victims of forced labour took place within the project "Za-govor", implemented by the Workers' Counselling Centre. This involved the organisation of information and counselling sessions, the distribution of leaflets on work-related rights, and the publication of monthly reports.
- ✓ In the **United Kingdom**, the Home Office launched in 2014 a campaign entitled "Modern Slavery is closer than you think" to increase awareness of modern slavery and its different forms amongst the general public.<sup>18</sup> Further, a multi-stakeholder campaign, "Stronger Together", was launched in 2014 by the then Gangmasters Licensing Authority (GLA), the Association of Labour Providers and the NGO Migrant Help in order to raise awareness of trafficking for forced labour in supply chains and detect and deal with hidden labour exploitation. In addition, online advertising, direct emails and press advertisements targeting small and medium businesses were done with the aim of raising awareness of forced labour and exploitation in at-risk sectors (agriculture, fisheries, food processing, construction and hospitality), by engaging with the relevant industry bodies to inform employees about modern slavery and measures to ensure that their supply chains are clean. In 2017, the Home Office produced a YouTube video and a leaflet on "Domestic Slavery", to raise awareness among the general public on the modalities in which to report suspected cases of human trafficking and exploitation.

## Targeted prevention for groups at risk

The Convention requires Parties to establish and/or strengthen effective policies and programmes to prevent human trafficking, in particular for persons at risk of being trafficked. Vulnerability to exploitation and trafficking is determined by a combination of factors, many of which are structural and are linked to social, economic, labour and immigration policies.

Migrant workers, especially seasonal and irregular migrant workers, as well as asylum seekers who have limited or no access to the labour market, are particularly vulnerable to human trafficking for the purpose of labour exploitation. Prevention practices include the provision of information to labour migrants both pre- and post-departure so that they can make informed decisions about migrating, as well as the establishment of drop-in centres for irregular migrant workers in destination countries.

- ✓ In **Austria**, a drop-in and counselling centre for undocumented workers, UNDOK, was established in June 2014. It is run by an association of Trade Unions, the Chamber of Labour, the National Student Union and civil society organisations. UNDOK is funded by the Ministry of Labour, Social Affairs and Consumer Protection, the Vienna Employment Promotion Fund, the Chamber of Labour and trade unions. It informs undocumented migrant workers about their rights, including through leaflets. Persons working in Austria without a residence and/or work permit who are not paid the agreed wage or are harmed by their employers in any other way are provided with basic counselling about issues of labour law, social security and assistance with administrative procedures. UNDOK co-operates actively with organisations supporting victims of trafficking.
- ✓ In **Belarus** there are hotlines for safe migration and combating trafficking in human beings, run by the NGOs Gender Perspectives/La Strada Program and the Club of Business Women. Between 2017 and 2019, over 21,740 consultations were provided through these hotlines.
- ✓ In **Bulgaria**, a campaign addressing trafficking in human beings for the purpose of labour exploitation is implemented each year at national and local level, targeting Bulgarian citizens searching seasonal employment in the EU and students preparing for summer jobs. For example, campaigns targeting Bulgarian berry pickers in Sweden were carried out in 2013 and 2014, in co-operation with NGOs and Roma organisations. In 2018, as part of the Swiss-Bulgarian Co-operation Programme, an awareness campaign on trafficking for the purpose of labour exploitation was organised, targeting people seeking work abroad (usually young people, employed in low-skilled jobs which they found online). A separate campaign was devoted to the risks of being involved in a labour exploitation situation in the Czech Republic, which has been one of the key destinations of THB for labour exploitation for Bulgarian nationals.
- ✓ **Georgia** implemented two pilot projects aimed at establishing legal and safe channels of labour migration, one with Germany and the other with Poland and Estonia. Multilingual information leaflets are disseminated at border check points, airports, the centre for asylum seekers and immigration detention facilities.
- ✓ In **Germany**, there are counselling centres for migrant workers providing information on social and labour law, which are mostly run by trade union-related organisations and are financed by public entities at the level of federal states and municipalities. The counselling centres provide consultations to migrant workers, both from within and outside the EU, and thus contribute to reducing the risk of trafficking and exploitation. Counselling is free-of-charge and anonymous and is provided regardless of the residence status of the migrant worker and the existence of a written labour contract. The organisations "Arbeit

und Leben” and “Faire Mobilität” run such counselling centres in a number of federal states. A total of 5,322 workers were given information and advice in the period 2013-2018; 37% of them were employed in the meat processing and poultry farming sector. Other sectors from which workers seek advice are agriculture, shipbuilding, domestic work, construction and catering.

- ✓ In **Italy**, a co-operation agreement on actions against *caporalato* and irregular work in the agricultural sector was signed in 2019 between the prefecture of Siracusa, the Provincial Labour Office, the Territorial Labour Inspectorate, several NGOs and trade unions. The agreement provided, *inter alia*, for the creation of a mobile drop-in centre to guarantee medical, legal and psychological assistance to all migrant and seasonal workers. Building on this agreement, the prefectures of Siracusa and Ragusa promoted a plan to combat the phenomenon of labour exploitation and *caporalato* in the framework of a project financed through AMIF. The project, implemented by the trade union CGIL together with IOM and NGOs (Caritas, We Care and Cooperativa Proxima), aims at sensitising migrant workers within reception centres about the risks of recruitment for work in exploitative conditions.
- ✓ In **Latvia**, a campaign by the Ministry of Foreign Affairs and the Ministry of the Interior about safe travel and risks of labour exploitation abroad was launched in June 2018. Two animation movies were produced and aired, and printed materials were distributed at main public transportation hubs as well as on public busses.
- ✓ In the **Netherlands**, the Ministry of Social Affairs and Employment carries out preventive work by raising awareness, including by distributing brochures in various languages about working in the Netherlands and carrying out information campaigns in countries of origin. Funded by the Ministry of Social Affairs and Employment, the NGO FairWork has developed online tools, combined with the work of cultural mediators, to inform labour migrants about their rights, as well as working together with trade unions and companies on the prevention of the exploitation of Bulgarian, Polish and Romanian migrant workers.
- ✓ The State Labour Inspectorate of **Ukraine**, in co-operation with the State Employment Service, carries out information and education activities on safe employment abroad, the risks of irregular labour migration and the importance of legal employment. For example, in the first half of 2016, the State Labour Inspectorate and staff of regional employment centres conducted 434 joint workshops, with the participation of company directors, individual entrepreneurs and unemployed persons. The national toll-free hotline on combating trafficking provides advice to Ukrainians who plan to go abroad or return to Ukraine, as well as to foreigners residing in Ukraine. During information seminars on general employment issues, specialists of employment centres raise awareness of the risks of consequences of labour migration.

Domestic and care workers, who may include *au pairs*, are particularly vulnerable to exploitation due to the fact that in many countries the development of the private domestic and care market has been mostly uncontrolled, there are gaps in the labour legislation, and private households are usually not subject to inspections without a search warrant.

- ✓ In **Ireland**, following the identification by the Migrant Rights Centre Ireland of the recruitment of *au pairs* into sub-standard domestic work jobs as a growing problem, a series of inspections were carried out in 2016-2017, and 16 *au pair* recruitment agencies were registered. The WRC published a leaflet entitled "Employment Rights of Domestic Workers in Ireland" and the Irish Congress of Trade Unions (ICTU) implemented a campaign for better rights for domestic workers.
- ✓ In **Germany**, in cases involving a third party, such as agencies or so-called mediators for domestic work, examinations and preliminary investigations can be carried out if there are indications of false self-employment or non-payment of the minimum wage. Employers in the domestic care sector based abroad who are sending their employees to Germany have to report their place of work to the customs administration when providing outpatient care services, pursuant to the Posted Workers Act. According to the BKA's annual situation report, in the 2014-2017 period, 12 investigations into trafficking for the purpose of labour exploitation in domestic situations were carried out.
- ✓ In **Norway**, the Au Pair Centre<sup>20</sup> run by NGO Norwegian People's Aid was opened in 2013 to provide information and advice to *au pairs* and host families. Caritas Norway has also established an Au Pair-Centre, which is run with support from the Directorate of Immigration (UDI). Pursuant to the Circular on "Administrative measures relating to a host family (quarantine)",<sup>19</sup> amended in 2019, UDI may decide that no residence permit shall be granted to an *au pair* for a host family that has acted in breach of the permit. This administrative measure is aimed at preventing *au pairs* being used as cheap labour and preventing forced labour, human trafficking and other forms of exploitation. The disqualification period imposed can be one, two or five years. For very serious criminal offences, it can be a 10-year disqualification period. If the UDI decides to impose a disqualification period on a host family, and the *au pair* or a new *au pair* is living with the host family, the *au pair* must be given a reasonable amount of time to change host families before the UDI, if applicable, decides to revoke the permit.

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<sup>19</sup> See UDI 2014-008 Administrative measures relating to a host family (quarantine), available at: <https://www.udiregelverk.no/en/documents/udi-guidelines/udi-2014-008/>



## **FOCUS: Prevention of trafficking of domestic workers in diplomatic households**

As home to a large diplomatic community, **Austria** has put a particular emphasis on preventing human trafficking among private domestic staff in diplomatic households. The Federal Ministry for Europe, Integration and Foreign Affairs has put in place a comprehensive policy which includes obligatory personal interviews on the occasion of the collection of the yearly extensions of legitimisation cards of domestic staff in diplomatic households, a written employment contract and wage transfers to a bank account in the sole name of the domestic worker. The Ministry organises periodic events for domestic workers in diplomatic households to inform them about their basic rights. In July 2016, the Ministry published a brochure for private domestic staff informing about their rights and obligations while in Austria and relevant contact details in case of emergency.

In **Belgium**, a preventive system has been put in place by the Department of Foreign Affairs. Prior to arrival in Belgium, the domestic worker's employment contract is examined by the Department and the worker is informed of his/her rights and obligations. Once on Belgian soil, domestic workers must attend an interview every year at the Protocol Service for renewing their special identity card, which is an opportunity to check the working conditions. A Good Offices Commission was created in May 2013 within the Federal Public Service Employment (SPF Emploi), which is responsible for settling disputes between embassy staff and their employers. A flyer aimed at informing work visa applicants, which includes information on the work standards to be observed in Belgium and the services to be contacted in the event of exploitation, has been published.

In **France**, third-country domestic workers employed by diplomatic staff must be in possession of a long-stay visa granted prior to their arrival in France, which will allow the Protocol of the Ministry of Foreign Affairs to examine the file for the issue of a special residence permit in the "private staff" category. The employee is invited to an individual interview in order to receive the special residence permit, valid for up to one year and renewable according to the same procedure. The Protocol emphasises the absolute obligation to leave the employee the free disposal of his/her passport and special residence permit. In the event of termination of the contract, the Protocol must be notified, the residence permit will be withdrawn and the costs of returning the employee must be covered by the employer. Exceptionally, a new recruitment for the same employee may be presented by another employer, possibly with a different mission, provided that the request is made to the Protocol within one month after the termination of the previous employment.

