



# Labour trafficking in Serbia: risk factors, trends and challenges

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# **Labour trafficking in Serbia:**

risk factors, trends and  
challenges

Draft study

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LABOUR TRAFFICKING IN SERBIA:  
RISK FACTORS, TRENDS  
AND CHALLENGES**

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**Tamara Vukasović** is social pedagogue and psychotherapist, who became an active expert and trainer with a long-standing experience in combating gender-based violence and human trafficking in Serbia and abroad. She was one of the founders of NGO ASTRA, the first anti-trafficking organisation in Serbia.





## List of acronyms

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AMC	Azerbaijan Migration Centre
CEBES	Centre for High Economic Studies
CESS	Centre for Economic and Social Studies
CoE	Council of Europe
CPTV	Centre for the Protection of Trafficking Victims
ECHR	European Convention on Human Rights (Convention for the Protection of Human Rights and Fundamental Freedoms)
ECRI	European Commission Against Racism and Intolerance
ECtHR	European Court of Human Rights
EU	European Union
GRETA	Group of Experts on Action against Trafficking in Human Beings
ILO	International Labour Organization
MICS	Multiple Indicators Cluster Surveys
NGO	Non-governmental organisation
OSCE	Organization for Security and Cooperation in Europe
SOP	Standard Operating Procedures
THB	Trafficking in human beings
UNDP	United Nations Development Programme
UNGP	United Nations Guiding Principles



# I. Introduction

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This study was commissioned in the framework of the project “Preventing and Combating Trafficking in Human Beings in Serbia” implemented under the joint European Union – Council of Europe programme Horizontal Facility for the Western Balkans and Turkey 2019–2022. Its aim is to provide an update on trends and challenges related to human trafficking for the purpose of labour exploitation in Serbia, further clarify risk factors, and suggest ways to prevent or mitigate them. A first report on trafficking for the purpose of labour exploitation in Serbia was published in May 2017<sup>1</sup> under the phase I of the project. It analysed the legal, policy and institutional frameworks as well as the efforts taken by the government, trade unions, civil society and private sector to address trafficking for labour exploitation. New developments and trends since then called for additional research which was conducted by a group of consultants in 2021–2022 and led to the preparation of this publication.

The study starts from the assumption that devising effective anti-trafficking preventative strategies requires an understanding of the broader social and economic context and of the structural factors making individuals and communities vulnerable to trafficking in human being. It recognises the need for governments to make a shift from a compliance-based approach to a risk-based approach in developing anti-trafficking measures. The foundation for implementing these strategies is therefore the assessment of risks that give rise to human trafficking. Focusing efforts on these risks would improve identification and prioritisation of appropriate remedial measures.

While a comprehensive methodology to assess human trafficking risks has not been developed to date, the study aims to provide insight into structural factors (such as attitudes to ethnic minorities, deep-rooted discrimination, social alienation leading to economic deprivation, gender discrimination...) as well as proximate variables (access to the labour market, informal economy, poor law enforcement, low awareness

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1 Klara Skrivankova, Tamara Vukasovic, Report on trafficking for the purpose of labour Exploitation in Serbia, Council of Europe, 2017. Available at: <https://rm.coe.int/serbia-preventing-and-combating-trafficking-in-human-beings-pdf/168075f341>

among vulnerable communities and the general public). The analysis of these factors and variables is expected to contribute to a better understanding of the underlying causes of human trafficking, and of the situations and circumstances that give rise to vulnerabilities.

A risk-led approach to anti-trafficking action enables stakeholders to identify and act upon potential risks and respond by targeting action at underlying causes. The risk-led due diligence approach helps to detect factors such as:

- Individual/community vulnerability that may increase the risk of exploitation due to particular characteristics (e.g. race, gender, disability, age) or situations (being a migrant, being in poverty, being unemployed).
- Structures and systems that may give rise to exploitation, such as those related to the labour market and business operations (e.g. practices of subcontracting and outsourcing in certain sectors; lack of regulation of recruitment agencies); the economy (e.g. high unemployment or labour shortages in particular sectors) or migration management (e.g. tied visas for certain categories of workers).

## Key concepts and definitions

To strengthen the implementation of the obligation to prevent and combat trafficking for the purpose of labour exploitation, GRETA published a *Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation*<sup>2</sup> and a *Guidance Note on preventing and combatting trafficking in human beings for the purpose of labour exploitation*<sup>3</sup> (hereafter: GRETA's Guidance Note), which provide an outline of measures that can be taken by the State Parties and explains key concepts and definitions.

As noted in GRETA's Guidance note, "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, as well as in other instruments is a combination of three components:

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2 GRETA, *Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation*, 2020. Available at: <https://rm.coe.int/mpendium-of-good-practices-in-addressing-trafficking-in-human-beings-f/16809f9bef>

3 GRETA, *Guidance note on preventing and combatting trafficking in human beings for the purpose of labour exploitation*, 2020. Available at: <http://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-/1680a1060c>

an “action” (recruitment, transportation, transfer, harbouring or receipt of persons), which is committed through the use of “means” (threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person), for the “purpose” of exploitation. The definition provides an open-ended list of “exploitation” practices, which include 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. 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.”

GRETA’s Guidance Note further notes that “Trafficking for the purpose of labour exploitation as a term is used to differentiate between trafficking for the purpose of sexual exploitation, and trafficking for exploitative purposes in different economic sectors, both in the formal and informal economy. The concept of “labour exploitation” in the context of human trafficking 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”.<sup>4</sup>

## Continuum of exploitation

The concept of exploitation is referred to, but not defined in international law. GRETA points out that “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. Within the context of human trafficking, there is general support for understanding “exploitation” – in the sense of taking unfair advantage of another person’s vulnerability or state of need – as a continuum,<sup>5</sup> albeit one that is poorly defined and is not static. At one end lie situations which amount to labour law

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4 Ibid., p. 4, See Annex I for a list of relevant international treaties.

5 Klara Skrivankova, *Between decent work and forced labour: examining the continuum of exploitation*, Joseph Rowntree Foundation, November 2010.

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. Currently, it is not clear where on this continuum labour exploitation changes from being considered a problem of labour law to becoming an issue under criminal law.”<sup>6</sup>

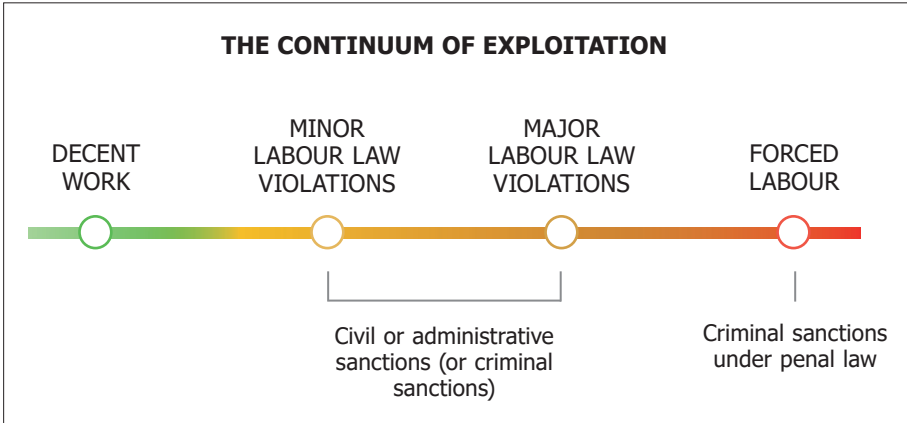


Figure 1: Continuum of exploitation

## Trafficking for the purpose of labour exploitation: a major challenge in Europe and globally

Reports by the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) show that trafficking for the purpose of labour exploitation has been on the rise across Europe.<sup>7</sup> It occurs in a number of sectors of the economy, including construction, hospitality, agriculture, domestic work, manufacturing, cleaning and catering. It is found both in the formal and the informal economy, and concerns women, men and children.

GRETA noted that preventing and combating trafficking in human beings for the purpose of labour exploitation is challenging on many accounts. One of the biggest barriers to anti-trafficking efforts is that anti-trafficking actors and the general population lack clear

6 GRETA, Guidance note on preventing and combatting trafficking in human beings for the purpose of labour exploitation, Council of Europe, p. 5.

7 GRETA, Thematic Chapter on human trafficking for the purpose of labour exploitation in GRETA's 7<sup>th</sup> General Report, 2017. Available at: <https://rm.coe.int/labour-exploitation-thematic-chapter-7th-general-report-en/16809ce2e7>

understanding of the concept of labour trafficking. The awareness among institutions about specificities of trafficking for the purpose of labour exploitation has for a long time lagged behind the awareness about trafficking for the purpose of sexual exploitation. This has impacted the capacity to pro-actively identify situations of labour exploitation. Differences in interpretation and practical application of labour standards and understanding of labour exploitation pose further challenges.<sup>8</sup>

GRETA's second evaluation report on Serbia<sup>9</sup> recommended, *inter alia*, that the national authorities continue to strengthen their efforts to prevent human trafficking for the purpose of labour exploitation by:

- Reinforcing training for labour inspectors;
- Seeking to work closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation;
- Preventing trafficking in supply chains and strengthening corporate social responsibility;
- Further sensitising key professionals and the general public about the risks of trafficking for the purpose of labour exploitation and the rights of the victims.

Under the project "Preventing and Combating Trafficking in Human Beings in Serbia", a number of activities have been implemented since 2017 to address trafficking for the purpose of labour exploitation. Training activities were designed and implemented to improve the understanding of labour inspectors about their roles and responsibilities in anti-trafficking action, in particular with regard to victim identification and referral to assistance. All labour inspectors in Serbia (220 acting staff) have been trained to recognise signs of human trafficking during inspections. Further, multidisciplinary training involving labour inspectors, police officers and NGO representatives has been organised. Two awareness-raising campaigns implemented by the NGOs Atina and ASTRA focused on building the capacities of the local anti-trafficking teams and mechanisms to detect and respond to trafficking for labour exploitation, and on informing workers of the risks of trafficking, their rights and available assistance services.

When considering risk factors that may give rise to labour trafficking, the conduct of private sector actors is one of the factors to take

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8 Ibid.

9 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Serbia, GRETA(2017)37. Available at: <https://rm.coe.int/greta-2017-37-frg-srb-en/16807809fd>

into account. The intersection of business conduct and human rights abuses is increasingly being considered in Europe and globally. For example, the European Commission noted that "Trafficking networks are increasingly showing levels of professionalism and expertise, making their activity look like a corporate business, much more than in the past. Member States highlighted the existence of synergies between the policy framework against trafficking in human beings and public policies adopted at the national level in related areas, such as organised crime, security, business and human rights."<sup>10</sup>

In 2011 the UN Guiding Principles on Business and Human Rights (UNGPs), the first international non-binding instrument on business and human rights, was introduced. The UNGPs summarise the measures that States are expected to take to protect people against human rights abuse by third parties such as businesses and employers, both large ones (such as multinational companies or large factories with numerous suppliers) and small or medium-sized ones, such as individual farmers employing one or two farm workers. These measures are intended to prevent a much wider range of abuses than just the forms of exploitation associated with human trafficking.<sup>11</sup> Following the introduction of UNGPs, there has been a move towards requiring companies to undertake human rights due diligence.<sup>12</sup> In 2021, the European Parliament approved an outline for an EU Directive on Mandatory Human Rights, Environmental and Good Governance Due Diligence. It is expected that the EU will approve the Directive in 2022 and that it will become law in 2023.

While trafficking may not always be explicitly mentioned in these documents, it can be inferred that a directive focused on human rights abuses that refers to the European Convention on Human Rights intends to cover human trafficking as one of the human rights abuses.

The Council of Europe has also addressed these issues, including through the Council of Europe Parliamentary Assembly Resolution

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10 Third report on the progress made in the fight against trafficking in human beings (2020) as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. European Commission, p.61. Available at: <https://op.europa.eu/en/publication-detail/-/publication/3727d523-12c0-11eb-9a54-01aa75ed71a1>

11 Emerging Good Practice by State Authorities, the Business Community and Civil Society in the Area of Reducing Demand for Human Trafficking for Labour Exploitation, Mike Dottridge, Council of Europe 2016., p.5. Available at: <https://rm.coe.int/16806846be>

12 For example, the United Kingdom introduced the UK Modern Slavery Act (2015) with a transparency in supply chains clause; the Netherlands introduced child labour due diligence law which will come into effect in 2022; in 2021 Germany passed a law requiring certain companies to undertake human rights due diligence.