In **Germany**, all domestic staff working in diplomatic households receive a personal invitation to information events organised by the Federal Foreign Office, in co-operation with the counselling centre Ban Ying, which regularly updates a brochure in several languages and disseminates it to diplomatic missions. In case of problems, the Federal Foreign Office may organise a mediation procedure. The Federal Foreign Office investigates any reports about alleged violations of basic standards of domestic staff employed in diplomatic households.

In **Ireland**, officials from the Department of Justice and Equality's Anti-Human Trafficking Unit (AHTU) and the Human Trafficking Investigation & Coordination Unit (HTICU) of An Garda Síochána deliver training on tackling trafficking in human beings to the Department of Foreign Affairs and Trade officials and to Irish diplomats prior to them being posted to Irish embassies and consulates abroad. The training also includes a section on the expectations placed on diplomats by the Guidelines related to the employment of private domestic employees, which



were introduced in 2014 and updated in 2018,<sup>20</sup> and clearly set out the standards regarding payment, employment records, health insurance, and social security.

In **Switzerland**, a procedure was introduced whereby domestic workers' employment contracts must be signed before the person's arrival in Switzerland. Contracts are checked by consulate officials during an individual interview which must take place to obtain a visa to enter Switzerland, while domestic workers are informed about their rights, obligations and working conditions. Upon arrival in Switzerland, they meet officials from the Federal Department of Foreign Affairs and can seize the Office of the Mediator which has been set up in Geneva to resolve conflicts involving persons benefiting from diplomatic privileges and immunities.

Members of Roma communities are often affected by poverty, unemployment and inadequate access to services, rendering them particularly vulnerable to human trafficking. Targeted prevention activities have been carried out in respect of Roma communities in different States Parties to the Convention.

- ✓ In **Albania**, the Roma and Egyptian communities are groups which are particularly vulnerable to trafficking for the purpose of labour exploitation as they are often employed in the informal economy. In June 2017, the Ministry of the Interior organised, in co-operation with the Organization "ARSIS" and the Child Protection Unit in the Municipality of Tirana, two informative meetings with representatives of the Roma and Egyptian communities in the areas of Selita and Yzberisht in Tirana. The purpose of the meetings was to raise awareness on the phenomenon of trafficking, forms of trafficking, ways and indicators for identifying possible victims of trafficking, assistance, and reporting avenues such as national helpline 116006 and the free smartphone application *Raporto! Shpëto!* ("Report! Save!"). In addition, between 2015 and 2019, the Government organised 13 awareness-raising meetings targeting young people, mainly of the Roma and Egyptian communities, and specifically in rural areas.
- ✓ In **Bulgaria**, an initiative conducted by the Dutch Embassy and the Roma NGO Amalipe aimed to inform Roma communities of the possibilities for regular migration and the risks behind irregular migration into the Netherlands. Another campaign was organised in 2018 with the support of the British Embassy, targeting Roma children. The NCCTHB, together with the Network of Health Mediators and the Ministry of Foreign Affairs, carried out a campaign to inform members of Roma communities throughout Bulgaria of the risk of labour exploitation in the field of berry picking in Sweden. The National Network of Health Mediators comprises some 140 Roma mediators in about 70 municipalities, who serve as a bridge between vulnerable minority communities and health and social services. The local anti-trafficking commissions in regions with large Roma communities (in particular Burgas, Plovdiv, Pazardzhik, Montana, Sliven and Varna) focus many of their preventive activities on Roma communities.
- ✓ In the **Republic of Moldova**, the Ministry of Health, Labour and Social Protection, in partnership with IOM, organised in December 2017 and July 2018 training sessions on "The role of community mediators in dealing with human trafficking cases and domestic violence in settlements inhabited by Roma or mixed population". The goal of these seminars was to inform community mediators, social workers and multi-disciplinary

<sup>20</sup> Available at: <https://www.dfa.ie/media/dfa/alldfawebsitemedia/embassies/20171221updated-Guidelines.pdf>

team co-ordinators of the changes in the legal framework, case identification and assistance methodology, and the creation of a communication and co-ordination platform for handling the assistance offered at central, local and inter-regional levels.

- ✓ In the **Slovak Republic**, a number of projects have been implemented, targeting marginalised Roma communities and supporting the development of social services, community centres and pre-school education. For example, the project "Strengthening of joint measures in the prevention of forced labour of the Roma community and the development of reference mechanism" produced a film, information materials and a booklet for employers in order to increase the awareness about forced labour.
- ✓ In **Slovenia**, in 2018, awareness raising on the dangers of forced and arranged marriages was organised for students, with one third of activities taking place in neighbourhoods with Roma population.

### Measures to discourage demand, including through public-private partnerships

Article 6 of the Convention places a positive obligation on Parties to adopt legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of victims of trafficking. Further, Article 19 of the Convention contains a provision encouraging Parties to make it a criminal offence to knowingly use the services of a victim of trafficking, by way of suppressing demand that drives trafficking in human beings. This provision targets the client whether of a victim of trafficking for sexual exploitation or of a victim of forced labour or services, slavery or practices similar to slavery, servitude or organ removal.<sup>21</sup>

GRETA's 3rd General Report (2013) contained a section which examined the factors that may drive or facilitate the use of services from trafficked persons, and considered policies that may be used to discourage demand, with particular attention to the role and involvement of the private sector.<sup>22</sup> Since then, GRETA's country evaluation reports have highlighted a variety of measures undertaken by States Parties to reduce the demand that fosters human trafficking for labour exploitation, including by creating greater awareness amongst companies of the need for human rights compliance in their supply chains and holding them accountable in case of human rights abuses.

Building on the 2011 UN Guiding Principles on Business and Human Rights, the Committee of Ministers of the Council of Europe adopted Recommendation CM/Rec/(2016)3 on human rights and business, a text that provides guidance to member States regarding human rights violations by business enterprises, including child and forced labour.<sup>23</sup> A number of States Parties have adopted national action plans for implementing the UN Guiding Principles on Business and Human Rights, includes measures which are relevant to addressing human trafficking. Some countries have adopted legislation integrating the prevention of human trafficking in public procurement policies and promoting transparency in supply chains to enable scrutiny of companies' performance to prevent human trafficking and labour exploitation.

- ✓ In **Austria**, the project "Trafficking in human beings in the supply chain - successfully combat labour exploitation", is financed by the Federal Ministry of Labour, Social Affairs, Health and Consumer Protection, and implemented by the Network Social Re-

<sup>21</sup> Explanatory Report on the Convention, para 231.

<sup>22</sup> See pp. 45-50. Available at: <https://rm.coe.int/16805aa45d>

<sup>23</sup> <https://edoc.coe.int/en/fundamental-freedoms/7302-human-rights-and-business-recommendation-cmrec20163-of-the-committee-of-ministers-to-member-states.html>

sponsibility, an Austrian network of NGOs and trade unions active in the field of corporate social responsibility, business and human rights. The aim of the project, which was extended until the end of 2020, is to analyse how existing quality seals and multi-stakeholder initiatives could be used to combat and prevent human trafficking and labour exploitation in international supply chains. The Austrian authorities have specified that 14 quality seals and multi-stakeholder initiatives have so far been identified as particularly relevant to prevent labour exploitation and human trafficking.

The Federal Law on Public Procurement (BVerG 2018) and the Federal Law on Public Procurement of Concessions (BVerGKonz 2018) entered into force in August 2018. Pursuant to these laws, the contracting authority or entity has to exclude an economic operator from participation in the procurement procedure if that economic operator (or a member of its administrative, management or supervisory body or a person which has powers of representation, decision or control in the economic operator) has been convicted by final judgement of, *inter alia*, slavery, trafficking in human beings or cross-border prostitution trade. This mandatory exclusion ground also applies to all subcontractors. In case a subcontractor has been convicted of any of the mentioned offences, the economic operator has to be excluded from participation in the procurement procedure or the respective subcontractor has to be rejected (and the economic operator has to nominate another subcontractor).

- ✓ In **Belgium**, the third National Action Plan (2015-2019) envisaged measures to raise awareness of human trafficking in sectors where economic exploitation may take place, in particular the hospitality industry and the construction sector, as well as agriculture, manufacturing and fishing. Priority was given to projects developed jointly with trade unions with a view to finding effective ways of transmitting information in order to prevent human trafficking. In addition, preparatory work was initiated to sensitise the banking sector to transactions that might conceal trafficking. The former Centre for Equal Opportunities and Opposition to Racism (now Belgian Federal Migration Centre, MYRIA) developed information tools for enterprises working in the construction sector under a European project entitled "Corporate Social Responsibility to Prevent Human Trafficking". These tools include a brochure with examples of case-law in the area of trafficking for the purpose of economic exploitation and indicators for detecting such cases and preventing risks which may lead to trafficking and exploitation.
- ✓ In **Bulgaria**, the NCCTHB involved actively the private sector (including the Post Bank and the biggest telecom company A1) in anti-trafficking awareness-raising campaigns in 2010-2013 and, in partnership with Manpower Bulgaria,<sup>24</sup> promoted business ethics and corporate social responsibility. Post Bank supported financially a national campaign initiated by the NCCTHB, in partnership with the New Bulgarian University. Manpower Bulgaria supported several awareness-raising campaigns on labour exploitation with a focus on young people and implemented a small programme on reintegration of victims of trafficking by training them in their offices, giving them internship and finding them jobs. In September 2019, the British Embassy in Sofia organised jointly with the NCCTHB a conference entitled "The Public-Private Partnership in the fight against Trafficking in Human Beings: How government and business tackle trafficking in human beings in supply chains". It had a particular focus on the textiles and hospitality sectors, and involved representatives of businesses, trade unions and the Bulgarian Chamber of

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<sup>24</sup> See, i.e.: Manpower Group's Supply Chain Business Partner Policy, available at: <https://www.manpower-group.com/wcm/Supply+Chain+Policy.pdf> and Manpower Group's Sourcing And Supply Chain Perspective, available at: [https://www.manpowergroup.com/wcm/MPG\\_SupplyChain\\_2020.pdf](https://www.manpowergroup.com/wcm/MPG_SupplyChain_2020.pdf)

Commerce and Industry. The event presented different mechanisms that could be put in place, including codes of conduct preventing labour exploitation.