2311(2019) Human Rights and Business, following a Recommendation 2166(2016) on the same topic. A new recommendation on combating human trafficking for the purpose of labour exploitation, which also addresses the role of the private sector, is in the process of adoption.<sup>13</sup> Furthermore, as part of the HELP Programme e-learning platform, the Council of Europe made available in 2021 a new online training course on business and human rights as well as a new module on combating human trafficking for the purpose of labour exploitation, which was included in the already existing e-learning courses on labour rights and on combating human trafficking.

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13 Draft Recommendation of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation (Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a7b742](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a7b742)) and Explanatory Memorandum (Available at: [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680a7b75b](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680a7b75b))



## II. Country situation of trafficking in human beings for the purpose of labour exploitation – developments since 2017

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**T**he socio-political context in Serbia has been turbulent in recent years and this has been further complicated by the outbreak of the COVID-19 pandemic.

Basic economic indicators point to large economic disparities, low wages and risks of poverty, especially for marginalised groups:

- The minimum wage in Serbia is €366<sup>14</sup> which is lower than in most of the EU countries, and its level does not cover the basic cost of living (minimum consumer basket).
- Housing costs are a financial burden for 66% of households in Serbia (Eurostat, 2018).
- In 2019, 226,897 people were in receipt of social assistance. The amount of social assistance for an individual in Serbia is RSD 8,626.00 (equivalent to 70€).
- The income of the top 20% of the population is 10 times bigger than of the 20% of the poorest (Eurostat, 2018).
- The Commitment to Reducing Inequality Index ranks Serbia at the bottom in Europe and 84<sup>th</sup> on the list of 154 countries in the world.

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14 Eurostat data for 2021.

## Types of trafficking and exploitation, victim profiles (2017–2021)

In recent years, most of the identified cases of human trafficking in Serbia have concerned Serbian nationals exploited within the country. Transnational trafficking of Serbian nationals has been less common. There are indications that Serbia is increasingly becoming a country of transit and destination for foreign victims of trafficking.

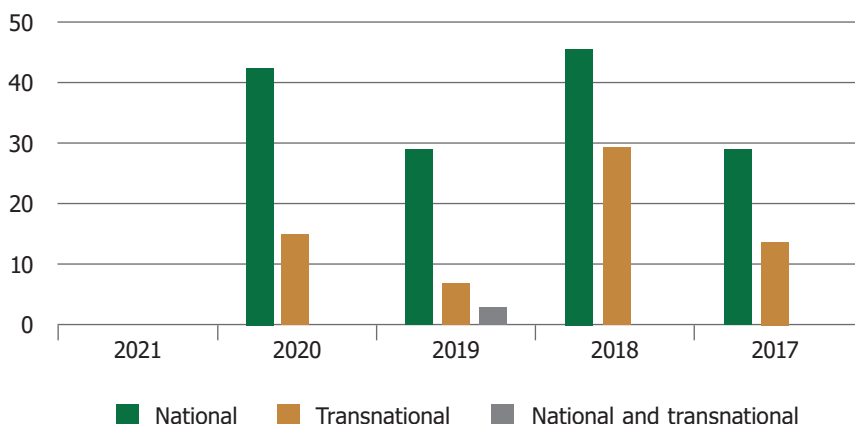


Figure 2: Type of trafficking, 2017–2020

**Sexual exploitation** remains the most common form of national trafficking (i.e. within Serbia), followed by trafficking for the purpose of labour exploitation. Mixed forms of exploitation (sexual, criminal or labour exploitation) and forced marriage are the most prevalent forms of trafficking of Serbian nationals abroad. The majority of the identified victims are women, ranging between 65% and 91% per year in 2017–2021.

In the same period, the number of identified **adults** was higher (ranging between 51% and 58% per year) than children, except for 2019, when 64% of the identified victims were children. Only a few **children** have been formally identified as victims of labour exploitation (6% of the identified cases). Girls are most commonly trafficked for sexual exploitation and forced marriage, while boys fall victim to multiple forms of exploitation (forced begging, criminal activities and labour exploitation).

The number of identified cases of trafficking for the purpose of labour exploitation remains low. There was a slight increase in 2018 and 2020 when 18 and 12 victims were identified respectively.

	<b>2021 (Jan – June) *</b>	<b>2020</b>	<b>2019</b>	<b>2018</b>	<b>2017</b>
<b>TOTAL # identified</b>	<b>26</b>	<b>57</b>	<b>39</b>	<b>76</b>	<b>43</b>
<b>Victim profile: age and gender</b>					
Under 18	5	24	25	32	21
Girls	5	18	19	30	20
Boys	0	6	6	2	1
Over 18	21	33	14	44	22
Women	15	19	13	27	19
Men	6	14	1	17	3
<b>Victims per type of exploitation</b>					
Sexual exploitation	15	21	23	34	21
Forced marriage	1	8	3	8	3
Multiple exploitation	3	9	5	13	10
Forced labour	3	12	3	18	4
Forced begging	2	2	4	2	4
Forced criminality	1	4	1	1	1
Economic exploitation	1	0	0	0	0
Illegal adoption	0	1	0	0	0
<b>Child victims per type of exploitation</b>					
Sexual exploitation	2 girls	7 girls	15 girls	17 (16 girls)	12 girls
Forced marriage	1 girl	6 girls	1 girl	6 girls	3 girls
Multiple exploitation	0	5 (2 girls)	3 (2 girls)	7 girls	3 girls
Forced labour	2 girls	3 (1 girl)	2 boys	0	0

	2021 (Jan – June) *	2020	2019	2018	2017
Forced begging	0	2 (1 girl)	3 (1 girl)	1 girl	3 (2 girls)
Forced criminality	0	0	1 boy	1 boy	0
Economic exploitation	0	0	0	0	0
Illegal adoption	0	1	0	0	0

Figure 3: Identified victims 2017– June 2021,

**Source:** CPTV<sup>15</sup> annual reports 2017–2020 and semi-annual report 2021

Despite a growing number of migrant workers in Serbia, the number of identified foreign victims of trafficking remains low. In the last five years, only 12 victims were identified among migrants and refugees. The countries of origin included Afghanistan, Albania, Bosnia and Herzegovina Cameroon, Croatia, Congo, Denmark, Germany, North Macedonia, Mali, Montenegro, Nigeria and Pakistan.

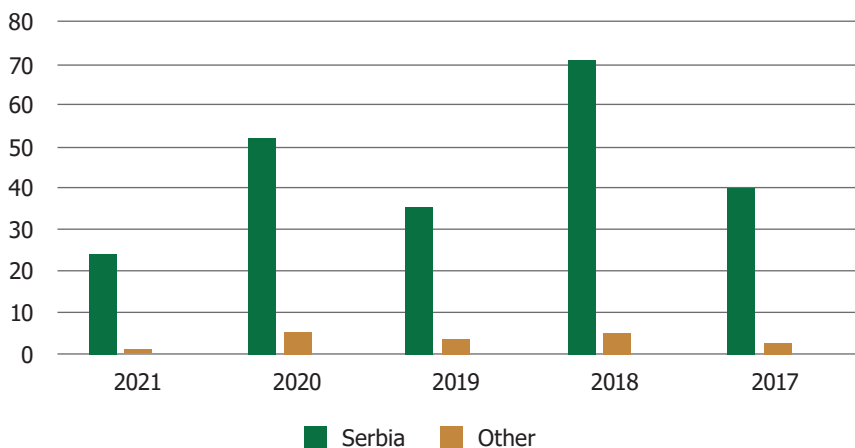


Figure 4: Identified victims by country of origin (2017– 2021)

15 The Centre for the Protection of Trafficking Victims (CPTV) was established by the Government of Serbia in 2012 as part of the social protection system and is a key actor in the National Referral Mechanism (NRM). The framework for the functioning of the NRM is provided in the document Standard Operating Procedures for the Treatment of Victims of Trafficking (SOPs). The CPTV collects statistics on identified victims.

## Gender aspects of human trafficking for the purpose of labour exploitation

Due to the gendered nature of trafficking, in many countries, anti-trafficking policy and practice have focused on women and girls. Most victim assistance services, including shelters, are designed and tailored to the needs of female victims, in particular those subjected to sexual exploitation. The number of male victims of trafficking has been on the rise across State Parties to the Council of Europe Anti-Trafficking Convention due to the proliferation of cases of trafficking for the purpose of labour exploitation. However, there is still a marked shortage of assistance projects for male victims of trafficking who may not be recognised as vulnerable to exploitation or as victims of trafficking. Greater awareness raising, and targeted programmes recognising men and boys as potential victims, are critical to ensure identification and referral to assistance.<sup>16</sup>

The gender dimension of trafficking in human beings was explored as part of the project "Preventing and combating trafficking in human beings in Serbia".<sup>17</sup> Men continue to be the largest proportion of formally identified victims of trafficking for labour exploitation in Serbia, however, the number of women identified has increased since 2016.

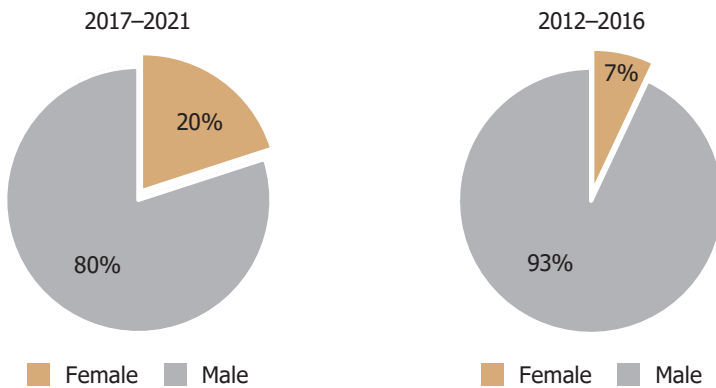


Figure 5: Proportion of identified victims of labour exploitation by gender

**Source:** CPTV annual reports 2012–2016 and 2017 – June 2021

16 GRETA, 8<sup>th</sup> General report on GRETA's activities, 2018, paragraphs 111–114. Available at: <https://rm.coe.int/8th-/168094b073>

17 Ivana Radović, *Summary of the gender analysis of combating human trafficking in Serbia*, March 2020.

The number of formally identified victims remains low (see table below) in comparison with the number of potential victims referred to the CPTV. This suggests that there is possibly a number of cases of trafficking for labour exploitation which remain undetected.

Identified victims of labour exploitation	2021 (Jan – June)	2020	2019	2018	2017
<b>TOTAL # identified</b>	3	12	3	18	4
<b>Girls</b>	2	1	0	0	0
<b>Boys</b>	0	2	2	0	0
<b>Women</b>	0	2	0	1	2
<b>Men</b>	1	7	1	17	2

*Figure 6: Number of identified victims of labour exploitation in the period 2017–2021 by gender, age and year.*

**Source:** CPTV annual reports 2017–June 2021.

Services for victims are determined by the type of exploitation.<sup>18</sup> There is still no specialised shelter accommodation for men. The State-run shelter for trafficked women was not operational between September 2020 and February 2022, and victims support relied to a large extent on NGO and foreign donors.

## Preliminary identification and referrals to the Centre for the Protection of Trafficking Victims (CPTV)

The phase of preliminary identification of trafficking victims is of utmost importance in the protection process. Pursuant to the Standard Operating Procedures for the identification and referral of trafficking victims (SOPs), a range of actors can carry out preliminary identification, including non-governmental organisations (NGOs), the police, the Labour Inspectorate, diplomatic/consular missions, educational institutions, National Employment Service units, and reception and asylum centres. CPTV data shows that in 2018 there was the largest number of presumed victims referred to the NRM (181 new referrals). The number decreased to 135 new referrals in 2019 and 130 in 2020.

<sup>18</sup> Ivana Radović, *Summary of the gender analysis of combating human trafficking in Serbia*, March 2020.



The largest number of reports of presumed victims come from the social protection system (usually 30 to 40 %), followed by the police (25–30%) and NGOs (around 10% of all referrals).

It is noteworthy that soon after the first training on THB for labour inspectors organised by the Council of Europe in 2017, the first case of human trafficking was referred to the CPTV by the Labour Inspectorate (from the City of Niš).

## Prosecution of cases of trafficking for the purpose of labour exploitation

The number of prosecutions that result in convictions for THB remains low (see the table below). The way in which THB is recorded in the official crime statistics makes it difficult to identify cases of trafficking for the purpose of labour exploitation.