- ✓ In **Bulgaria, the Netherlands and Poland**, the NGO La Strada Foundation implemented a project called “NGO & Co Business Engagement in Addressing Trafficking”,<sup>25</sup> which promotes zero tolerance of human trafficking for labour exploitation among private companies and their supply chains. The project also aimed at increasing awareness among recruitment agencies and strengthening their responsible behaviour in preventing human trafficking.
- ✓ In **Denmark**, the CMM has developed guidelines entitled “Managing the Risk of Hidden Forced Labour – A Guide for Companies and Employers”.<sup>26</sup> The guidelines are based on a mapping of risk factors and interviews with employers and have been developed in dialogue with a range of stakeholders, including the Danish Agency for Labour Market and Recruitment, the Working Environment Authority, the Immigration Service, the Customs and Tax Administration, the National Police, the Business Authority and the United Federation of Danish Workers. Since 2014, the CMM has been part of the Inter-Ministerial Working Group on Corporate Social Responsibility and has prepared sector-specific corporate social responsibility guidelines on combatting human trafficking.
- ✓ In **Finland**, the European Institute for Crime Prevention and Control (HEUNI) published in April 2018 guidelines for employers and companies about risk management and prevention of trafficking for the purpose of labour exploitation, especially in supply chains.<sup>27</sup> HEUNI also started a project on preventing exploitation of the workforce and trafficking through corporate social responsibility, which involves the production of a guide and training materials for companies using subcontractors. Further, IOM Finland has published guidelines for employers and enterprises about how to avoid trafficking for the purpose of labour exploitation in the context of seasonal work, such as berry-picking and temporary employment in greenhouses.<sup>28</sup> In 2014, a National Action Plan to implement the UN Guiding Principles on Business and Human Rights was approved. Within this framework, Finland provided business and human rights training to business representatives and public officials, established a responsible business conduct and human rights reporting obligation to majority state-owned companies, provided guidance on socially responsible public procurement, published country-specific memoranda on responsible business conduct, and built dialogue between businesses, NGOs and trade unions on business, human rights and due diligence.<sup>29</sup>
- ✓ **Germany** adopted its National Action Plan on Business and Human Rights 2016-2020, linked to implementing the UN Guiding Principles on Business and Human Rights. The plan envisages activities which could contribute to reducing trafficking for the purpose of labour exploitation. Further, Germany supported the OSCE project “Prevention of Trafficking in Human Beings in Supply Chains through Government Practices and Measures”, which produced guidelines for governments to ensure the use of ethical practices in public procurement and promote transparency of supply chains.<sup>30</sup> During the German G7 presidency in 2015, the Federal Ministry for Labour and Social Affairs, together with the Federal Ministry for Economic Co-operation and Development, included on the agenda of the summit the issue of fostering good work worldwide through sustainable supply chains. This resulted in adopting specific measures, such as the creation of the Vision Zero Fund initiative under ILO, which aims to prevent

<sup>25</sup> Available at: <http://lastradainternational.org/about-lsi/projects/ngos+co>

<sup>26</sup> <http://www.centermodmenneskehandel.dk/materialer/instruktioner-til-fagpersoner/>

<sup>27</sup> Available at: [https://www.heuni.fi/Kansallinen\\_opas\\_pohjoismainen\\_CSR\\_B5\\_090418\\_WEB.pdf](https://www.heuni.fi/Kansallinen_opas_pohjoismainen_CSR_B5_090418_WEB.pdf)

<sup>28</sup> Available at: [https://iom.fi/sites/default/files/leaflets/IOM\\_Pikaopas\\_Kausityö\\_FINAL\\_FI.pdf](https://iom.fi/sites/default/files/leaflets/IOM_Pikaopas_Kausityö_FINAL_FI.pdf)

<sup>29</sup> For more information, see: <https://tem.fi/en/enterprises-and-human-rights>

<sup>30</sup> <https://www.osce.org/secretariat/237571>

work-related deaths, injuries and diseases in global supply chains. The subject of sustainable supply chains was also addressed during Germany's G20 presidency in 2017.

German federal ministries have started several initiatives in sensitive economic sectors to promote sustainable supply chains outside Germany, together with the private sector, NGOs and relevant partners in countries concerned. For example, the "Partnership for Sustainable Textiles" comprises 130 members covering about half of the German textiles market. Further, the "Roundtable Human Rights in Tourism" aims to support companies in the tourism industry, especially tour operators, in their efforts to strengthen human rights responsibility as concerns customers, employees (including subcontractors) and the local population at tourist destinations. Another example is the German Initiative on Sustainable Cocoa (GISCO), which is a joint initiative of the Federal Government, the German sweets and confectionary industry, the German retail grocery trade and civil society.<sup>31</sup> It aims to improve the livelihood of cocoa farmers and their families as well as to increase the proportion of sustainably produced cocoa. To achieve these objectives, the members of GISCO closely liaise with the governments of cocoa-producing countries.

- ✓ In **Greece**, with a view to promoting supply chains free from labour exploitation, the National Rapporteur signed a Memorandum of Co-operation with the Corporate Social Responsibility Hellas Network. The memorandum envisages activities to raise awareness among businesses, consumers and employees by conducting training, workshops and events and by using social media tools for reaching out to broader audiences. Further, the National Rapporteur and the Athens Public Transport Organisation have agreed to co-organise training for public transport staff and awareness-raising campaigns for passengers in 2017-2020. Similar activities were organised in 2016 with the Central Market Hall Organisation in Athens, which were context-specific to labour exploitation in the agricultural field.
- ✓ In 2013, the **Netherlands** adopted a National Action Plan on Business and Human Rights which addresses negative impacts in companies' supply chains and matters of corporate social responsibility. Further, in 2014, the Dutch Social Economic Council advised the Government to support the development of Responsible Business Conduct (RBC) sector agreements, allowing companies, government bodies, trade unions and representatives of the civil society to work together to address the risks of child or forced labour in supply chains. The basis of the sector agreements are the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. In this context, the Dutch Government commissioned a study to identify business sectors with heightened risks of violations of human or labour rights in their supply chains. Among the at-risk sectors identified are the textile, construction, metallurgy, electronics, oil and gas, agriculture and food industry. The textile industry concluded an RBC sector agreement in July 2016, the banking sector in December 2016, and the gold, vegetable protein and forestry sectors in 2017.
- ✓ In the **United Kingdom**, in 2013 the GLA and the major food retailers and suppliers signed the Supplier/Retailer Protocol (known as the 'Supermarket Protocol'), which aims to ensure that safety and welfare standards for workers are maintained and any exploitation of workers is eliminated. The Good Practice Guide for Labour Users and Suppliers details the legal requirements and explains how suppliers can ensure they are using a licensed labour provider. Furthermore, the GLA prepared a leaflet on workers' rights, available in 18 languages, which indicates employers' obligations and or-



rganisations to contact for support. Following a successful pilot trial of a training package with a supermarket chain (Sainsbury's), GLAA (which succeeded GLA in 2016) started working closely with the University of Derby and the Ethical Trading Initiative on accredited training of staff and auditors of supermarkets and major suppliers in the food industry to raise their awareness of forced labour in supply chains, how to identify it and action to be taken.



### **FOCUS: Prevention of trafficking in supply chains**

In the **United Kingdom**, under Section 54 (Transparency in Supply Chains etc.) of the Modern Slavery Act 2015 (MSA 2015), commercial organisations which carry on a business, or part of a business, in the UK, supply goods or services and have an annual turnover of £36 million or more are required to publish an annual statement setting out the steps they have taken to ensure that modern slavery is not taking place in their operations or supply chains. This would concern an estimated 12,000 businesses in the UK. In 2019, the Home Office compiled a guidance on "Publish an annual modern slavery statement".<sup>32</sup> The Government has also established the Business Against Slavery Forum to accelerate progress in tackling modern slavery and, following an Independent Review of the Modern Slavery Act in 2019, it committed to create an online central reporting service for businesses' modern slavery statements, to make it easier for consumers, NGOs and investors to scrutinise the action that businesses are taking to prevent modern slavery in their supply chains.

In **France**, a law on due diligence by parent companies and principal companies operating with subcontractors was adopted on 21 February 2017. It creates an obligation for certain companies to introduce a vigilance plan "geared to identifying and obviating risks of violations of human rights and fundamental freedoms, serious physical harm or environmental damage or health risks resulting from its activities and those of companies under its direct or indirect control, as well as the activities of subcontractors or suppliers over which they exert decisive influence". The companies covered by this provision are all companies employing, upon the closure of two consecutive financial years, at least 5,000 employees within the company itself and in direct or indirect subsidiaries whose head office is in France, or at least 10,000 employees within the company itself and in direct or indirect subsidiaries whose head office is in France or abroad. The company's civil liability will be incurred in the event of failure to fulfil the newly created obligations.

## Identification of victims

Article 10 of the Convention requires Parties to adopt measures to identify victims of trafficking for all forms of exploitation. In order to do so, Parties must provide their competent authorities with persons who are trained to identify and assist victims and develop an identification procedure which is not subject to the criminal investigation.

Cases of trafficking for the purpose of labour exploitation are increasingly identified in many States Parties to the Convention, including for example in Belgium, Finland, Portugal and the United Kingdom, where they constitute the prevalent form of trafficking. Yet, the identification of victims of trafficking for the purpose of labour exploitation is extremely challenging. On the one hand, there is a knowledge gap when it comes to identifying this form of trafficking and the relevant professionals and authorities responsible for the identification of victims are often not sufficiently staffed, trained or funded. On the other hand, the individuals concerned may not self-identify as victims or see themselves as being held in an exploitative situation. These perceptions are often reinforced by the lack of awareness of applicable labour standards and of related rights, or by stereotypical and gendered constructions of vulnerability and victimhood that discourage certain categories of victims to come forward, or make it less likely for them to be identified.

In addition, victims of trafficking for the purpose of labour exploitation may mistrust the authorities because they are in an irregular situation, be that related to their immigration status or to their employment conditions. When victims are members of vulnerable migrant communities, a change in relationships of trust with the authorities needs to be established, particularly with labour inspectors, and a firewall between the authorities and actors who receive reports from, and provide assistance to, victims, and immigration enforcement authorities, should be put in place.

Indicators for the identification of victims of trafficking for the purpose of labour exploitation have been developed and are periodically updated in many States Parties, with the support of international organisations and the involvement of civil society actors. With a few exceptions, States Parties to the Convention have set up a National Referral Mechanism (NRM) for the identification of victims of trafficking and their referral to support and protection. The NRM defines the roles and responsibilities of stakeholders which can perform identification of victims and who usually include, in addition to law enforcement officers, labour inspectors, migration officials, health-care providers, local administration authorities and NGOs.

- ✓ In **Austria**, the Task Force's working group on human trafficking for the purpose of labour exploitation has prepared a list of indicators for the identification of victims of trafficking for the purpose of labour exploitation. This list is primarily intended as a tool for the authorities that might establish a first contact with possible victims, in particular the Financial Police, labour inspectors and customs officers. It is supplemented by information on how to communicate observations to the police in an easy and fast way, and information on organisations providing victim protection services.
- ✓ In **Belgium**, the framework for detecting, identifying and referring to assistance victims of trafficking is set out in the Circular of 26 September 2008 on implementing multidisciplinary co-operation in respect of victims of trafficking and/or certain aggravated forms of human smuggling. A revised version of the circular was adopted by the Federal Ministry of Justice in December 2016 and published on 30 March 2017. It explains the role and responsibilities of each stakeholder and describes the identification procedure, the information to be provided to victims, the assistance provided by

specialised centres, and the granting of a recovery and reflection period and a residence permit. The revised circular contains sub-sections relating to the identification of possible victims of trafficking for the purpose of domestic servitude in diplomatic households, as well as child victims of trafficking. When the police or labour inspectorate services detect a presumed victim of trafficking, they must inform the public prosecutor, contact one of the three specialised reception centres and, in the case of foreign nationals, inform the Foreigners' Office. They must also inform the presumed victim about the relevant procedure and the available assistance and protection. This information is contained in a brochure available in 28 languages.<sup>33</sup> The detection of presumed victims is followed by formal identification, which is carried out by the competent public prosecutor. Prosecutors make identification decisions in consultation with staff of the specialised centres to which presumed victims have been referred for assistance, the police and the labour inspectorate services.

- ✓ In **Bulgaria** there are formalised indicators for the identification of victims of trafficking of labour exploitation, which are listed in Annex 1 to the NRM. All 26 parties of the NRM can informally identify victims of trafficking, but formal identification is performed only by the police and the Prosecutor's Office. Though not being part of the NRM, the two main trade unions have been active on the topic of combating human trafficking in the recent years and may refer victims of i labour exploitation to the NRM.
- ✓ In **Latvia**, Guidelines for the identification of human trafficking for the purpose of labour exploitation are available to labour inspectors, border guards, police officers and NGOs. In April 2019, the Organised Crime Enforcement Board of the State Police, together with the State Labour Inspectorate and the State Border Guard, implemented activities addressing trafficking in human beings for the purpose of labour exploitation in the framework of Joint Action Days (JAD) organised by Europol EMPACT THB. As the result of the JAD, 16 persons were identified as potential victims of trafficking and were referred to a social service provider, while being granted a reflection period. Between December 2019 and January 2020, the Organised Crime Enforcement Board received information about potential victims in the agricultural and construction sectors and identified nine potential victims of trafficking for the purpose of labour exploitation.
- ✓ In **Malta**, the NRM was applied in the so-called "Leisure Clothing factory case", which concerned nine Vietnamese and one Chinese workers. Based on false premises, the workers had been issued visas and work permits enabling them to travel to Malta. They lived in cramped, poor conditions and were locked in at night, their passports were taken away and they were told they would be sent back to their countries of origin if they complained. The case was detected by an NGO, after which the police provided the persons with interpreters and formally identified them as victims of trafficking. Further, in 2016, a case of trafficking for the purpose of labour exploitation was detected, involving 31 Filipino victims who had been hired to provide cleaning services at national hospitals after their employer had won a public tender for providing these services. In breach of their contracts, the victims were forced to clean other premises, such as factories, office buildings and private households. The exploitation was detected as a result of a workplace inspection by DIER, during which the inspectors spoke to the victims. The inspectors reported the case to the police, all 31 victims were assisted by a lawyer and co-operated with the police.
- ✓ In the **United Kingdom**, the framework for the identification of victims of trafficking is provided by the NRM. A referral can be submitted by so-called First Responder

<sup>33</sup> Available at: <http://www.myria.be/fr/publications/victimes-de-la-traite-des-etres-humains-brochure-en-28-langues>

Organisations, which include State authorities – such as the police and GLAA – as well as NGOs. Since the launch of the NRM in 2009, statistics indicate an upward trend in the proportion of referrals of victims of trafficking for the purpose of labour exploitation (in 2018 and 2019, more than 55% of referrals concerned instances of labour exploitation). In 2019, the Government created a Single Competent Authority (SCA) in the Home Office, responsible for making conclusive grounds decisions on the identification of victims of trafficking, which is separate from the immigration system. It has also introduced independent panels of experts to review all negative conclusive grounds decisions, adding significantly to the scrutiny such cases receive.

Once there are reasonable grounds to believe that a person is a victim of trafficking, Article 13 of the Convention introduces the obligation for Parties to provide in their internal law for a recovery and reflection period of at least 30 days. The recovery and reflection period shall not be conditional on co-operation with the investigation or prosecution authorities. During this period, which constitutes an important guarantee for victims and potential victims and serves a number of purposes, including allowing them to recover and escape the influence of traffickers and take a decision on co-operating with their competent authorities, the authorities must authorise the person concerned to stay on the country's territory and expulsion orders cannot be enforced.

- ✓ In **Luxemburg**, under Article 93, paragraph 1, of the amended Law on the Free Movement of Persons and Immigration, presumed trafficking victims are granted a 90-day reflection period, in order to escape the influence of the traffickers, recover and make an informed decision on whether to lodge a complaint or give statements regarding the individuals or networks behind the trafficking. No expulsion measure is possible during this period, and the persons granted this period have access to measures of security, protection and assistance.
- ✓ In **the Netherlands**, a person who does not have legal residence and shows the "slightest indication" of possibly being a victim of trafficking is offered a three-month recovery and reflection period, regardless of whether the person concerned makes a formal statement. While SZW is not mentioned among the agencies competent to issue a recovery and reflection period in the Aliens Act, SZW inspectors in practice take such decisions and transmit them to the Police or KMar, who formalise the decision.
- ✓ In **Norway**, the immigration regulations provide for a six-month reflection period for victims of trafficking which entitles the victim to a residence permit, safe accommodation, legal advice, health care and information on assisted voluntary return. The permit is available to third-country nationals as well as EU/EEA citizens. The Directorate of Immigration decides whether to grant the reflection period on the basis of facts stated in an application submitted by the victim to the police. Where there are reasons to believe that the person is a victim of trafficking and he/she is willing to receive assistance and protection, a reflection period is granted. Negative decisions can be appealed to the Immigrations' Appeal Board.

## Assistance to victims of trafficking for the purpose of labour exploitation

Article 12, paragraphs 1 and 2, of the Convention, set out the assistance measures which State Parties must provide to persons for whom there are “reasonable grounds to believe” that they are victims of trafficking, i.e. before the victim identification process has been concluded. These measures also apply to foreign victims in an irregular situation during the recovery and reflection period of at least 30 days provided for in Article 13 of the Convention, prior to the granting of any residence permit. Article 12 of the Convention provides a minimum list of assistance measures which must be guaranteed by law and include at least standards of living capable of ensuring the victims’ subsistence (including appropriate and secure accommodation, psychological and material assistance), access to emergency medical treatment, translation and interpretation services, counselling and information, assistance to represent the victims’ rights during criminal proceedings against offenders, and access to education for children. Parties are free to grant additional assistance measures.

In the majority of State Parties, most assistance services, including shelters, are tailored to the needs of female victims, in particular those subjected to sexual exploitation. However, not only are women and girls also trafficked for purposes other than sexual exploitation, but the number of male victims of trafficking has been on the rise across State Parties due to the proliferation of cases of trafficking for the purpose of labour exploitation. In cases of labour exploitation, large groups of victims can be detected at the same time, for example as a result of a raid or an action day. Yet, there is still a marked shortage of shelter accommodation and assistance projects for male victims of trafficking. The availability of information on their rights, in languages the victims can understand, as well as qualified interpretation and specialised legal assistance, are crucial for building trust with the victims, helping them understand their situation and increasing the chances of successful investigation and prosecution.

- ✓ In **Austria**, the NGO MEN VIA, established in 2013 with financial support from the Ministry of Labour, Social Affairs and Consumer Protection, provides assistance and support to adult male victims of human trafficking. In 2015, a shelter for male victims of trafficking was set up, but its funding was suspended in 2017. In mid-2018, thanks to funding from the Ministry of the Interior, MEN VIA reopened its specialised shelter for male victims of trafficking, with a capacity of 12 persons.
- ✓ In **Belgium**, there are three specialised reception centres for adult victims of trafficking, irrespective of gender or type of exploitation, which are run respectively by the NGOs Pag-Asa, Payoke and Sürya. In 2015, the shelter run by Sürya accommodated 27 victims of trafficking for the purpose of economic exploitation, seven victims of sexual exploitation and one victim of exploitation for forced begging. In addition to accommodation, the specialised centres provide legal aid and psychosocial support, medical assistance and follow-up for periods of time which could last several years. They also provide out-of-shelter assistance to victims. The specialised centres can request the Foreigners’ Office to issue residence permits for victims.
- ✓ In **Italy**, the provision of assistance to victims of trafficking is implemented by NGOs which are selected through a call for tender by the Department of Equal Opportunities (DEO) of the Presidency of the Council of Ministers. In 2018, the funding disbursed by the DEO for victim assistance projects amounted to €24 million, a significant increase compared to 2016 (€14.5 million) and 2015 (€8 million). Regional and local governments provide additional funding for anti-trafficking projects. Between 2019 and 2020, there were 21 active projects across the national territory. Some of these projects,



including the Fari 3 project led by Cooperativa Proxima in Sicily, aimed at providing assistance, including accommodation in dedicated shelters, to victims of trafficking regardless of gender and exploitation type.<sup>34</sup> Due to the COVID-19 emergency, the DEO has decided to postpone the issuing of a new call for proposals and has provided for an extension of all projects, moving the deadline to 31 December 2020, providing an additional fund of €11 million.

- ✓ In **Latvia**, 15 citizens of Tajikistan and two citizens of Uzbekistan were identified as victims of trafficking for the purpose of labour exploitation in April 2019. They had worked without receiving wages (with the exception of quite small amounts of money that were paid irregularly), after having signed a labour contract that was written in Latvian. Three of the victims decided to avail themselves of the voluntary return option provided by IOM, and the other 14 victims received State-funded social rehabilitation services and were allocated a social worker to assist them in finding new employment opportunities. Nine victims were successful and secured new labour contracts and temporary residence permits based on employment, continuing to receive rehabilitation services. The other five victims who did not find employment availed themselves of the voluntary return scheme. As the employer ignored the order issued by the State Labour Inspectorate to calculate and pay remuneration to the workers, the lawyer of the mandated social service provider prepared, on behalf of the victims, 10 applications for a claim on the recovery of wages and losses and submitted them in November 2019.
- ✓ In **Luxembourg**, in 2017, the Ministry of Equal Opportunities officially contracted the InfoMann service to care for male victims of trafficking. InfoMann operates two flats reserved for male victims of trafficking. Other measures of assistance, including psycho-social support, are provided by the assistance services.
- ✓ In **Malta**, in 2018, the authorities waived the fees related to the application for first-time residence permits and work permits by victims of human trafficking and increased the collaboration between different entities to fast-track the process of issuing such permits.
- ✓ In **the Netherlands**, a strategy for large groups of victims, often of labour exploitation, has been devised by the Ministries of Security and Justice, Health, Welfare and Sports, and Social Affairs and Employment, together with the NGO CoMensha, according to which the latter is to be contacted in advance of any major action where there is an expected need. The Dutch authorities made available funding to CoMensha to organise temporary shelter for victims of labour exploitation at least for the duration of the investigation period. Victims of trafficking are entitled to free legal aid from the first contact with the authorities until the end of the proceedings.