Year/Criminal offence	Perpetrators		Convictions		Sentence type	
	Adult	Children	Adult	Children	Adult	Children
2017						
Human trafficking	2	0	9	0	Prison: 6 House arrest: 3	0
Trafficking of children for adoption	1	0	0	0	0	0
2018						Children
Human trafficking	1	1	16	1 (male)	Prison: 15 Conditional sentence: 1	Juvenile prison: 1
Trafficking of children for adoption	0	0	0	0	0	0
2019						
Human trafficking	21	1	11	2 (1 male, 1 female)	Prison: 11	Educational measures (intensified supervision and institutional measures): 2
Trafficking of children for adoption	3	0	0	0	0	0

Year/Criminal offence	Perpetrators		Convictions		Sentence type	
	Adult	Children	Adult	Children	Adult	Children
2020						
Human trafficking	77	1	7	0	Prison: 7	0
Trafficking of children for adoption	6	0	0	0	0	0
<b>Total 2017–2020</b>	<b>111</b>	<b>3</b>	<b>43</b>	<b>3</b>		

Figure 7: Statistical Office of the Republic of Serbia, 2017–2020

Reported perpetrators by criminal offences of human trafficking (Article 388) and trafficking of children for adoption (Article 389). Convicted adult perpetrators, by criminal offences of human trafficking (Article 388) and trafficking of children for adoption (Article 389).

## Public awareness of human trafficking for labour exploitation

The public perception of human trafficking is shaped by the media which has largely covered the issue in a sensationalist manner. Media analysis by the NGO ASTRA found that much of the reporting does not analyse the issue or explain what human trafficking is.<sup>19</sup> Most reports cover what happened (83%) with only a few articles covering the background and context of the investigations (17%). In some cases, media exposure jeopardized the integrity and security of victims by publishing confidential and sensitive information. In some cases media reports even disclosed the identities of victims against their will.

In 2019 the NGO Atina proposed 10 steps to address these problems, including clear guidelines and protocols to prevent information leaks from public institutions, and recommendations on how to prepare press releases and organising continuous education for media workers.<sup>20</sup>

To address low awareness about trafficking for the purpose of labour exploitation, and following GRETA's recommendations in the second

19 ASTRA, Manual for journalists, 2008. Available at: <https://www.osce.org/files/f/documents/f/8/36212.pdf>

20 Atina, 2021. Available at: <http://www.atina.org.rs/sites/default/files/C%CC%8Covec%CC%8Canstvo%20duguje%20deci%20najbolje%20s%CC%8Cto%20ima%20NVO%20Atina.pdf>

evaluation report on Serbia,<sup>21</sup> several activities were organised as part of the project implemented by the Council of Europe in Serbia under the European Union and the Council of Europe “Horizontal Facility” for the Western Balkans and Turkey 2019–2022. These activities included:

- The campaign LABOR RIGHTS – NOW!<sup>22</sup> run by ASTRA in the summer of 2020 aimed at informing at-risk groups about their rights, available assistance, and how to identify trafficking for the purpose of labour exploitation. Leaflets were distributed to workers at six construction sites in Kragujevac, Niš, Čačak, Požega, Zaječar and Belgrade with the help of the Independent Trade Union of Road Workers. Leaflets were also distributed to young people in 26 high schools<sup>23</sup> across Serbia. Nearly 100 posts were shared on social media with more than 230,000 views (clicks on the links, web-page visits and views of the video). An additional result of the campaign was a publication with recommendations for the prevention of labour exploitation<sup>24</sup> that considered labour legislation and current trends in the Serbian labour market.
- Between March and December 2020, Atina conducted campaigns on THB for the purpose of labour exploitation targeting professionals and representatives of the five local anti-trafficking teams (Vranje, Subotica, Niš, Sremska Mitrovica and Šabac). A total of 60 professionals from different institutions were directly involved.<sup>25</sup> Project activities reached out to a total of 43,743 persons.
- The Council of Europe HELP course<sup>26</sup> on trafficking in human beings was launched in Serbia in October 2020, in co-operation with the Judicial Academy of Serbia. HELP tutors adjusted the course to the Serbian legal and political frameworks and professionals. The course combines theory and practice, case studies and practical examples.

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21 Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Serbia, GRETA(2017)37. Available at: <https://rm.coe.int/greta-2017-37-frg-srb-en/16807809fd>. Among other recommendations GRETA considered that the authorities should continue carrying out information and awareness-raising campaigns on different forms of THB, including labour exploitation.

22 <https://www.astra.rs/en/labour-justice-now/>

23 Užice, Zrenjanin, Vršac, Vranje, Vlasotince, Prijepolje, Čuprija, Bujanovac, Svilajnac, Niška Banja, Niš, Belgrade, Kruševac, Kraljevo, and Kragujevac.

24 [https://drive.google.com/file/d/1aTIDzlqoPJy dum7xjEfm1b\\_36qWuAzFt/view](https://drive.google.com/file/d/1aTIDzlqoPJy dum7xjEfm1b_36qWuAzFt/view)

25 <http://www.atina.org.rs/en/prosecutor-sena-uzunović-more-30-million-people-are-exploited-labor-among-them-are-children>

26 <http://help.elearning.ext.coe.int>

Two additional campaigns were conducted in 2019 and 2020:

- From February to June 2019, the NGO ASTRA organized a campaign<sup>27</sup> within the project “Labour Exploitation is Real”, which is a part of the “MY WAY – Make it Work for Youth!” programme supported by the EU’s European Instruments for Democracy and Human Rights. A portal was launched to inform young people and enable them to avoid deceptive job offers in Serbia and abroad. The project was accompanied by a campaign that included seven videos and audio commercials, billboards, social media posts and printed materials.
- Between September 2020 and January 2021, ASTRA implemented a campaign<sup>28</sup> under the project “Improvement of space and opportunities for combating human trafficking”, with the support of the European Union. It was aimed at raising public awareness of the problem of human trafficking, its most common forms and representations, including labour exploitation. The campaign included video spots, billboards and promotional material for social media.

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27 <https://www.astra.rs/en/campaign-labour-exploitation-is-real/>

28 <https://www.astra.rs/en/trafficking-in-human-beings-is-not-a-parallel-existence-it-is-a-harsh-reality-%E2%88%92-dont-look-away/>

# III. Risk assessment in the context of trafficking for the purpose of labour exploitation

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## Poverty as a risk factor of trafficking

**U**nderstanding which segments of the population are at risk due to poverty is important for prevention of trafficking. Those in need are more likely to access insecure work in the grey economy, are not in a position to negotiate their working conditions and may be pushed to seek employment abroad.

In 2019, 7% of the Serbian population was considered to be living in absolute poverty.<sup>29</sup> The proportion of those at risk of poverty was 23.2% (compared to EU-27 average of 16.5%).<sup>30</sup> Inequality in income distribution is high: in 2019,<sup>31</sup> the richest 20% of the population had an income 6.5 times higher than the 20% of the poorest.

Low wages are also a contributing factor. The minimum wage in Serbia was €366 in 2021, which is lower than in all EU countries, except for Bulgaria. According to the Fiscal Council, over 20% of workers receive the minimum wage. The low wages are often a contributing factor that pushes people to seek employment abroad.

The COVID-19 pandemic has made the circumstances of the poorest in society worse. An OHCHR study found that the consequences of

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29 European Commission Report on Serbia, 2021. Available at: [https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2021\\_en](https://neighbourhood-enlargement.ec.europa.eu/serbia-report-2021_en)

30 The EU Statistics on Income and Living Conditions (EU-SILC) <https://ec.europa.eu/eurostat/web/microdata/european-union-statistics-on-income-and-living-conditions>

31 Compared to EU-27 – 30.2%.

the pandemic on groups at risk magnified underlying and structural causes of inequalities and/or led to new forms of inequalities.<sup>32</sup> COVID-19 challenged the effectiveness of social welfare programmes. Children and young people were particularly at risk as social services that were already lacking in some areas were halted during the outbreak. According to UNICEF, 50% of households with children saw their income decrease during the pandemic.<sup>33</sup>

A report by UNDP found that some segments of the population were more affected than others, such as workers in the informal economy, women in small holder agriculture, the elderly and young people.<sup>34</sup> Around 85% of workers dismissed in the first quarter of 2020 were informal workers, and many did not benefit from any regular or COVID-19 specific social protection measures.

## Labour market

Considering how the labour market operates is important when designing anti-trafficking action. Employment policies and labour rights enforcement, and their intersection with migration policies, all play a role. Poor access to employment (including discrimination of some groups, such as Roma), low pay and unemployment drive the growth of the grey economy where exploitation is rife. These are also a push factors for people to seek employment abroad.

## Employment levels

Between 2017 and 2020 the levels of employment increased in the 20–64 age groups, and unemployment decreased by 4.5 %. However, 94,100 jobs were lost in the first half of 2020 as a result of COVID-19.<sup>35</sup>

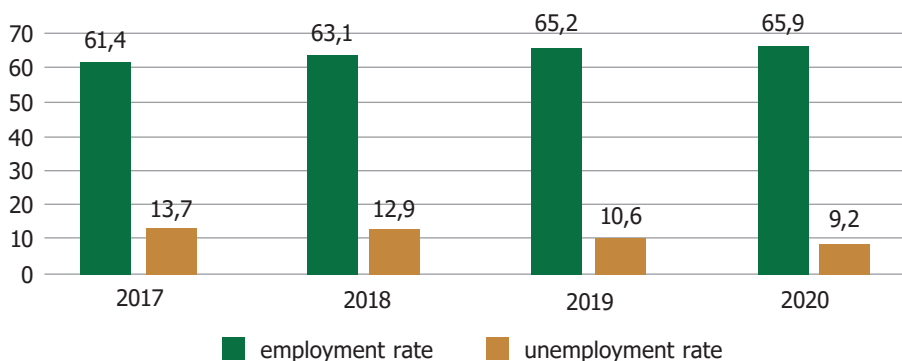
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32 OHCHR/ United Nations Serbia, Impact of the COVID-19 on vulnerable groups and groups at risk causes, outcomes and recommendations, Belgrade, December 2020.

33 United Nations International Children's Emergency Fund (UNICEF), 2020. Research on the Effect of the Covid-19 Pandemic on Families with Children in Serbia. Available at: <https://www.unicef.org/serbia/media/15491/file/Survey%20-%20Summary.pdf>

34 UNDP Belgrade, Impact of Covid-19 in Serbia: A UNDP report and call for action from the United Nations, September 2020. Available at: <https://serbia.un.org/en/92908-impact-covid19-serbia-new-report-and-call-action-united-nations>

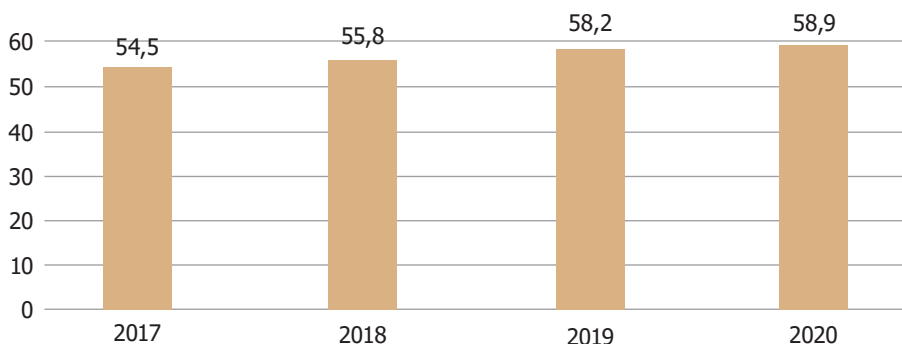
35 Statistical Office of the Republic of Serbia (SORS), 2020. Labour Force Survey/quarter 2020, Statistical release, May 2020. Available at: <https://www.stat.gov.rs/en-us/oblasti/trziste-rada/anketa-o-radnoj-snazi/>



*Figure 8: Employment and unemployment rates in %, aged 20–64, 2017–2020*

**Source:** Eurostat, Labour force survey

Data on **women’s employment** indicate also a slight upward trend. The lowest employment is among young women, those without qualifications and from rural areas, and women with more than three children. There is sectoral and occupational disparity between men and women. For example, women are overrepresented in the service sector, mostly in health and education.



*Figure 9: Women’s employment in %, aged 20–64, 2017–2020*

**Source:** Eurostat, Labour force survey

However, the increase in employment rates has not resulted in improvements in the quality of employment. Serbia has a greater prevalence of **insecure employment (self-employed and temporary workers)** than the EU average. The highest proportion of insecure workers are in agriculture.

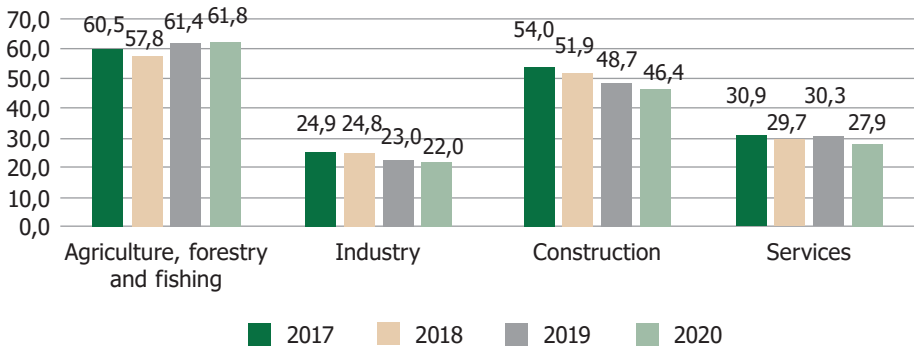


Figure 10: Share of insecure employment (self-employed and temporary workers) in total employment in %, aged 15 – 64, 2017–2020

Source: Author’s calculation based on Labour force survey data

**Informal employment** decreased between 2017 and 2020 in both relative and absolute terms: the informal employment rate decreased by 4.3 percentage points, and the number of informally employed by almost a quarter.

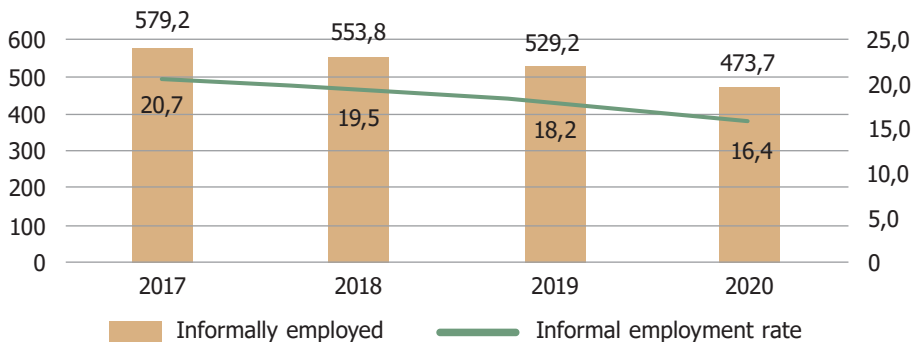


Figure 11: Share of informally employed in thousands and informal employment rate in %, aged 15–64, 2017–2020

Source: Eurostat, Labour force survey

This decline is noted in all sectors, but the highest prevalence of informal employment remains in the agricultural sector, where nearly half of employees are engaged informally. Construction is the second highest sector affected by informal employment.



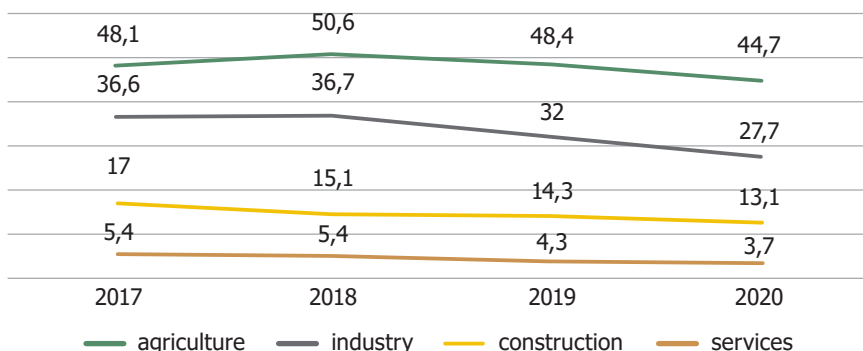


Figure 12: Informal employment rates in % by economic sector, 2017–2020

Source: Author’s calculation based on Labour force survey data

Levels of **youth employment** have not changed since 2017 and remain around 21%, which is lower than the average in the EU (31.5% in 2020). Young women face greater difficulties in entering the labour market than young men. This is evidenced by the gender gap in employment rates, which increased from 10.7 to 11.5 percentage points in the reference period. Young people also find it difficult to find secure employment: in 2020, 52.4% of young people (50% men and 56.3% women) worked on a temporary basis.

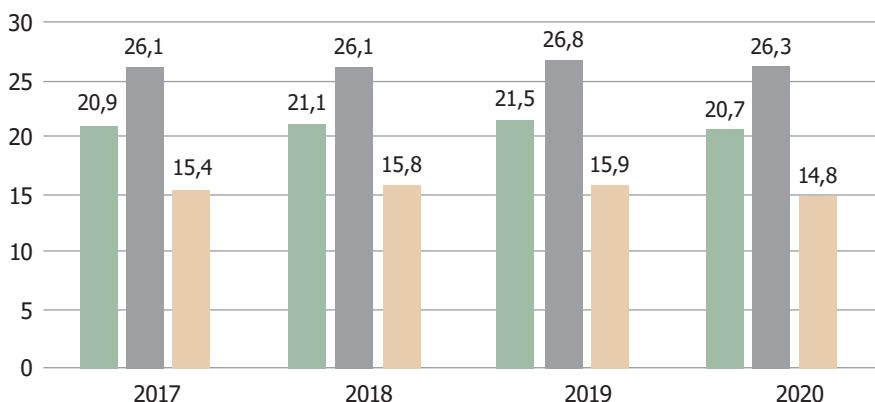


Figure 13: Employment rates, aged 15–24, by sex, in %, 2017–2020

Source: Eurostat, Labour force survey

## Labour shortages

There is no reliable official data on sectoral labour shortages. Some conclusions could be drawn from the labour migration data. In 2020, 12,931 work permits were issued to foreign workers, which is a

significant increase over previous years. Trade unions have repeatedly pointed out that the real number of foreign workers is many times higher given the number of unregistered foreign workers.

The number of workers from Serbia who received a work permit in the EU for the first time doubled between 2013 (27,059) and 2018 (52,049). Increased demand for workers is recorded in sectors where emigration is most pronounced, primarily in health care, transport and hospitality.

## Labour law enforcement

The report on trafficking for the purpose of labour exploitation in Serbia, published in May 2017,<sup>36</sup> provides an overview of the national legal, policy and institutional framework for combating labour trafficking in Serbia.

There is a link between the effectiveness of labour rights enforcement and the risk of trafficking for the purpose of labour exploitation. Reports of labour rights violations most commonly relate to informal work, the right to regular payment of wages, the right to increased wages, the right to paid leave and the right to paid overtime.<sup>37</sup> In addition, numerous cases of violations of collective bargaining rights have been reported, primarily the right to trade union association and trade union action.

The capacity of the Labour Inspection in Serbia is limited. There are 220 labour inspectors and about 400,000 employers in Serbia, so if one labour inspector would do four inspections a day it would take them almost eight years to visit an employer twice. The Law on Inspection Oversight is not harmonised with the standards of the International Labour Organization (ILO) regarding unannounced visits.<sup>38</sup> Criminal liability of employers is extremely difficult to enforce and most reports filed by workers or trade unions do not lead to prosecution. For example, out of 128 reports in 2020, 109 were dismissed.<sup>39</sup> There appears to be a downward trend since 2018 in the number of indictments and convictions for the seven labour rights offences in Chapter XVI of the Criminal Code.<sup>40</sup> At

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36 Klara Skrivankova, Tamara Vukasovic, Report on trafficking for the purpose of labour Exploitation in Serbia, Council of Europe, 2017.

37 <http://cdrsrbija.org/wp-content/uploads/2020/06/Analiza-ENG-CDR-final.pdf>; <http://www.centaronline.org/sr/publikacija/1827/izvestaj-o-stanju-radnih-prava-u-srbiji-za-2020>

38 [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:4058697](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:4058697)

39 Statistical Office of Serbia, Punoletni učinoci krivičnih dela u Republici Srbiji 2020, Beograd, 2021, p. 16.

40 Statistical Office of Serbia, Punoletni učinoci krivičnih dela u Republici Srbiji 2019, Beograd, 2020, p. 41; Statistical Office of Serbia, Punoletni učinoci krivičnih dela u Republici Srbiji 2020, Beograd, 2021, p. 39.

the same time, more than 30% of misdemeanour proceedings become obsolete.<sup>41</sup>

## Migration

The migration and trafficking nexus<sup>42</sup> is well known. Regulation and policies designed to manage and restrict migration can create vulnerabilities to trafficking. Migrants are often more at risk of exploitation because of vulnerabilities linked to their status as migrants. It is therefore important for Serbia to consider the risks that migrants might face in the country as well as the risk that Serbians migrating abroad might be exposed to.

### Migrants in Serbia

Since 2017 a strong enforcement response to migration at the EU’s external borders has led to intensified migratory movements towards the Western Balkans (see chart below). Frontex data shows an increase in the number of detected clandestine border crossings in the Western Balkans (from 5,869 in 2018 to 26,969 in 2020).<sup>43</sup> The top nationalities transiting through the region include Afghans, Syrians, Iraqis and Iranians.<sup>44</sup>

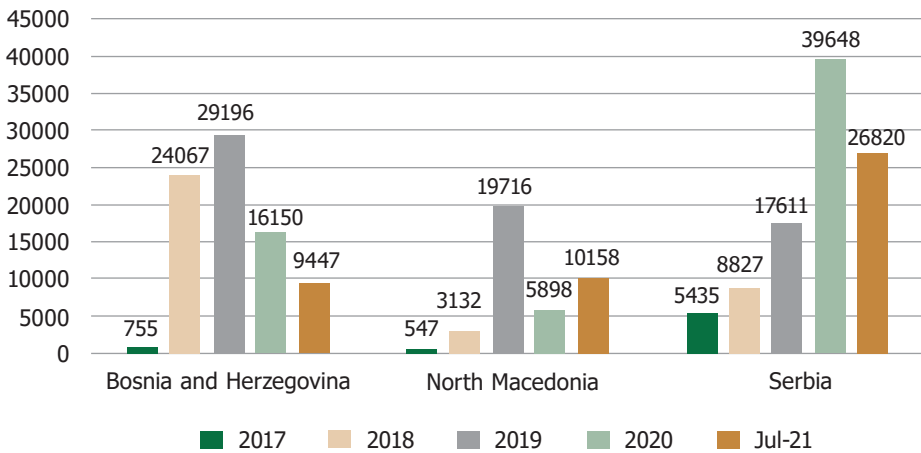


Figure 14: Registered arrivals in Western Balkans countries (2017 – 07/2021)  
**Source:** IOM. The database was accessed October 9, 2021.

41 Interview with the President of the Belgrade Misdemeanour Court, August 2021.  
 42 [http://www.antislavery.org/wp-content/uploads/2017/01/the\\_migration\\_trafficking\\_nexus\\_2003.pdf](http://www.antislavery.org/wp-content/uploads/2017/01/the_migration_trafficking_nexus_2003.pdf)  
 43 FRONTEX, Risk Analysis, 2018–2021.  
 44 Ibid.

UNODC reports that the vast majority of those transiting through the Western Balkans used the services of smugglers somewhere along their journeys.<sup>45</sup> Migrants are transported in containers, cisterns, under trucks, in handmade double-bottom tanks and on boats.

While the number of registered new arrivals has been increasing since 2017, Serbia continues to be predominately a transit country as migrants stay a relatively short time. Statistics show that most migrants entering Serbia opt not to access asylum procedures and stay in the country irregularly (in 2020 only 7% of registered arrivals expressed intention to apply for asylum and only around 0.4 % applied).

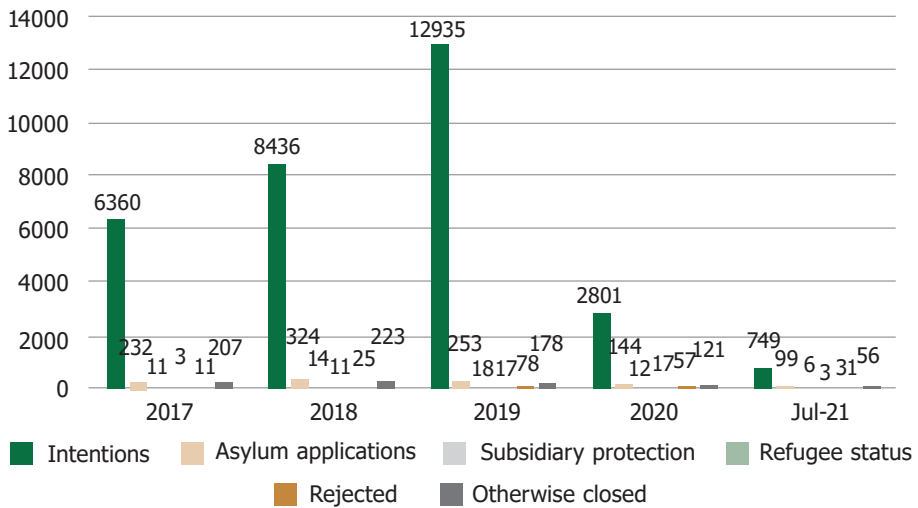


Figure 15: Asylum statistics (2017–07/2021)

**Source:** UNHCR, Southeastern – Asylum Statistics – Trend Analysis (<https://bit.ly/3iNCNjG>)

UNHCR estimates that around 13 % of the total migrant population in Serbia are children, 9% of whom are unaccompanied or separated.<sup>46</sup> Some civil society organisations found that unaccompanied children, mostly of the same nationality, usually travel in large groups without parents or guardians and in the company of one or a few adult men.<sup>47</sup> In 2021 a specific situation was noted, of children traveling with adult male cousins who are registered by the authorities as families.<sup>48</sup>

45 UNODC, Measuring Organized Crime in the Western Balkans, 2020, Vienna, p. 33.

46 UNHCR, UNHCR Serbia Snapshot, September 2021.

47 Drašković M. et al. (2019), Challenges in Asylum and Migration System – position of particularly vulnerable categories. Group 484, Belgrade, p. 25.