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Available at: <https://www.proximarg.org/en/projects/fari-3-project-16>

- ✓ In **Norway**, a range of capacity-building activities are offered to victims of trafficking, including education, vocational training and access to the labour market for victims who are lawfully resident in the country, with a view to facilitating their rehabilitation and avoiding re-trafficking. In 2015 the Norwegian Parliament established a new grant scheme of 7 million NOK (about €763,000) for measures to prevent trafficking and support victims, managed by the Ministry of Justice and Public Security. The Norwegian Red Cross runs a project entitled "Right to be Seen", which aims to build, develop and run activities that assist and empower victims of trafficking. The beneficiaries of this project are mostly victims of trafficking for the purpose of exploitation other than sexual exploitation, such as persons exploited as *au pairs*, domestic workers, drivers, or forced to commit criminal offences. Beneficiaries receive counselling and support to contact lawyers, the police and other relevant actors. As part of this project, the Red Cross and the Choice Hotel chain started a programme through which victims of trafficking can undertake a three-month period of work practice in one of the hotels belonging to the chain. In 2015 eight victims of trafficking took part in this programme; four of them were offered regular contracts at the hotels after completing the three-month period of work practice.
- ✓ In **Portugal**, a shelter for male victims of trafficking was opened after GRETA's first evaluation visit, run by the NGO Saúde em Português. The shelter has a capacity of eight places (plus an additional place in case of emergency). From its opening in 2013 until the visit of the GRETA delegation in April 2016, 31 men had been accommodated in the shelter. The shelter was staffed around the clock and the staff team comprised social workers and lawyers. Victims were provided with language courses, vocational training and assistance with finding jobs.
- ✓ In **Spain**, the Ministry of Employment and Social Security has provided funding since 2014 to the NGO Foundation Cruz Blanca for a shelter in Huesca (Aragon) with four places for men in vulnerable situations or at risk of social exclusion. The shelter also receives male victims of trafficking. The number of referrals is high, and the shelter is usually full. Most of the victims have been exploited in agriculture, often in remote, isolated farms, but there have also been male victims of sexual exploitation. In addition, in Madrid, Foundation Cruz Blanca offers support (legal, psychological, social, assistance to find work) to male victims.

## Compensation and other remedies

Article 15(3) of the Convention establishes a right of victims to compensation. Even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation whether because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) of the Convention therefore requires Parties to take steps to guarantee compensation of victims, for example through setting up a compensation fund or introducing measures or programmes for social assistance and social integration of victims that could be funded by assets of criminal origin. Compensation is important not only because it can allow to recover potential loss of earnings – the threat of, of the actual withholding of, wages is in fact the most common means of coercion used to obtain work or services – but also because it provides critical support towards recovery.

Some State Parties have taken legislative and other steps, including freezing and confiscation of criminal assets, to strengthen access to compensation for victims of trafficking. Even though there is a scarcity of available information on compensation awarded to victims of trafficking for the purpose of labour exploitation, several countries have provided relevant examples.

- ✓ In **Austria**, an amendment to the Victims of Crime Act in 2013 introduced the possibility of granting compensation to victims of trafficking whose stay in Austria was irregular at the time of the crime. Further, special departments for proprietary measures were established at the Prosecutor's Offices in Vienna, Graz, Linz and Innsbruck and at the Central Public Prosecutor's Office for Combating Economic Crimes and Corruption; these departments are concerned with proprietary orders to ensure that assets are seized and victims of trafficking are eventually able to obtain compensation from perpetrators. Anyone, regardless of their residency status, can claim unpaid wages through the Labour and Social Court. During first instance proceedings there is no need to be represented by a lawyer, although parties may be represented by qualified persons in terms of Section 40, paragraph 1, of the Labour and Social Courts Act. Besides lawyers, employees of the relevant legal lobby (board) or a voluntary association licensed to bargain collective agreements, such as the ÖGB, can be considered qualified. Victims of trafficking supported by LEFÖ-IBF are provided with psycho-social assistance in claiming unpaid wages through the Labour and Social Court.
- ✓ In **Belarus**, the NGO Gender Perspectives/La Strada Programme provides assistance to labour migrants who face full or partial non-payment of wages. The organisation's lawyers help labour migrants prepare appeals to labour inspectorates and law enforcement agencies in Poland and the Russian Federation. In 2017-2019, about 200 labour migrants who faced irregularities applied to the organisation, of whom 179 to assert their rights agreed with the support of the organisation. As a result of this work, a criminal case was initiated in Poland on trafficking for the purpose of labour exploitation.
- ✓ In **Belgium**, there are mechanisms for enabling workers to recover unpaid wages from their employers in cases of economic exploitation. An employer who gives work to third-country nationals irregularly present in Belgium under a work contract is bound to pay them salaries equivalent to the one they would have had to pay to legally employed people. If the worker's address and bank/postal data are unknown, the employer may be ordered to deposit the outstanding amount to the Deposit and Consignment Fund, which will then be reimbursed to the worker. A report by MYRIA refers to a case of labour exploitation in the hotel and catering industry, in which the Namur Criminal Court awarded the victim €5,000 for non-material damage and €37,763.73

for material damage.<sup>35</sup> In 2017, the Liège Criminal Court issued a judgment on a labour exploitation case in the construction sectors, where victims were paid abnormally low wages, depended on outside help for food and received no medical care in the event of a work accident. The court decided to confiscate a building and ordered the confiscation of the defendant's assets, for an equivalent of approximately €24,000. The defendant was sentenced to pay €10,120 for material damage and €1,250 for non-material damage.<sup>36</sup> In May 2019, the Supreme Court of Appeal issued a final judgment in the so-called "pellet case". Three Bulgarian victims filed a civil suit during the trial. They had obtained victim status and, after returning to their country of origin, a lawyer continued to defend their interests. The court awarded two victims €4,000 for material damage and €750 as compensation for non-material damage. The third victim received material compensation worth €2,199 and non-material compensation worth €500.<sup>37</sup> Further, in a case decided by the Criminal Court of Walloon Brabant on 2 October 2018, which involved a Congolese woman victim of trafficking for the purpose of domestic servitude, the defendant was sentenced to pay the victim €1,500 for non-material damage and €62,625 for material damage.<sup>38</sup>

- ✓ **Germany** has made legislative changes facilitating confiscations and the use of the confiscated items for the compensation of victims of crime, including victims of trafficking. The German reform of criminal prosecution law concerning recovery of assets entered into force on 1 July 2017. It foresees that the state confiscates the profits from criminal acts, which result in personal damage and victims can receive compensation from the assets recovered from the perpetrator by means of a simplified procedure, whereby they need no longer lodge a claim against the perpetrator, but rather only register a claim. Where multiple victims are involved, they all receive the same compensation, whereas this previous procedure was based on a "first come, first serve" basis. The law also provides that victims should be informed about their options regarding compensation. The authorities referred to national annual statistics on securing of assets according to which, in 2017, assets worth €417,090 were secured in the framework of 20 proceedings related to human trafficking.
- ✓ In **Ireland**, NGOs such as the Migrant Rights Centre Ireland (MRCI) have supported victims in accessing labour courts for monies owed to them under the employment legislation, which is separate to achieving compensation for the crime of human trafficking. According to information provided by the Irish authorities, in November 2014, three Filipina domestic workers were awarded €80,000 each by the Employment Appeals Tribunal on the basis of an unfair dismissal claim they brought against the United Arab Emirates Ambassador to Ireland and his wife.<sup>39</sup>
- ✓ In **Latvia**, in 2018, compensation was granted to two victims of trafficking for labour exploitation, both adult citizens of Latvia, using a mixture of State and perpetrator-provided compensation. The amount awarded through State compensation was of

<sup>35</sup> Namur Criminal Court, Namur division, 22 November 2017 (appeal). See MYRIA, 2018 Annual Report Trafficking and Smuggling of Human Beings, Minors at major risk, p. 142. Available at: <https://www.myria.be/files/RATEH-EN-2018-DEF.pdf>

<sup>36</sup> Liège Criminal Court, Liège division, 2 October 2017, 18th ch. (appeal).

<sup>37</sup> Antwerp Criminal Court, Turnhout division, 18 January 2017, ch. TC1; Antwerp Court of Appeal, 24 January 2019, ch. C6. See MYRIA, 2019 Annual report trafficking and smuggling of human beings, Empowering Victims, pp. 77-80, 125-126. Available at: <https://www.myria.be/files/2019-Annual-report-Trafficking-of-human-beings.pdf>

<sup>38</sup> Walloon Brabant Criminal Court, 2 October 2018, 6th ch. (appeal).

<sup>39</sup> *Calderon & Ors v. Nasser Rashed Lootah and Metad Alghubaisi*, UD1219/2013, UD1220/2013, UD1221/2013, Employment Appeals Tribunal. The women alleged that they had worked 15 hours per day, seven days per week for €170 per month (roughly €2 per hour) and that they were constantly on call, their passports were taken and they never had a day off.

€1,330 per victim, while the amount of compensation from the perpetrator was €500 for one of the victims and €1.000 for the other.

- ✓ In **Luxembourg**, if an employer has employed a third-country national who was illegally present on the territory, the Mines and Labour Inspectorate (ITM) ensures that the employer pays the remuneration due for a period of employment presumed to have lasted at least three months, unless proven otherwise by the employer or the employee. In addition, the ITM ensures that, prior to the execution of any decision relating to a return, the employees are informed of their rights in connection with remuneration, including the possibility of free legal aid. The employer is under obligation to cover any costs arising from the sending of unpaid salaries to the country to which the employee has returned, as well as all the unpaid social security contributions and taxes, including, where applicable, administrative fines, together with legal costs and lawyers' fees. Finally, the employer has an obligation to pay the costs of return in the event of a return procedure being initiated.
- ✓ In **the Netherlands**, a victim of trafficking can claim compensation as part of the criminal proceedings or start civil proceedings to seek redress from the perpetrator for the damage suffered. The State will pay the compensation to the victim if the perpetrator has not done so within a certain time. Victims of offences involving serious violence who have suffered severe psychological or physical injury and who do not receive compensation in any other way can obtain compensation from the Violent Offences Compensation Fund. In 2016 there were 120 applications by victims of trafficking, out of which 107 were successful. The maximum compensation payable from the fund is €35,000. Further, the Labour Inspectorate SZW can fine employers that have violated the Minimum Wage Act. If the employer does not offer compensation, the Inspectorate SZW can impose penalty payments of up to €40,000 per employee.