48 CPsWG Minutes, September 2021.

In Serbia, only 13 out of the 19 reception facilities (asylum centres, reception and transit centres) are operational. About 80% of migrants are accommodated there.<sup>49</sup> The rest stay in border areas (especially Sid and Sombor) and in downtown Belgrade.<sup>50</sup>

## Emigration, youth migration and labour migration towards the EU

Serbia is traditionally a country of emigration. However, data on the number people who have emigrated is inaccurate as many do not deregister their residence in Serbia before leaving the country. The last census in 2011 showed the number that emigrated to be 313,411 (a drop from 414,839 in 2002).<sup>51</sup> Over 150,000 were aged 28–29 years old, and 19% had a college or university degree.<sup>52</sup> It is estimated that the trend of emigration of the young, educated portion of the population has continued.<sup>53</sup>

The Annual *Research on the Situation and Needs of Young People in the Republic of Serbia*, prepared for the Ministry of Youth and Sports, shows that the intention of young people to leave the country permanently are growing (9,6% of the respondents in 2020 compared to 7% in 2016). Most state their reasons for emigrating as being improving their living standard, higher salaries and better employment opportunities abroad.<sup>54</sup>

The EU is the most common destination for Serbian economic migrants. Eurostat data indicates that the number of Serbian citizens with valid resident permits in the EU has been steadily increasing (from 386,234 in 2016 to 504,142 in 2021). In 2019, first-time resident permits were issued in the EU to 62,190 Serbian citizens (11,133 more than in 2018).<sup>55</sup>

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49 Ibid.

50 prEUgovor, PreUEgovor Alarm: Report on the Progress of Serbia in Chapters 23 and 24, May 2021, Belgrade.

51 Ninamedia research: Survey on the position and needs of young people in Serbia, August 2020.

52 Ministry of Youth and Sport, Comparative analysis with other European countries and trends, S. Klačnja, Belgrade, 2020.

53 Economic migration strategy of the Republic of Serbia for the period 2021–2027 (Official Gazette of the Republic of Serbia, No. 21/20).

54 Research on the Situation and Needs of Young People in the Republic of Serbia, 2020.

55 Eurostat, <https://bit.ly/3p0U511>. Accessed 9 October 2021.

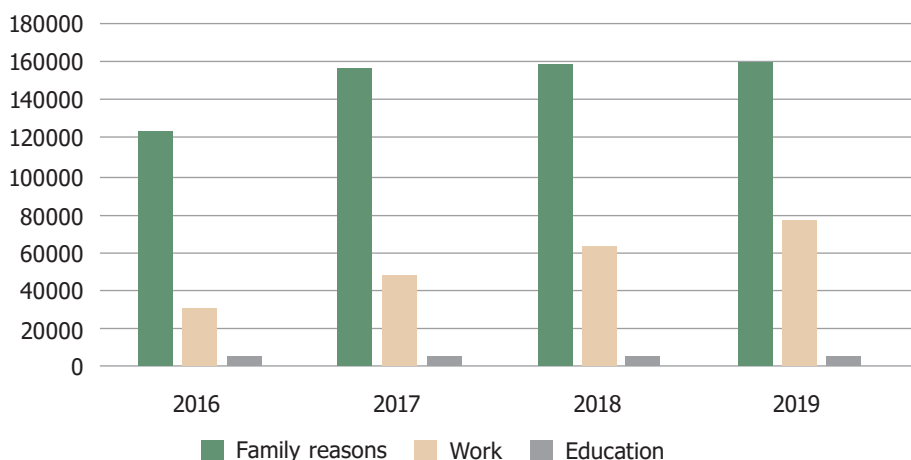


Figure 16: Serbian immigrants in the European Union (from 2020)

Source: Eurostat (database accessed on 9 October 2021)

## Bilateral labour migration agreements

In recent years some EU countries (such as Germany, Slovenia, Hungary, Slovakia) have introduced visa schemes or have concluded bilateral agreements with Serbia in order to address new workforce demands. In the case of Germany, through the 'Triple Win' project for sustainable recruitment of nurses, over a seven-year period around 730 paediatric nurses and technicians from Serbia were recruited.<sup>56</sup> Between 1 March and 31 December 2020, from a total of 30,200 visas issued to applicants under the new German Skilled Immigration Act, 2,024 were issued by the German embassy in Serbia.<sup>57</sup> Further, on the basis of a 2019 law on employment of Serbian citizens in Slovenia, 2,389 persons have been employed there.

Recruitment of Serbian workers on the basis of these agreements is conducted with the mediation of the National Employment Service, which has a mandate to provide protection to Serbian economic migrants.

The Migration Service Centre within the National Employment Services has contact points for potential emigrants that can provide information on the risks of irregular migration, migrants' rights, procedures for obtaining visas, work and residence permits, employment and study

56 RTV, The "Triple Win" project through which Serbian citizens were massively going to Germany got suspended, February 2020. <https://bit.ly/3mGQEK3> . Accessed 10 October 2021.

57 Schengen Info, Skilled Workers From Western Balkans Benefited Most From Germany's Skilled Immigration Act in 2020, March 2021. <https://bit.ly/3argImx> . Accessed 10 October 2021.

opportunities abroad. With targeted training on detection of wrongful employment contracts, unfair work conditions, and potential labour law violations, Migration Service Centres can have an active preventive role in the fight against human trafficking.

## Recruitment agencies (labour migration towards EU)

The number of employment agencies in Serbia has increased sharply since 2015. According to data of the Ministry of Labour, Employment, Veterans and Social Affairs, in the period 1990–2015, a total of 71 agencies were registered, while in the period 2016–2021, 54 more were registered. In 2021, there was an increase in agencies offering temporary workers from abroad.

Student-youth cooperatives often act as agencies, although this is not in accordance with the intended nature of their operation. Poor practice has been noted when some individuals register multiple types of agencies simultaneously, such as employment mediation services, student-youth cooperatives and temporary employment agencies. If the Ministry of Labour revokes their licenses, the multiple registrations allow them to continue to operate.

Some recruitment agencies and individuals acting as job agents take part in trafficking for the purposes of labour exploitation. Regulation and oversight over the activities of agencies is therefore an important element to counter trafficking.

A further challenge remains informal recruitment through word of mouth or social media. This occurs mainly in the grey area of undeclared work. There are anecdotal cases reported in the media and identifiable on social networks. However, there is so far no reliable data or research into the extent of the issue.

ASTRA reports that the names of non-registered companies are often left as contacts.

The NGO shared some adverts of concern published in 2020: "*Seasonal work in Switzerland for girls ... a hostess job for welcoming high-class guests, as well as for keeping guests company ... salary 1200 euros ... much higher salary if a girl makes an effort...*". "*Needed girls 18 to 35 years for fun activities...*".

## Online recruitment /role of social media

Cases were noted of online job advertisements that do not contain enough information, such as the real name of the employer, full contact details, specification of working conditions and the type of

work that would be performed. It is known that such advertisements can lead to trafficking.

The Market Inspection, which is responsible for checking and removing job advertisements, is generally effective in such situations. The fact is, however, that there is no mechanism for content control before an advert is published. It is also difficult to monitor informal job brokerage via platforms such as Facebook, where people post job offers or contact prospective candidates directly. It is also known that informal job facilitation occurs on chat apps, such as WhatsApp.

## Risks associated with specific sectors and labour practices

Sectors in which workers are commonly exposed to a higher risk of exploitation include **construction, hospitality and tourism**. The challenge in these sectors arises from short-term employment, transient workforce and weak supervision over the application of regulations. The lack of supervision leads to a large number of unregistered workers. Further, sectoral collective bargaining, most important for improving the quality of individual labour rights, is largely absent, which adds to the precarity of many workers' situations.

The 2017 report prepared by the Council of Europe under the HF I project identified agriculture, textiles, footwear production, construction, private care arrangements, domestic work and catering as the industries with most risk of labour exploitation in Serbia or exploitation of Serbians abroad.<sup>58</sup>

Some of the industries that are considered to present the highest risk of exploitation for women are agriculture, textiles, footwear production, tourism and hospitality. Many businesses are operating in the grey economy including elderly and child-care services.<sup>59</sup> In cases where women are formally employed, the majority work for minimum wages, and the most vulnerable are employed in the so-called 'screwdriver industry', manual jobs like gluing on assembly lines. Additionally, agriculture and construction are industries with the highest risk for men, not just those involved in the informal sector or unregistered, but also those who are formally employed.

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58 Klara Skrivankova, Tamara Vukasovic, Report on trafficking for the purpose of labour Exploitation in Serbia, Council of Europe, 2017.

59 <https://www.masina.rs/eng/what-will-the-law-on-seasonal-work-bring-to-women-who-are-employed-to-clean-tidy-up-and-care-for-children-and-the-elderly/>



## Groups at risk of trafficking for the purpose of labour exploitation

### Temporary workers

The Law on Agency Employment has implemented EU Directive 2008/104/EC on temporary agency work in Serbia, but gaps in that law enable discrimination against workers.

Workers undertaking seasonal work or work on short-term contracts are at a greater risk of labour rights violations and exploitation. They are mostly unregistered and hence cannot exercise rights at work. In addition, people who work legally in the so-called “non-employment regime”, which is envisaged as short-term engagement, often in reality work for years on such short-term contracts.

Both Serbians and migrants are hired as temporary workers, with the latter facing an added risk due to their immigration status. Since 2017 an increasing number of cases of undeclared migrant workers in Serbia have been noted. There have been examples of serious violations of labour regulations and suspicions of human trafficking (e.g. a cases of Indian workers in 2019 and 2020<sup>60</sup>). The Serbian authorities have not adequately responded to these challenges.<sup>61</sup> In the absence of effective control of employers this is likely to contribute to violations of workers’ rights.<sup>62</sup>

### Migrant workers

#### Persons with insecure immigration status

Most migrants entering, and transiting through, Serbia do not possess personal documents and have their identity established solely on the basis of statements. When their planned onward journey is hindered, many of them continue to circulate within Serbia without a regular status. Migrants with insecure status have limited or no access to social protection and are at risk of labour exploitation.

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60 See: Case of labour exploitation of Indian workers in Serbia: <https://www.astra.rs/slucaj-radne-eksploatacije-radnika-iz-indije-u-srbiji/> Indian workers and Serbia: cheap labour force, for which not all Serbian laws on labour and employment of foreigners apply: <https://www.bbc.com/serbian/lat/srbija-51401999>

61 <https://pescanik.net/dole-suverenitet-zivela-eksploatacija/>

62 <https://pescanik.net/svi-radnici-su-privremeni-samo-je-naled-tu-na-neodredjeno/>

The majority of migrants transiting Serbia are male (84% in September 2021<sup>63</sup>) traveling alone and lacking means of subsistence. In order to find resources to continue their journey or send money to their families, migrants take up illegal employment with a high risk of exploitation and trafficking. Testimonies of some migrants staying in Belgrade (including unaccompanied minors) reveal that they engage in informal working arrangements, selling goods on the market, working in hairdressing salons, working in catering or construction.<sup>64</sup> Data on inspection of these situations is missing as migrants are reluctant to provide information or seek protection for fear of losing their jobs. They also fear potential immigration sanctions, such as deportation.

There are also indications that some migrants, particularly those staying in Serbia for a longer period of time, have acquired some financial assets by co-operating with criminal groups that primarily deal with smuggling of migrants.<sup>65</sup>

### Migrant workers employed by foreign companies

An increasing number of workers are recruited abroad by foreign companies that employ them in Serbia. Migrant workers employed by a foreign company can be legally sent to work in Serbia with a work visa. The top nationalities receiving work visas were Chinese,<sup>66</sup> Russian, Turkish, and Indian.<sup>67</sup> In 2020 the National Employment Service issued 12,931 work permits for foreign citizens. For example, 2,105 Turkish nationals received temporary residence permits in 2020 for the first time for work reasons.<sup>68</sup>

However, given the increasing demand for workforce in some industries, for example construction, and the visa free regime with some countries, it is likely that the real number of migrant workers, including those engaged in undeclared work, is higher.

Those with a work visa have the same protection under employment law as national workers. However, they are subject to some restrictions as their visas are tied to their employer.

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63 UNHCR, Serbia Snapshot, September 2021.

64 Drašković M. et al. (2019), Challenges in Asylum and Migration System – position of particularly vulnerable categories. Group 484, Belgrade, p. 16.

65 Ibid.

66 <https://balkaninsight.com/2021/01/26/like-prisoners-chinese-workers-in-serbia-complain-of-exploitation/>

67 <https://www.thenewsminute.com/article/indian-migrant-workers-serbia-are-fighting-their-right-get-paid-154204>

68 <https://www.thenewsminute.com/article/indian-migrant-workers-serbia-are-fighting-their-right-get-paid-154204>

The administrative process of issuing (or renewing) residence and/or work permits for foreign workers contains a certain control mechanism that can be used to identify trafficking risks. The National Employment Office reviews documents related to workers' employment (such as contracts concluded between the employer for whom the services are provided and the foreign employer, or proof that the seconded person has been employed by the foreign employer for at least one year). This provides the opportunity to spot risks and undertake further inquiries if there are concerns over possible violations. In some employment sectors, such as those discussed above, a risk of exploitation should be assumed.

Although the employment status of migrant workers working for foreign companies in Serbia is apparently clear, there were reports of violations of their rights<sup>69</sup> and exploitative practices. These included lack of work permits, confiscation of passports or other documents, low wages, failure to pay wages or promises that they would receive payment upon return to their country of origin, and very bad living and sanitary conditions. Some of the situations described by the workers are consistent with ILO's forced labour indicators.

At the time of writing, a potential case of trafficking for the purpose of labour exploitation involving Vietnamese workers has been reported.<sup>70</sup>

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69 Mario Reljanović, Recommendations for prevention of labour exploitation, ASTRA, Belgrade, 2020. Available at: [https://drive.google.com/file/d/1aTIDzIqoPJyduM7xjEfm1b\\_36qWuAzFt/view](https://drive.google.com/file/d/1aTIDzIqoPJyduM7xjEfm1b_36qWuAzFt/view)

70 <https://voice.org.rs/vise-od-750-vijetnacaca-i-kineza-u-industrijskoj-zonizrenjanin-beznade-nevidljivih/>

<https://rs.n1info.com/english/news/a11-astra-serbia-to-react-to-conditions-vietnamese-work-in-chinese-plant/>

<https://rs.n1info.com/english/news/vietnamese-workers-in-chinese-ling-long-factory-in-serbia-worse-than-at-home/>

<https://balkaninsight.com/2021/11/16/access-blocked-to-vietnamese-workers-allegedly-exploited-in-serbia-ngos/#:~:text=Access%20Blocked%20to%20Vietnamese%20Workers%20Allegedly%20Exploited%20in%20Serbia%3A%20NGOs,-Sasa%20Dragojlo&text=Around%20500%20workers%20from%20Vietnam,NGO%2C%20ASTRA%2C%20have%20claimed.>

<https://rs.n1info.com/english/news/serbiasunions-seek-globsl-alert-about-vietnamese-workers-in-chinese-plant/>

<https://www.astra.rs/en/request-for-the-urgent-reaction-of-the-competent-institutions-in-case-of-potential-human-trafficking-for-the-purpose-of-labor-exploitation-of-workers-from-vietnam-engaged-in-the-company-linglong/>

<https://www.a11initiative.org/en/request-for-the-urgent-reaction-of-the-competent-institutions-in-case-of-potential-human-trafficking-for-the-purpose-of-labor-exploitation-of-workers-from-vietnam-engaged-in-the-company-linglong/>

In November 2021, the NGO ASTRA, a journalist from VOICE Zrenjanin and the Initiative for Economic and Social Rights met a group of about 50 Vietnamese construction workers, working on the site of a factory in Zrenjanin (80 km north of Belgrade). The workers were hired by a Chinese company, China Energy Engineering Group Tianjin Electric Power Construction, to work on the construction of a Linglong International Europe car tyre factory.<sup>71</sup>

The workers reported that:

- They were recruited by Vietnamese agencies to work for the Chinese company.
- Some signed a contract with China Energy Engineering Group Tianjin Electric Power Construction Co. Ltd (Belgrade branch) before arrival, and some only once in Serbia.
- The Chinese company Linglong International Europe d.o.o. Zrenjanin hired for the construction of the car tire factory the contractor China Energy Engineering Group Tianjin Electric Power Construction, which recruits workers through a dozen agencies in Vietnam.
- Workers had to hand over their passports to the employer because they were told that this was the practice with foreign nationals. Some were convinced that they had a residence permit and a work permit, but no one could confirm this information with certainty as they were not given any proof.
- Approximately 500 workers were accommodated in barracks in squalid conditions. They slept on bunk beds in overcrowded rooms with only two toilets for all the workers. There was no heating, electricity and proper sewage, and limited access to drinking water.
- None of the workers who signed a contract have been given a start date. They were paid in cash. Work was in 9-hour shifts with one hour for lunch. The employer did not provide personal protection equipment and deducted the costs of it from their salaries.
- Workers were required to work 26 days a month. If for some reason they did not comply, they were not paid for that month. If they were late on a given day, they were not paid for that day.

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71 The findings have been summarized in the report (available in Serbian only): [https://drive.google.com/file/d/18rLUHCTnTmORG3qhVd1gd12hITg\\_QL3e/view](https://drive.google.com/file/d/18rLUHCTnTmORG3qhVd1gd12hITg_QL3e/view)

- The company denied them COVID-19 vaccination. Those who got infected had to pay for a test in a private clinic to which they were referred to by the employer.
- Workers were not provided adequate healthcare for injuries sustained at work and were not paid when off sick.
- Many of the workers wanted to return to Vietnam, but could not do so without their passports or the salary due. Many incurred debts to pay for the cost of the work arrangements in Serbia and feared being deported without the ability to pay those monies back.<sup>72</sup>

The situation described by the workers meets a number of ILO's indicators of forced labour, including deception, withholding of identity documents, abuse of a position of vulnerability, abusive living and working conditions, isolation and debt bondage.

In December 2021, the European Parliament issued a resolution on forced labour in the Linglong Factory noting that: "critics say the government is turning a blind eye to labour and living conditions of workers on major, particularly Chinese, foreign investment projects" and asked the Serbian government to launch an investigation into the allegations.<sup>73</sup>

There have been other similar cases concerning Indian<sup>74</sup> and Turkish<sup>75</sup> workers sent by foreign employers (headquartered outside the EU) to work in Serbia on infrastructure projects and construction. Unpaid wages, exploitative working conditions and lack of protective equipment were again some of the violations reportedly suffered by the workers.

These cases highlight the risks of exploitation faced by migrant workers in a foreign country where they are not aware of their rights and the available systems of support, are dependent on their employers and do not speak the local language. At the same time, they highlight the need to monitor foreign companies operating in Serbia.

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72 [https://www.astra.rs/category/astra\\_vesti/](https://www.astra.rs/category/astra_vesti/)

73 [https://www.europarl.europa.eu/doceo/document/B-9-2021-0609\\_EN.html](https://www.europarl.europa.eu/doceo/document/B-9-2021-0609_EN.html)

74 ASTRA, The case of labour exploitation of workers from India in Serbia. <https://bit.ly/3uYxm6s>. Accessed 09 October 2021.

75 Vučković, B., Turkish workers are announcing lawsuits after working in Serbia, Radio Free Europe, 22 February 2021. <https://bit.ly/3BvhIC6>. Accessed 09 October 2021.

In addition, there are reports about poor working conditions (low wages, excessive working hours, occupational accidents)<sup>76</sup> of Serbian workers in some foreign companies<sup>77</sup> that are subsidised by the government of Serbia.<sup>78</sup> These include companies in sectors such as construction, forestry, the so called 'screwdriver industry',<sup>79</sup> and pollution-intensive industries.<sup>80</sup>

## Minority groups – Roma

In the 2011 census 147,604 people who live in Serbia identified as Roma (75,042 men and 72,562 women), representing 2,1% of the population. However, some organisations working in the field estimate that the actual number is four to six times higher.<sup>81</sup>

The Roma face many barriers that affect their socio-economic situation and contribute to their vulnerability to trafficking. The level of education attainment of the Roma population is low, leading to challenges in obtaining employment. Over a third of Roma (34,2%) have not completed the mandatory elementary education. Only 11,5% of Roma have secondary education and 0,7% have higher and university education. Roma represent the highest proportion amongst

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76 <https://www.serbianmonitor.com/en/aptivs-workers-in-leskovac-plant-voluntarily-forced-to-work-12-hours-a-day/>

<https://resetka.rs/cpe-i-cdr-drzavni-organi-da-najostrije-sankcionisu-krsenje-prava-radnika-u-aptivu/>

<https://www.radnik.rs/2020/05/inspekcija-rada-u-juri-nema-propusta-a-broj-radnika-u-pogonu-nije-nasa-nadleznost/>

<https://www.masina.rs/eng/building-and-wood-workers-international-the-serbian-government-shouldnt-allow-investors-to-behave-like-this/>

<https://www.masina.rs/eng/geox-packs-its-machines-and-leaves-serbia/>

77 <https://www.masina.rs/eng/labour-strikes-serbia-pit-foreign-investment/>

<https://direktno.rs/vesti/drustvo-i-ekonomija/357265/strane-kompanije-ponizavanje-radnika-.html>

78 <https://ras.gov.rs/en/invest-in-serbia/why-serbia/financial-benefits-and-incentives>

79 <https://geographyfieldwork.com/GeographyVocabularyGCSEIndustry.htm>;

<https://www.masina.rs/eng/building-and-wood-workers-international-the-serbian-government-shouldnt-allow-investors-to-behave-like-this/>

80 <https://www.oecd.org/industry/inv/investmentstatisticsandanalysis/2076285.pdf> (page no 5 – Defining Dirty Industries)

81 In support of this thesis is the report on the work of Roma health mediators made by the Ministry of Health, which includes data of 140,408 Roma (45,474 women, 42,339 men and 50,754 children) in the municipalities in which the health mediators were employed.

those without qualifications and with a low level of qualifications registered as unemployed.<sup>82</sup>

Almost every 10<sup>th</sup> house in Roma settlements is a temporary facility, and 4% of them live in unsafe and unhealthy environment. Research carried out at the beginning of the COVID-19 pandemic in 2020 found 159 substandard settlements with over 32,800 persons without access to clean water, and more than 11,800 persons with no or irregular access to it. Over 55% of the inhabitants of Roma settlements have no or irregular access to sewage systems. Only one in 100 inhabitants of the Roma settlement lives up to his/her 60<sup>th</sup> birthday, and the average life expectancy of Roma women is 48 years.<sup>83</sup>

In the absence of official data on average income of Roma, it is estimated that the number living in absolute poverty is increasing.<sup>84</sup> The social inclusion and poverty reduction team's research in July and August 2020 found that Roma families are among the most socially and economically vulnerable groups in Serbia: eight out of 10 interviewees stated that they survived on 100 Euro per month.

The Roma population is young, with the mean average age of 28.3 years, and with 50% under the age of 25.<sup>85</sup> Despite this significant economic potential, 2006 UNDP data showed that almost 70% of Roma between 15 and 49 years of age have never been employed.<sup>86</sup> In September 2019, 25,536 Roma were registered as unemployed, out of whom 49.7% were women.<sup>87</sup> The data from May 2021 indicate that the number of Roma registered as unemployed had increased to 31,327. It is estimated that the real number is much higher as not all unemployed officially register.