## Criminal justice response

Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are "effective, proportionate and dissuasive". Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim.

In the majority of State Parties to the Convention, statistical information on investigations, prosecutions and convictions in human trafficking cases is not disaggregated by form of exploitation. Nevertheless, it is clear that the number of convictions for trafficking for the purpose of labour exploitation is still low in most State Parties, and there are difficulties regarding the collection of evidence and prosecution of such cases.

- ✓ **Belgium** is one of the few countries where there are disaggregated statistics, according to which there were 548 investigations for human trafficking for the purpose of economic exploitation in 2012-2015 (i.e. 40% of all investigations initiated into human trafficking offences). Between 2018 and the beginning on 2019, MYRIA reports that 18 decisions (including nine appeal decisions) were rendered by the judicial authorities



in cases of trafficking for labour exploitation in different economic sectors (construction, hotel and catering, night shops, car wash, bakery, butcher's, cleaning, domestic work). Belgium has prosecutors specialised in the investigation and prosecution of cases of trafficking for economic exploitation, which is instrumental for tackling this form of trafficking. Following the inclusion of the Financial Intelligence Processing Unit (CTIF) into the Inter-departmental Unit, financial investigations have been intensified, bringing greater clarity about the financial dimension of trafficking networks. Belgium has participated in a number of Joint Investigation Teams (JIT) concerning human trafficking for the purpose of labour exploitation.

- ✓ In the period 2015-2018, the **Cypriot** authorities reported having opened 15 cases of trafficking for the purpose of labour exploitation and/or other related offences, in which 28 persons were identified as victims, and two cases of trafficking for the purpose of both sexual and labour exploitation, in which three victims were identified. In the period 2015-2018, one out of nine final convictions under Law 60(I)2014 on Prevention and Combating of Trafficking and Exploitation of Persons and the Protection of Victims concerned trafficking for the purpose of labour exploitation. Five defendants received penalties ranging from 12 months to five years' imprisonment.
- ✓ In **Italy**, in December 2019, the Tribunal of Catania convicted three individuals that had been charged with the offence of trafficking for the purpose of labour exploitation, on the basis of Article 601 of the CC. The individuals, one man and two women, were sentenced to 20 years, 17 years and 8 months, and 10 years' imprisonment. The victims, both men and women, were recruited in Romania and forced to work in greenhouses in the province of Ragusa, Sicily.
- ✓ In the **Republic of Moldova**, a man was convicted in February 2018 for organising a criminal group with the purpose of exploiting people in construction and agriculture on the territory of the Russian Federation. Through deception and abuse of the vulnerability of the victims, the criminal group organised the recruitment, transportation, housing and reception of Ukrainian citizens. The victims' documents were confiscated, and they were subjected to physical and psychological violence. The defendant was found guilty of human trafficking and was sentenced to 11 years' imprisonment.
- ✓ In **the Netherlands**, there is at least one senior prosecutor specialised in human trafficking in each of the public prosecution regions, as well as at the national level. At appeal court level there are three specialised prosecutors. Altogether, there are about 20 specialised prosecutors who regularly meet to discuss cases of THB. An electronic communication platform for operational exchanges of information and advice between these prosecutors has been set up. Further, there are judges specialised to deal with human trafficking cases. Some courts, such as the Court of Amsterdam, have a specialisation in THB offences, with approximately 20 out of its judges dealing with such cases. According to the Directive on Human Trafficking of the Public Prosecution Service, a financial investigation must always be conducted in each human trafficking case. Criminal investigators of the SZW can carry out criminal investigations into trafficking for the purposes of labour exploitation in co-operation with the Public Prosecutor. There were 10 criminal investigations by the SZW in 2015, involving 44 suspected victims of THB, and 17 investigations in 2016, involving 41 suspected victims. The Netherlands took part in nine JITs in human trafficking cases in 2015-2018, one of which was for the purpose of labour exploitation/criminal activities.
- ✓ In **Norway**, there has been an increase in reported and investigated case of human trafficking due to the presence of specialised anti-trafficking units in the five largest police districts. In 2016, a Romanian man was convicted and sentenced to two years and six months' imprisonment for having exploited eight persons from Romania (two

women and six men) for forced labour in the form of stealing, begging and bottle refund collection, under the menace and use of violence.<sup>40</sup> In the same year, the Court of Appeal found two defendants guilty of aggravated human trafficking.<sup>41</sup> The defendants had brought Indians to Norway to work as seasonal labour at their greenhouse facilities. The victims worked long hours and were paid very low wages. One of the defendants was sentenced to three years and 10 months' imprisonment, and the other one to five years and three months' imprisonment. The judgment was upheld by the Supreme Court.<sup>42</sup>

- ✓ In **Portugal**, two investigations on trafficking for labour exploitation made use of international co-operation mechanisms. The first saw 14 Romanian citizens convicted for several crimes, including trafficking, and sentenced to effective prison terms ranging from five to 16 years.<sup>43</sup> The second, which involved perpetrators who recruited workers from Nepal, India, Pakistan, Bangladesh, Thailand and the Philippines to work in the agricultural sector, saw 22 individuals convicted and sentenced to prison terms ranging from five to 10 years, in addition to 13 legal persons that were sentenced to dissolution.<sup>44</sup> Further, in 2017, an organised criminal group of Portuguese and Nepalese citizens was convicted of trafficking for the purpose of labour exploitation in the agricultural sector. All victims, who were of Nepalese nationality, were granted protection and residence permits in Portugal. Three individuals were arrested and sentenced to, respectively, 14, 13 and 14 years' imprisonment. The sentences were confirmed by a superior court on appeal. The victims were granted compensation based on the fact that they were recognised as trafficking victims.<sup>45</sup>
- ✓ In the **United Kingdom**, in the linked cases of *Benkharbouche and Janah*, two Moroccan domestic workers previously employed in the Embassies of Sudan and Libya respectively, brought claims for unfair dismissal. The Supreme Court held that sections 4(2)(b) and 16(1)(a) of the State Immunity Act 1978, which confer immunity in English law, are incompatible with Article 6 of the European Convention on Human Rights and Article 47 of the EU Charter. The Supreme Court indicated that both cases must be remitted to the Employment Tribunal to determine the claims based on EU law on their merits.<sup>46</sup> Further, in 2018, nine members of an organised crime group based in the East Midlands and **Latvia** were sentenced to between one and fine and a half years' imprisonment for human trafficking offences committed against 28 male victims. The gang targeted vulnerable people by offering them work in the UK. Once in Derby, the victims were deprived of their documents, housed in squalid conditions and sent to work in manual jobs. The Crown Prosecution Service (CPS) worked closely with teams from Derbyshire Police and the State Police of Latvia to bring the group to justice, setting up a JIT.<sup>47</sup> An effective financial investigation helped with the successful confiscation by the Latvian State Police of the movable and immovable properties of the accused and their relatives, for a total value of €301,500. In addition to the case in the United Kingdom, based on materials collected by the State Police of Latvia, a new criminal case was initiated in 2019 against a Latvian man, charged with trafficking for

<sup>40</sup> Borgarting Court of Appeal (LB-2015-64887, 6 April 2016).

<sup>41</sup> Borgarting Court of Appeal (LB-2015-137689, 25 November 2016), also known as the "Planteland" case.

<sup>42</sup> Supreme Court (HR-2017-1124-A, 7 June 2017).

<sup>43</sup> Case file 1496/15.1T9SNT: Operation "Corda Bamba".

<sup>44</sup> Case file 576/14.5GEALR: Operation "Katmandu".

<sup>45</sup> Case file 14/16.9ZCLSB: Operation "Pokhara".

<sup>46</sup> *Benkharbouche and Janah* [2017] UKSC 62, referred to in GRETA second report on the United Kingdom, paragraph 102. In another recent case concerning domestic service in a diplomatic household (*Reyes v Al-Malki and another* [2017] UKSC 61), the Supreme Court found that diplomatic immunity did not arise since the diplomatic agent was no longer in post and had left the UK, and the employment and exploitation of Ms Reyes were not acts performed as part of the agent's diplomatic functions.

<sup>47</sup> See <https://www.cps.gov.uk/east-midlands/news/latvian-human-trafficking-gang-jailed-east-midlands>

the purpose of labour exploitation, and two women were recognised as victims in the criminal proceedings.

## Corporate liability

Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

Companies are increasingly aware of risks associated with issues of forced labour and human trafficking in their supply chains, especially where exploitative recruitment practices are the norm. Yet, forced labour and human trafficking are not just supply chain issues, as companies are at risk of criminal liability for any direct use or forced labour or involvement in human trafficking.

Some State parties have reported cases in which corporate liability was invoked in human trafficking cases, while others, despite reporting no cases, have amended their legal framework to provide for a clause on corporate liability.

- ✓ In **Belgium**, MYRIA's report of 2019 refers to several cases involving trafficking for labour exploitation where legal persons were sanctioned. In November 2018, the Ghent Court of Appeal decided on a case in which the defendants had set up various companies, i.e. night shops, where the victims were employed as bogus self-employed workers. The defendants were convicted, *inter alia*, of human trafficking for the purpose of labour exploitation and were given prison sentences ranging from one to four years, and fines of €24,000 to €76,000. The companies were fined between €600 and €612,000. An order was also issued to close down the private limited companies.<sup>48</sup> Further, the Dendermonde Criminal Court tried a case of trafficking concerning a car wash in the region of Ninove on 1 December 2017. The manager was sentenced to one year's imprisonment and a fine of €24,000 and was deprived of his civil rights for 10 years. The company was sentenced to a fine of €72,000, with a three-year suspension.<sup>49</sup> In another case in which Ghent Criminal Court ruled on 27 June 2018, a bakery and its two managers were prosecuted for human trafficking, illegal employment of workers, various offences under the Social Criminal Code and breaches of welfare regulations. The defendants were handed partly suspended prison sentences of 30 months and 9 months, together with fines of €20,800. They were also given a three-year ban on running a business. The company was held liable and sentenced to a partly suspended fine of €96,000. An order was issued to close down the business.<sup>50</sup>
- ✓ In **Cyprus**, a fine of €126,000 was imposed in 2015 on a legal entity for the offence of trafficking for the purpose of labour exploitation. The case concerned the exploitation of five victims from India, who were in a vulnerable position as they had paid a significant amount of money before arriving in Cyprus, in a hatchery. The employer used the non-renewal of their visas as a means to control them.

<sup>48</sup> West Flanders Criminal Court, Ypres division, 8 January 2018, 19th ch.; Ghent Court of Appeal, 28 November 2018, 3rd ch.

<sup>49</sup> East Flanders Criminal Court, Dendermonde division, 1 December 2017, ch. 13V (final).

<sup>50</sup> East Flanders Criminal Court, Ghent division, 27 June 2018, ch. G29W (final).

- ✓ In **Finland**, in 2016, the District Court of Pohjois-Savo imposed a corporate fine on a Nepalese restaurant that employed victims of trafficking for the purpose of labour exploitation.<sup>51</sup> Compensation was awarded to the victims by the criminal court. In another case concerning labour exploitation in an Indian restaurant, the prosecutor brought charges for human trafficking against the restaurant as a legal person, but the Helsinki Appeal Court considered that, given the small size of the business, it would constitute a double punishment of the owner if he was convicted both as a natural and a legal person.<sup>52</sup> In this case, bans on conducting business operations were imposed on all defendants.
- ✓ In **Malta**, corporate liability is regulated by Article 121D of the CC in conjunction with Article 248E(3), which were invoked by the prosecution in the case *Police vs Han Bin* (known as the "Leisure Clothing factory case"). This case concerned foreign workers employed at a leisure clothing factory, in very poor conditions, whose passports were taken away.
- ✓ In the **Netherlands**, since human trafficking for the purpose of forced labour or services is a criminal act under Article 273f of the CC, legal persons can be held liable for these forms of trafficking. If a company is aware of one of its subcontractors being involved in trafficking for labour exploitation, but uses that subcontractor nonetheless, it could be held liable because it is intentionally profiting from the exploitation of others. Depending on the circumstances, the company may also be prosecuted for either participating in the commission of a crime (Article 47 of the CC) or being an accomplice to it (Article 48 of the CC). On 10 November 2016, the Limburg District Court decided on a case against the mushroom farm Prime Champ Production B.V. for malpractices which occurred in 2009-2012. The company and its director were convicted of trafficking for the purpose of labour exploitation, as well as for forging payslips and some of the business records. The court was not able to assess how many Polish employees had been exploited in total, but considered it proven that the company was guilty of trafficking for the purpose of labour exploitation of at least six Polish mushroom pickers, in conjunction with another company belonging to the Prime Champ group. Its director was deemed to have been effectively in charge of this process and received a prison sentence of two years, while the company Prime Champ Production B.V was fined €75,000. The court also convicted a financial manager and an ICT specialist hired by the company of forgery of documents (the former was sentenced to six months' imprisonment and the latter to 100 hours of community service).
- ✓ In **Portugal**, in accordance with Article 11, paragraph 2, of the CC, legal and equivalent entities may be held responsible for the offences defined in Article 160 of the CC (human trafficking) if these are committed: (a) for their own account and in the collective interest by persons holding management authority within them; (b) by any person acting under the authority of the persons mentioned in (a) because of a failure to fulfil the obligations of supervision or control devolving on them. The main penalties applicable to legal entities are fines and closure. The authorities indicated that at least in two cases of trafficking for the purpose of labour exploitation, tried by the County Court of Beja, small enterprises were convicted and imposed the sanction of closure.<sup>53</sup>

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<sup>51</sup> Case R17/888, decision by the Pohjois-Savo District Court of 14 December 2018.

<sup>52</sup> Case R16/1280, decision by the Helsinki Appeal Court of 3 April 2017. Some of the defendants were charged with trafficking and some with aggravated trafficking. The Helsinki Appeal Court confirmed the sentences of the Vantaa District Court regarding the charges of trafficking.

<sup>53</sup> Case No 150/12.0JAFAR County Court of Beja – 1st Chamber; Case No 22-13.1ZCLSB BEJA – I - J2 – County Court of Beja.

- ✓ In the **United Kingdom**, the offences of human trafficking, slavery, servitude and forced or compulsory labour in the MSA 2015 can be committed by legal persons provided the usual legal principles of corporate criminal liability apply. A prosecution in February 2016 saw the first conviction of a company director under the MSA 2015, involving a conspiracy to traffic for forced labour in which the company director of two bed-making factories knew or ought to have known that the workers he employed were victims of human trafficking.<sup>54</sup>

## Non-punishment provision

Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of human trafficking for their involvement in unlawful activities, to the extent that they have been compelled to do so. About one third of the States Parties have adopted specific legal provisions concerning the non-punishment of victims of trafficking. Further, in a growing number of countries, guidance on the application of the non-punishment provision has been developed for prosecutors and law enforcement agencies. Several countries have provided examples of instances in which victims were not punished for their engagement in irregular work in the territory.

- ✓ In **Croatia**, while there is no specific legal provision on the non-punishment of victims of trafficking, instructions from the Prosecutor's Office on non-punishment of victims of trafficking for status-related offences have been adopted. The authorities referred to a case where victims of trafficking for the purpose of labour exploitation who were involved in illegal slaughtering were not prosecuted for the offence.
- ✓ In **Cyprus**, Article 29 of Law 60(I)/2014 provides that victims of human trafficking are not to be prosecuted and subject to sanctions for their involvement in criminal activities, if those were a direct consequence of the fact that the persons were victims of trafficking. Third-country nationals who are victims of trafficking are not prosecuted for the offences of unlawful entry, unlawful residence, unlawful employment or employment contrary to the terms of employment. If it is revealed during the trial that the actions were related to the state of victimisation, the proceedings are either suspended or concluded with no penalty imposed on the victim even if found guilty. Victims involved in illicit acts as a direct consequence of being trafficked have full access to their rights, including compensation. The authorities have referred to the case of a third-country national brought to Cyprus to work. The employer did not arrange for his working visa, and neither gave him a contract to sign. The third country national went to the Aliens and Immigration Service of the Police to file a complaint against his employer and, after conducting a preliminary check, it was found that he overstayed his entry visa without ever having a residence and working permit. Instead of being arrested for these offences, the person concerned was recognised as a victim of trafficking and filed an official complaint against his employer.
- ✓ In **Poland**, in 2014, six third-country nationals were charged with tax offences and illegal production of cigarettes, but the prosecutor decided to discontinue the proceedings when it was found that they had been recruited with promises of legal work, but instead had been placed in a closed location where cigarettes were being produced illegally, under constant supervision and with the use of violence.

<sup>54</sup> *R v "R", "P" & "D"*[2015] EWCA Crim 2079.



## Data collection

One of the greatest challenges in developing targeted counter-trafficking responses and measuring their impact is the lack of reliable, high-quality data related to the scale of human trafficking and the profile of victims. While there is no provision in the Convention on data collection as such, collecting data on various aspects of human trafficking is important because it represents a tool to inform, adjust and assess anti-trafficking policies, as well as carry out risk assessment. The main sources of data on human trafficking globally are based on information provided by identified victims. These are usually collected by a range of different actors, including law enforcement, the judiciary, and NGOs providing protection and assistance to victims.

- ✓ In **Cyprus**, one of the tasks of the Police Office for Combating Human Trafficking is to collect, process, evaluate and analyse information related to human trafficking and related offences. For this purpose, the Office maintains a regularly updated database, which contains information on possible victims of trafficking, identified victims and traffickers. The data is broken down, *inter alia*, by exploitation type. The database helps to establish human trafficking patterns and take preventive measures.
- ✓ In **Denmark**, the CMM is responsible for collecting, compiling and analysing data on identified victims of human trafficking, which is disaggregated by sex, age, country of origin (or country for which the victim has a valid residence permit) and type of exploitation. The information collected by the CMM covers different aspects of the identification process and the assistance provided to victims.
- ✓ In **Georgia**, since August 2015 the statistical information concerning human trafficking are integrated into a single database that contains information on victims, which is disaggregated by nationality, sex, age, type of exploitation and country of exploitation, as well as on offenders, disaggregated by nationality, age and sex, and on investigations, prosecutions, cases taken to court and convictions for human trafficking, disaggregated by form of exploitation. The database also contains information on incoming and outgoing requests for legal assistance and extradition.
- ✓ In **Portugal**, the Observatory of Trafficking in Human Beings (OTSH) has a specific brief to produce, collect, analyse and disseminate information and knowledge about human trafficking. The OTSH has signed co-operation protocols and memoranda with over 33 governmental and non-governmental organisations which feed data into the system on the basis of protocols concluded with the OTSH or the protocol setting up the Network for Support and Protection of Victims of Trafficking (RAPVT). On the basis of the collected data, the OTSH produces three confidential trimestral reports and one public annual report.<sup>55</sup>
- ✓ In the **United Kingdom**, the authorities have set up a data collection system on referrals of possible victims to the NRM, and the Home Office publishes quarterly and annual reports. These reports contain data broken down by country of origin, sex, age and exploitation type. Data on reasonable and conclusive ground decisions are also specified, although not disaggregated by exploitation type and gender.

## Research

While the Convention refers to research in the context of prevention of human trafficking, under Articles 5(2) and 6, it is also relevant for other aspects of combating trafficking and is important for shaping future policy measures. In the course of the first evaluation round, GRETA noted the lack of research on trafficking for the purpose of labour exploitation and the limited knowledge base for addressing this phenomenon. There has nonetheless been a growing body of research on human trafficking for the purpose of labour exploitation in recent years.

- ✓ The EU-funded project “ADSTRINGO: Addressing Trafficking in Human Beings for Labour Exploitation through Improved Partnerships, Enhanced Diagnostics and Intensified Organisational Approaches”, led by HEUNI, involved the publication of a report researching the methods of recruiting victims of forced labour and the role of employment agencies and employers in **Lithuania, Estonia, Sweden and Finland**. As part of the same project, a study entitled “Trafficking for Forced Labour: Mechanisms of Formation and Effective Prevention” was published in 2014 by the Centre for Human Trafficking Studies of Warsaw University.
- ✓ In 2019 a research project entitled “FLOW - Shady Business – uncovering the business model of labour exploitation”<sup>56</sup> was started by a consortium of 11 organisations, with EU funding. It describes the business model of human trafficking and labour exploitation and how different legitimate business structures may be used to hide and implement labour exploitation. It also highlights the links between labour exploitation, trafficking and economic crimes. The model is developed based on data collected in **Bulgaria, Estonia, Finland and Latvia** through a desk review of relevant literature, mapping of recent cases and media articles, interviews with stakeholders representing law enforcement, labour inspectorates, prosecutors, tax authorities, trade unions and NGOs as well as criminal entrepreneurs. During the mapping process, special focus is paid to the vulnerabilities, including migration status and gender, of the victims of labour exploitation in different parts of the supply chain.
- ✓ Tilburg University, in **the Netherlands**, together with partners in **Spain, Austria, Belgium, Denmark, the United Kingdom and Italy**, carried out research concerning labour exploitation in the framework of the EU-project “Facilitating Corporate Social Responsibility in the Field of Human Trafficking”. The main aim of the project was to improve prevention of human trafficking for labour exploitation by translating and implementing the UN Guiding Principles on Business and Human Rights in the field of human trafficking. Three sectors have been targeted: agriculture, construction and tourism.<sup>57</sup>

<sup>56</sup> Available at: [https://csd.bg/fileadmin/user\\_upload/publications\\_library/files/2019\\_12/FLOW/FLOW\\_D2.4\\_final\\_EN.pdf](https://csd.bg/fileadmin/user_upload/publications_library/files/2019_12/FLOW/FLOW_D2.4_final_EN.pdf)

<sup>57</sup> A summary of the project is available at: [https://ec.europa.eu/anti-trafficking/eu-projects/facilitating-corporate-social-responsibility-field-human-trafficking\\_en](https://ec.europa.eu/anti-trafficking/eu-projects/facilitating-corporate-social-responsibility-field-human-trafficking_en). The United Kingdom’s report, Tackling exploitation and forced labour in the UK hotel sector, is available at: <https://www.gla.gov.uk/media/1587/tackling-exploitation-and-forced-labour-in-the-uk-hotel-sector.pdf>. The Netherlands’ mapping of the agricultural sector was published as a book, Rijken, C. R. J. J., & de Volder, E. J. A., *CSR to Prevent THB: Mapping of the Agricultural Sector in the Netherlands* (Wolf Legal Publishers, 2014).