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82 Strategy for social inclusion of Roma, Official Gazette of the Republic of Serbia No. 26 of 10 March 2016, available on <http://www.pravno-informacioni-sistem.rs/SlGlasnikPortal/eli/rep/sgrs/vlada/strategija/2016/26/1/reg>

83 <https://www.danas.rs/drustvo/prosecni-zivotni-vek-romkinja-48-godina/komentari/>

84 [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2021/09/Polozaj\\_osetljivih\\_grupa\\_u\\_procesu\\_pristupanja\\_Republike\\_Srbije\\_EU-Polozaj\\_Roma\\_i\\_Romkinja.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2021/09/Polozaj_osetljivih_grupa_u_procesu_pristupanja_Republike_Srbije_EU-Polozaj_Roma_i_Romkinja.pdf)

85 Strategy for Social inclusion of Roma in the Republic of Serbia in the period 2016–2025.

86 UNDP Belgrade, At Risk: Social Vulnerability of Roma, Refugees and Internally Displaced Persons in Serbia, 2006, <https://www.google.com/search?q=pod+rizikom+socijalna+ugrozenost+roma%2C+izbeglica+i+interno+raseljenih+lica+u+srbbiji&oq=pod+rizikom+socijalna+ugrozenost+roma%2C+izbeglica+i+interno+raseljenih+lica+u+srbbiji&aqs=chrome..69i57.14081j0j4&sourceid=chrome&ie=UTF-8>

87 National action plan for employment, 2020. Available at: [http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2020/01/Nacionalni\\_akcioni\\_plan\\_zaposljavanja\\_2020.pdf](http://socijalnoukljucivanje.gov.rs/wp-content/uploads/2020/01/Nacionalni_akcioni_plan_zaposljavanja_2020.pdf)

Most Roma work in the informal sector, with the most common job being collecting of recyclables.<sup>88</sup> It is estimated that the work of Roma accounts for 87% of the materials processed in the recycling industry. According to some estimates 30,000 to 50,000 persons are working as waste pickers, and most of them are of Roma origin.<sup>89</sup> Despite this fact, recycling companies still do not recognise them as workers. The Centre for High Economic Studies (CEBES) estimates that individual waste pickers get 49–60% of the real market value of the materials sold to recyclers and some get a lot less.<sup>90</sup> Beside the financial aspect, all basic rights at work including healthcare, pension and disability insurance have been denied to them.

Discrimination against the Roma in the labour market is commonplace, with 57.9% frequently experiencing discrimination during recruitment and 59.7% at work.<sup>91</sup> The main cause is the unwillingness of employers to employ Roma due to prejudices. Beliefs like “They do not like to work” were expressed by 50% of surveyed employers, while a third thought that with better information sharing and affirmative action it is possible to change attitudes. Despite experiencing unfair treatment at work, most members of the Roma population never seek advice or support. The most common reasons cited are ignorance of protection mechanisms or their rights, as well as fear of being victimised.

### **Risk of debt bondage**

Ipsos Strategic Marketing and OHCHR research, conducted during the summer 2020, found that the majority of the recycling collectors had to stop their activities or put them temporarily on hold during the state of emergency declared as a result of the COVID-19 pandemic. Reduced options, limited movement possibilities due to the curfew, and lower raw material prices significantly decreased their income.<sup>92</sup>

Research by the Office of the Commissioner for the Protection of Equality in October 2019 noted a high degree of discrimination towards

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88 Informal collection of recyclable waste sold by individuals.

89 Statement of the Head of the Centre of the Serbian Chamber of Commerce for Circular Economy, Sinisa Mitrovic, September 2020: [https://www.rtv.rs/sr\\_lat/ekonomija/aktuelno/i-pored-50.000-sakupljaca-sekundarnih-sirovina-srbija-uvozi-otpad\\_1159587.html](https://www.rtv.rs/sr_lat/ekonomija/aktuelno/i-pored-50.000-sakupljaca-sekundarnih-sirovina-srbija-uvozi-otpad_1159587.html)

90 GIZ office in Belgrade, Impact assessment of the application of circular economy: Plastic packaging, Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH, 2019

91 [https://minorityrights.org/wp-content/uploads/2021/03/MRG\\_Rep\\_RomaSerb\\_SE\\_Mar21\\_E.pdf](https://minorityrights.org/wp-content/uploads/2021/03/MRG_Rep_RomaSerb_SE_Mar21_E.pdf)

92 <https://noizz.rs/big-stories/prica-o-romima-iz-beogradskog-naselja/b5ghfd1>



the Roma population in the labour market. All 1,112 respondents (including employers and employees) agreed that the Roma are the most discriminated against group. Perhaps the most concerning finding was that 38% of employees and a third of unemployed believed the discrimination was not subject to any sanctions.<sup>93</sup>

Experience of discrimination at work or during recruitment leads many, especially young, Roma people to look for work opportunities abroad.

According to the European Initiative for Stability (EIS), 85–90% of Serbian asylum seekers in the European Union are of Roma origin. Between 2014 and June 2017, 59,000 Roma applied for asylum in Germany alone. At the same time 7,782 persons of Roma origin were returned by the authorities to Serbia. 87% of returnees were those who declared themselves and cited challenges in accessing employment as one the key reasons for leaving Serbia.

### Links between forced marriage and human trafficking

Marriage of girls, including younger than 15 years of age, is common in the Roma community.<sup>94</sup> While mechanisms to address it exist, they are not consistently applied by the authorities.<sup>95</sup> This leaves Roma girls exposed to the risk of trafficking for the purpose of sexual and labour exploitation under the guise of marriage.

Child marriages can be considered a form of slavery if the brides are subjected to control and a sense of “ownership” in the marriage itself, particularly through abuse and threats. In addition to non-consensual sexual relations this may also bring labour exploitation if the brides are forced to undertake domestic chores within the marital home or to work outside it.

Field data shows that girls are more like to be forced to marry young than boys.

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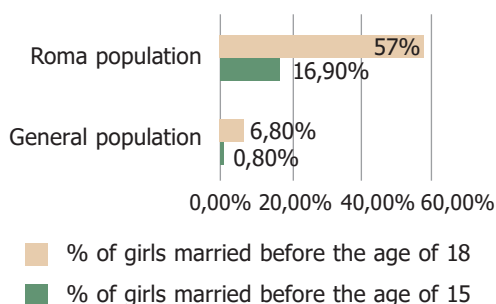
93 <http://ravnopravnost.gov.rs/wp-content/uploads/2020/01/diskriminacija-na-trzistu-rada-FINAL.pdf>

94 Strategy for Social inclusion of Roma in the Republic of Serbia for the period 2016–2025, specific goal 5.

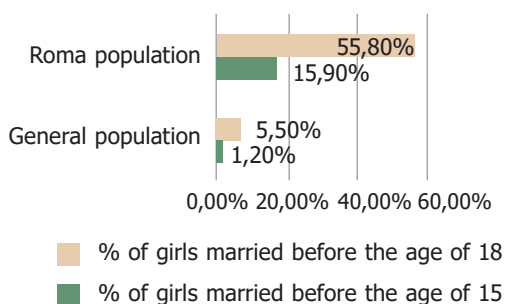
95 Regional report on the application of the UN Convention on elimination of all kinds of discrimination towards women (CEDAW), Roma women Center Bibija, Belgrade, 2019, page 33

[http://www.bibija.org.rs/wp-content/uploads/2021/04/REGIONALNI\\_I\\_ZVESTAJ\\_1\\_compressed-1.pdf](http://www.bibija.org.rs/wp-content/uploads/2021/04/REGIONALNI_I_ZVESTAJ_1_compressed-1.pdf)

### Child marriage 2014



### Child marriage 2019



*Figure 17: Slow improvement in ending the early marriage practices in Serbia according to the Multiple Indicators Cluster Surveys (MICS) UNCIEF realised in 5 years intervals*

According to a 2003 World Bank study undertaken with contributions from the Centre for Economic and Social Studies (CESS), a correlation between human trafficking for the purpose of sexual exploitation and forced marriage has been established.<sup>96</sup>

<sup>96</sup> OSCE ODIHR CPRSI, "Children trafficking in the Roma and Egyptian communities" (2003), [www.osce.org/odihr/documents](http://www.osce.org/odihr/documents)

## IV. Conclusions and proposals for action

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**E**ffective strategies to prevent trafficking for the purpose of labour exploitation require an understanding of the social, economic and structural factors that make individuals and communities vulnerable to trafficking. Such strategies should be built around the needs of vulnerable populations and with their participation. Communities are more likely to respond and engage if programmes have been co-produced with those with direct experience of the issues.

Successful anti-trafficking strategies also require national authorities to collaborate across policy areas and sectors to address structural issues. The structural issues examined in this study include poverty, labour market factors, business models and migration. Furthermore, it is important to consider how these issues intersect with direct experiences of vulnerable populations, such as Roma, young people, and migrant workers.

Many of the risk groups and risk factors discussed in the study are not unique to Serbia. Other countries grapple with challenges linked to the operations of private sector and poor compliance with labour laws. Similarly, the risk of exploitation faced by migrant workers is something that other member states of the Council of Europe have experienced. Therefore, there are good practice examples and learning that can be shared.

Serbia's legislative, policy and institutional framework for combating human trafficking provides a solid basis to build upon. The setting up of the Council for Combating Human Trafficking and the Office for the Coordination of Activities in Combating Trafficking in Human Beings, and the adoption of the Strategy for Prevention and Suppression of Trafficking in Human Beings, Especially Women and Children, and Protection of the Victims (2017–2022) provide solid framework for future action. The awareness raising, outreach and victims support work by NGOs such as ASTRA and Atina also play a key role.

However, recent trends, such as the increased presence of migrant workers in Serbia, migration flows through the country, as well as the impact of COVID-19 pandemic, create new challenges.

Building on the work done so far, and harnessing learning from previous activities, the next generation of programmes to prevent trafficking for the purpose of labour exploitation in Serbia should focus on developing strategies to:

- Prevent trafficking for the purpose of labour exploitation from occurring in the first place through raising awareness and capacity building based on understanding of risks and vulnerabilities to trafficking;
- Reduce the risk of trafficking amongst vulnerable workers and communities through targeted outreach and mitigation of structural factors that lead to these vulnerabilities being exploited;
- Prevent trafficking from reoccurring by closing gaps in policy and practice that have led to trafficking situations, learning from previous cases, paying particular attention to intersecting policy agendas.

## Proposals for action

The following proposals are based on the risk-based analysis made in the study, and complement and expand upon the recommendations made in the 2017 report developed under the HF I project, as well as the recommendations made by ASTRA in 2020.<sup>97</sup>

Some of the actions may require additional resources, others can be implemented using existing resources and through transfer of knowledge and learning from other Council of Europe member states. It is envisaged that these would be mainly implemented by the authorities, agencies and organisations involved in the implementation of the national anti-trafficking strategy. However, it should be recognised that prevention of trafficking is a matter for a broader set of stakeholders working across a range of policies, including the private sector and trade unions, as well as international organisations working in the anti-trafficking field in Serbia.

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97 [https://drive.google.com/filed/1aTIDzlqoPJydum7xjEfm1b\\_36qWuAzFt/view](https://drive.google.com/filed/1aTIDzlqoPJydum7xjEfm1b_36qWuAzFt/view)

## General actions

- The Serbian Government should ratify and implement the 2014 Protocol to the ILO Forced Labour Convention, 1930.
- In partnership with businesses, trade unions and NGOs, the Serbian Government should develop a National Action Plan on Business and Human Rights, reflecting the risk of trafficking for the purpose of labour exploitation in business supply chains and operations.
- The Serbian Government should implement without delay the outstanding parts of the National Action Plan related to prevention of labour exploitation (e.g. section 2.1.1).

## Actions to prevent human trafficking by closing gaps in policy and practice

- The Serbian Government should support the establishment of a shelter for trafficked men and ensure the continuous functioning of the shelter for women.
- The new HELP e-learning module on combating trafficking for the purpose of labour exploitation should be translated into Serbian and rolled out amongst professionals in relevant fields. This would improve knowledge of indicators, strengthen identification procedures and competences in building prosecutions, and improving victims' access to compensation.
- The Serbian Government should continue to strengthen the competences of the labour market actors and increase collaboration with trade unions.

## Actions to reduce the risk of trafficking amongst vulnerable workers and communities

### Roma

- The Council for Combating Human Trafficking and the Office for the Coordination of Activities in Combating Trafficking in Human Beings should work in collaboration with Roma organisations and community leaders to develop prevention activities.
- The Serbian Government should incorporate action to combat human trafficking into the Roma Social Integration Strategy.

Strategies focused on Roma integration can lead to reducing vulnerability if trafficking is considered in their development.

### **Migrant workers**

- The Serbian Government should carry out a thorough investigation into the working conditions of migrant workers employed by foreign companies in Serbia.
- The National Employment Office and the Migration Service Centre should ensure that workers (including migrant workers) are provided with information about their rights and where they can find support, in a language that they can understand. Appropriate channels should be identified to disseminate information to migrant workers about their rights, for example when applying for a work visa or upon arrival to Serbia.
- NGOs should carry out outreach activities to migrant workers and within communities of migrants transiting or seeking asylum, in order to provide information about their rights and where to turn for help, as well as to collect evidence about their situation.
- Relevant ministries, agencies, local authorities and trade unions should work with foreign companies in the organisation of information sessions for migrant workers to raise awareness about their rights and remind employers of their obligations under Serbian law.
- The Serbian Government should ensure that work visas are not tied to a particular employer, but allow workers more autonomy to, for example, change employers within the same sector.
- The Council for Combating Human Trafficking and the Office for the Coordination of Activities in Combating Trafficking in Human Beings should work in collaboration with migrant rights organisations, migrant communities and migrant workers to develop prevention activities.