- ✓ In 2018, La Strada International carried out research on labour rights and labour exploitation in **Bulgaria, Romania and Poland**.<sup>58</sup> The research was done within the framework of the Rights at Work project and was aimed at identifying gaps in the legal protection framework and its enforcement.
- ✓ In **Germany**, a 2016 study by the NGO KOK focussed on human trafficking for the purpose of labour exploitation of women with the aim of finding out whether such women are perceived differently by the public, and, if so, what possible causes may lie behind this. The study is mainly based on interviews with experts and established four main factors that can lead to women being perceived less as victims of labour exploitation: media representation, gender stereotyped expectations, accessibility to the labour sectors and access to representation of interests.<sup>59</sup>

Further, in the framework of the project "Alliance against Human Trafficking for Labour Exploitation", which was funded by the European Social Fund and the Federal Ministry of Labour and Social Affairs, a study entitled "Human trafficking for the purpose of labour exploitation – an evaluation of prosecutorial investigation files and judicial decisions" was published in 2015.<sup>60</sup> The researchers evaluated 91 criminal investigations between 2005 and 2015 in the Länder Rhineland-Palatinate, North Rhine-Westphalia, Lower Saxony and Brandenburg. Further, 14 verdicts in cases of THB for the purpose of labour exploitation of German courts handed down from 2005 to 2012 were analysed.

- ✓ In **Ireland**, the University College Dublin Applied Research Centre (ARC) carried out the project "Participative Action Research on Severe Forms of Labour Exploitation" on behalf of the Fundamental Rights Agency (FRA). The purpose of this research was to provide policy makers, practitioners and civil society at both EU and national level with country specific information and data on the situation of migrant victims of criminal forms of labour exploitation, aiming to identify, among other things, the forms and frequency of incidents of labour exploitation, economic areas affected, common risk factors, prevention measures aimed to reduce the risks of labour exploitation and the obligations of specific organisations in this area.<sup>61</sup> Another study was conducted by Trinity College Dublin on behalf of the EU Commission on trafficking in human beings for labour exploitation regarding the extent of the phenomenon of trafficking for forced labour across EU Member States, with a particular focus on prosecutions of traffickers in such cases. In 2014, as part of a study led by Anti-Slavery International, entitled "RACE in Europe", which explored responses against trafficking for forced criminal activity, the MCRI produced a report on trafficking for forced labour in cannabis cultivation.<sup>62</sup>

<sup>58</sup> Suzanne Hoff (La Strada International), Tackling labour exploitation in Poland, Bulgaria and Romania, March 2019, available at: <http://lastradainternational.org/lsidocs/3286-RaW%20Tackling%20labour%20exploitation%20-%20final.pdf>

<sup>59</sup> The full report is available, in German, at: [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Publicationen\\_KOK/KOK\\_MH-A\\_Frauen.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Publicationen_KOK/KOK_MH-A_Frauen.pdf). A translated excerpt is available at: [https://www.kok-gegen-menschenhandel.de/fileadmin/user\\_upload/medien/Downloads/Excerpt\\_from\\_KOK\\_study\\_trafficking\\_for\\_labour\\_exploitation\\_of\\_women\\_web.pdf](https://www.kok-gegen-menschenhandel.de/fileadmin/user_upload/medien/Downloads/Excerpt_from_KOK_study_trafficking_for_labour_exploitation_of_women_web.pdf)

<sup>60</sup> Available at: <https://www.servicestelle-gegen-zwangsarbeit.de/wp-content/uploads/2019/01/FES-Human-trafficking-for-the-purpose-of-labour-exploitation-%E2%80%93-An-evaluation-of-prosecutorial-investigation-files-and-judicial-decisions-2015.pdf>

<sup>61</sup> The final report is available at: [https://fra.europa.eu/severe-labour-exploitation-country\\_ie.pdf](https://fra.europa.eu/severe-labour-exploitation-country_ie.pdf)

<sup>62</sup> Available at: <https://www.mrci.ie/Full-Report-Trafficking-for-Forced-Labour-in-Cannabis-Production.pdf>

- ✓ In **Italy**, the inter-university research centre *L'Altro diritto* and the FLAI-CGIL trade union have launched a laboratory on labour exploitation, collecting data on the application of the Italian criminal law provisions for combating labour exploitation.<sup>63</sup> The laboratory gathers academic publications and media news on prosecutions for offences concerning labour exploitation, contacts courts and retrieves and analyses the proceedings. Between 2018 and 2020, the laboratory has published three reports and has created and made available a database of academic contributions and research studies on labour exploitation in the Italian context.
- ✓ In **Portugal**, the OTSH signed protocols with university research centres and international organisations aiming at the promotion of research and knowledge on human trafficking. A protocol with the Nova University of Lisbon provided for conducting a study on labour exploitation in the region of Alentejo, while another protocol with the Centre for Research and Studies in Sociology of the University Institute of Lisbon foresees the setting up of a database on research on human trafficking in Portugal. In 2013-2014, the University of Coimbra led an 18-month programme on "Reviewing social auditing practices to combat exploitative brokering in Southern Europe" (ReSAurSE).<sup>64</sup>
- ✓ In 2014, the Government Communication Office of **Slovenia** funded a research project entitled "Analysis of Trafficking in Human Beings for the Purpose of Labour Exploitation, Trafficking in Children, Forced Begging and Forced Criminality". Further, the Slovenian Ministry of Labour, Family, Social Affairs and Equal Opportunities commissioned research on "Child labour in Slovenia", which was published in 2017.

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<sup>63</sup> See <http://www.adir.unifi.it/laboratorio/index.htm>

<sup>64</sup> See <http://www.uc.pt/fpce/investigacao/projetos/resaurse>

## Concluding remarks

Since the opening for signature of the Convention in 2008, States Parties have made significant efforts to prevent trafficking in human beings, provide assistance and protection to victims, prosecute and punish traffickers, and strengthen national co-ordination and international co-operation to combat human trafficking. Trafficking in human beings for the purpose of labour exploitation, as noted in GRETA's 7th report, remains a particularly challenging aspect as far as implementation of the Convention is concerned. This compendium aimed to highlight effective measures taken by States Parties to the Convention to prevent and combat trafficking for the purpose of labour exploitation, and to provide food for thought and direction in their future efforts.

On the **criminalisation of trafficking for the purpose of labour exploitation**, examples have been given of States Parties providing definitions of exploitation in their domestic legislation, as well as guidance to assist practitioners, in the attempt to clarify the scope of the phenomenon and facilitate its detection.

In terms of **policy and institutional framework**, the examples provided highlight the benefits of multi-disciplinary co-operation - involving labour inspectorates, civil society and social partners - in order to ensure a coherent, informed, and harmonised approach towards tackling trafficking for the purpose of labour exploitation.

The compendium has highlighted the importance of properly equipping **labour inspectorates**, in terms of mandate, resources and training, to address human trafficking for the purpose of labour exploitation. In some countries, labour inspectorates form part of the National Referral Mechanism (NRM) and serve a key role in the identification of victims of human trafficking. The inclusion of responsibilities for the **enforcement of labour laws**, in co-operation with the police but also with trade unions and NGOs, and of investigative powers in their mandate, provided that firewalls between labour and immigration authorities are in place, significantly enhances labour inspectors' ability to assist prosecutors in securing convictions, while safeguarding and protecting the rights of exploited workers.

As part of prevention, the compendium includes examples of **awareness-raising measures** targeting both the general public and particular **groups considered to be at risk** in light of context-specific vulnerabilities. Prevention practices include the provision of information to labour migrants both pre- and post-departure, as well as the establishment of drop-in counselling centres.

Examples have been given of States Parties that have adopted **measures to discourage demand** in the form of legislation integrating the prevention of trafficking in public procurement policies, promotion of transparency in supply chains, and the publication of guidelines for companies to prevent exploitation.

In some countries, victims of trafficking for labour exploitation are now the majority of **identified victims**. The adoption and operationalisation of indicators specific to the context of labour exploitation, together with the establishment of NRMs and the inclusion of labour inspectors, trade unions and NGOs in the referral procedures, have contributed to the increase in the number of identified victims. On residence permits, good practices are seen in those Parties that provide such permits both on the grounds of one's personal situation and for co-operation with law enforcement, and where the permits allow access to the labour market.

On **victim assistance measures**, examples have been given of States Parties providing for shelters for male victims, many of whom are victims of labour exploitation, and offering state-funded social rehabilitation services and support in finding new employment.



With respect to **compensation and other remedies**, good practices are provided from countries where legislative and other steps, including freezing and confiscation of criminal assets, have been taken to facilitate and guarantee access to compensation for victims of human trafficking. In countries where free legal aid is effectively provided, access to compensation is higher.

On the **criminal justice response**, good practices are noted in countries that have invested in developing specialisation of investigators, prosecutors and judges to deal with human trafficking, which has resulted in more effective criminal proceedings and higher rates of conviction of traffickers. Good practices are also seen in States Parties that routinely conduct financial investigations and co-operate with authorities in other countries, including through the setting up of Joint Investigation Teams. **Corporate liability** has been invoked in a number of cases, in which legal persons have been either fined, suspended, or issued closure orders.

Despite the fact that the application of the **non-punishment** provision in the context of labour exploitation remains inconsistent, some countries have provided examples of instances in which victims were not punished for their engagement in irregular work in the territory.

**Data collection and research** are vital for effective prevention and for adequately planning future policy measures. The compendium has highlighted examples of countries compiling comprehensive statistical information on human trafficking. Examples are also provided of countries which have taken steps to evaluate the impact of awareness-raising and other efforts, and have used those findings, together with specific research findings, to inform development of further initiatives.

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