### **Vulnerable/young workers**

- The Council for Combating Human Trafficking and the Office for the Coordination of Activities in Combating Trafficking in Human Beings should consult and collaborate with vulnerable and young workers when developing prevention activities.
- The Serbian authorities should work with foreign embassies to ensure that Serbian workers emigrating for work are informed about their rights.

- The Ministry of Foreign Affairs should ensure that Serbian embassies abroad are provided with training and resources to assist Serbian victims of trafficking abroad.

### **Business operations and supply chains**

- The Serbian Government should launch a stakeholder consultation with a view to developing a regulation on business and human rights (learning from similar approaches taken by other Council of Europe member states, such as the UK, France, Germany, Norway) and to ensure alignment with the forthcoming EU directive on business and human rights. The consultation should be overseen by a multi-stakeholder working group including business representatives, civil society, trade unions, industry bodies and relevant national authorities.
- The Serbian Government should develop, in partnership with NGOs and the private sector, sector-specific guidance and codes of conduct related to prevention of human trafficking.
- The Serbian Government and the local authorities should run a pilot project on proactive identification of victims of labour law abuses in an at-risk industry, with the participation of NGOs, the private sector and trade unions, identifying measures to strengthen the protection of rights of workers.
- The Serbian Government should engage industry bodies and chambers of commerce to raise awareness amongst their members. This could be achieved through peer learning exercises, inviting industry champions from other countries, or identifying champions within businesses with presence in Serbia.
- The Ministry of Labour should develop campaigns targeting and promoting good employment practices and fair treatment of workers, highlighting sanctions for employers who do not adhere to labour rights.





# ANNEX I. Overview of relevant international instruments

<b>Forced and compulsory labour</b>	
<b>International instrument</b>	<b>Definition/reference</b>
1930 Forced Labour Convention	Article 2(1): Forced or compulsory shall mean 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.
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	Forced labour is not defined but referred to as one of the purposes of exploitation for which people are trafficked. Article 3 (a): Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
2005 Council of Europe Convention on Action against Trafficking in Human Beings	Forced labour is not defined but referred to as one of the purposes of exploitation for which people are trafficked. Article 4(a): Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.
2011 EU Directive on preventing and combating trafficking in human beings and protecting its victims	Forced labour is not defined but referred to as one of the purposes of exploitation for which people are trafficked. Article 2(2): Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.
2014 Protocol to the Forced Labour Convention	Does not define forced or compulsory labour, but reaffirms the 1930 Convention definition. The Protocol covers specific action against trafficking in persons for the purposes of forced or compulsory labour (Article 1.3).

<b>Child labour<sup>98</sup></b>			
<b>International instrument</b>	<b>Definition/reference</b>		
International Labour Organization (ILO)	<p>ILO defines “child labour” as work that deprives children of their childhood, their potential and their dignity, and that is harmful to physical and mental development. It refers to work that:</p> <p>is mentally, physically, socially or morally dangerous and harmful to children;</p> <p>and interferes with their schooling by depriving them of the opportunity to attend school obliging them to leave school prematurely; or requiring them to attempt to combine school attendance with excessively long and heavy work.</p>		
<p>1973 Convention on the minimum age for admission to employment and work, (No. 138)</p> <p>The Convention sets out the principles concerning the minimum age of acceptance for employment or work</p>		<b>The minimum age at which children can start work</b>	<b>Possible exceptions for developing countries</b>
	<b>Hazardous work</b>	<b>18 (16 under strict conditions)</b>	<b>18 (16 under strict conditions)</b>
	<b>Basic minimum age</b>	<b>15</b>	<b>14</b>
	<b>Light work</b>	<b>13–15</b>	<b>12–14</b>

98 Conventions 138 and 182 are fundamental Conventions. This means that even the member States that have not yet ratified these Conventions should respect, promote and realise the principles of these Conventions.

1989 Convention on Rights of the Child	Article 32 specifies “the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.” Does not define child labour; covers the act in the context of economic exploitation.
1999 Worst Forms of Child Labour Convention (No. 182)	Article 3(a) defines worst forms of child labour as “all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict.”
<b>Trafficking in human beings (persons)</b>	
<b>International instrument</b>	<b>Definition/reference</b>
1926 Slavery Convention	The Slavery Convention does not define trafficking in human beings. Article 1(2) covering slave trade can be considered a precursor to the later definition of trafficking. <sup>99</sup> The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.
2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime	Article 3(a) defines “trafficking in persons” as recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

99 Weissbrodt, D., Dottridge M., Abolishing Slavery in its Contemporary Forms. UN OHCHR, 2002, p. 18.

<p>2005 Council of Europe Convention on Action against Trafficking in Human Beings</p>	<p>Article 4 (a): "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.</p>
<p>2011 EU Directive on preventing and combating trafficking in human beings and protecting its victims</p>	<p>Article 2 (1) defines trafficking in human beings as "the recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation".</p>
<p>2014 Protocol to the Forced Labour Convention</p>	<p>Does not define trafficking in human beings. The Protocol covers specific action against trafficking in persons for the purposes of forced or compulsory labour (Article 1.3).</p>
<p><b>Exploitation/exploitative working conditions</b></p>	
<p>2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime</p>	<p>Exploitation is defined as a non-exhaustive list of manifestations of trafficking.</p> <p>Article 3(a) defines "trafficking in persons" as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.</p>

<p>2005 Council of Europe Convention on Action against Trafficking in Human Beings</p>	<p>Exploitation is defined as a non-exhaustive list of manifestations of trafficking.</p> <p>Art. 4 (a): "Trafficking in human beings" shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.</p>
<p>2009 EU Directive providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals</p>	<p>Article 2(i) defines 'particularly exploitative working conditions' as working conditions, including those resulting from gender based or other discrimination, where there is a striking disproportion compared with the terms of employment of legally employed workers which, for example, affects workers' health and safety, and which offends against human dignity.</p>
<p>2011 EU Directive on preventing and combating trafficking in human beings and protecting its victims</p>	<p>Exploitation is defined as a non-exhaustive list of manifestations of trafficking.</p> <p>Article 2(3): Exploitation shall include, as a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, including begging, slavery or practices similar to slavery, servitude, or the exploitation of criminal activities, or the removal of organs.</p>
<p>EU Fundamental Rights Agency 2015 report: Severe labour exploitation: workers moving within or into the European Union. States' obligations and victims' rights p. 10</p>	<p><b>Severe labour exploitation</b></p> <p>The term 'exploitation' denotes work situations that deviate significantly from standard working conditions as defined by legislation or other binding legal regulations, concerning in particular remuneration, working hours, leave entitlements, health and safety standards and decent treatment.</p> <p>The term 'severe' refers to forms of exploitation of workers which are criminal under the legislation of the EU Member State where the exploitation occurs. Hence, severe labour exploitation includes coercive forms of exploitation, such as slavery, servitude, forced or compulsory labour and trafficking (Article 5 of the Fundamental Rights Charter), as well as severe exploitation within the framework of an employment relationship, in particular employment situations covered by Article 9 (1) of the Employer Sanctions Directive.</p>



## ANNEX II. Overview of the “Serbaz” case<sup>100</sup>

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The applicants, 33 nationals of Bosnia and Herzegovina, were recruited and taken to Azerbaijan as foreign construction workers for a construction company, Serbaz Design and Construction LLC (“Serbaz”, a company registered in Azerbaijan). They stayed in Azerbaijan for periods of six months or longer. The applicants alleged, *inter alia*, that during this period they had been victims of forced labour and human trafficking, had worked without contracts and work permits, had their documents taken away and their freedom of movement restricted by their employer, and had not been paid their wages starting from May 2009 and until their departure from Azerbaijan. The civil claim they brought against Serbaz before the Azerbaijani courts following their return to Bosnia and Herzegovina seeking unpaid wages and non-pecuniary damage for alleged “breaches of their rights and freedoms” was unsuccessful. Their appeal and cassation appeal were also dismissed.

Following a criminal investigation into allegations of forced labour and trafficking by Serbaz management and employees, criminal proceedings by the Prosecutor’s Office of Bosnia and Herzegovina were initiated against thirteen nationals of Bosnia and Herzegovina. In the context of these proceedings three legal-assistance requests were made by the Bosnia and Herzegovina authorities to the Azerbaijani authorities, referring to the allegations concerning the situation at Serbaz.

The applicants complained that the respondent State had failed to comply with its procedural obligation to investigate their claims.

### Law – Article 4 § 2

(a) Applicability – The Court found that the totality of the applicants’ arguments and submissions made both before the domestic courts in their civil claim and the Court, constituted an “arguable claim”

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<sup>100</sup> European Court of Human Rights, Case *Zoletic and Others v. Azerbaijan* (Application no. 20116/12).

that they had been subjected to cross-border human trafficking and to forced or compulsory labour on the territory of Azerbaijan by, among others, some alleged perpetrators who had been resident in Azerbaijan. In particular:

First, it transpired from the case file that the period during which the applicants had worked in Azerbaijan had coincided, either fully or at least partially, with the period in respect of which the grievances in general about the situation at Serbaz had been raised, namely May to November 2009. Second, the Court took into account the general description of the working and living conditions provided in the applicants' civil claim as well as the additional material they had had relied on both before the domestic courts and the Court. More specifically they had referred to a report ("ASTRA" report) dated 27 November 2009 prepared by three NGOs from Serbia, Bosnia and Herzegovina and Croatia in cooperation with the Azerbaijan Migration Centre ("AMC"). This report provided a more detailed account of the allegations made concerning the treatment of workers by Serbaz and contained additional information as to the potential situation of forced or compulsory labour and human trafficking. The existence and contents of this report had been sufficiently brought to the attention of the domestic courts. Although an NGO report would not, in itself, have significant evidentiary value without further investigation, given the area of expertise of the NGOs involved, namely assistance to migrant workers and combating human trafficking, the prima facie information provided in it constituted material corroborating the applicants' submissions. Further, there had been other corroborating information regarding workers who had reportedly been in the same or similar situation as the applicants during the same time period which had been referred to by the applicants or otherwise brought to the attention of the domestic courts and other authorities.

The allegations concerning physical and other forms of punishments, retention of documents and restriction of movement explained by threats of possible arrests of the applicants by the local police because of their irregular stay in Azerbaijan had been indicative of possible physical and mental coercion and work extracted under the menace of penalty. The allegations as to non-payment of wages and "fines" in the form of deductions from wages, in conjunction with the absence of work and residence permits, disclosed a potential situation of the applicants' particular vulnerability as irregular migrants without resources. These allegations suggested that even assuming at the time of their recruitment the applicants had offered themselves for work voluntarily and had believed in good faith that they would receive their wages, the situation might have subsequently changed as a result of their employer's conduct. In this connection, the allegations of forced



excessively long work shifts, lack of proper nutrition and medical care, and the general picture of the coercive and intimidating atmosphere within Serbaz was also relevant. The Court considered that all of the above allegations, taken together, amounted to an arguable claim that the applicants had been subjected to work or service which had been exacted from them under the menace of penalty and for which they had not offered themselves voluntarily.

Moreover, the three constituent elements of human trafficking were also present: the fact that the applicants had been recruited in Bosnia and Herzegovina, brought in groups to Azerbaijan by a private company and settled collectively in designated accommodation, which they allegedly could not have left without permission by the employer, could have constituted "recruitment, transportation, transfer, harbouring or receipt of persons" ("action"); the information in the ASTRA Report concerning the circumstances of recruitment disclosed an alleged situation that may have amounted to recruitment by means of deception or fraud ("means"); the conclusion reached as regards the arguability of their claim of "forced or compulsory labour" disclosed also the potential purpose of exploitation in the form of forced labour ("purpose").

(b) Compliance with obligations

(i) Whether an obligation to investigate arose in the present case – The Court found that it did, even though the applicants themselves had not lodged a formal criminal complaint, as it considered that their "arguable claim" had been sufficiently and repeatedly drawn to the attention of the relevant domestic authorities in various ways, such as, complaint letters by the AMC to the law-enforcement authorities and its challenge of the authorities' inactivity before the domestic courts; the applicants' civil claim and the legal-assistance requests. In connection to the latter, the Court noted that in the context of positive obligations under Article 3 of the Convention, which were similar to those under Article 4 of the Convention, sufficiently detailed information contained in an inter-State legal-assistance request concerning alleged grave criminal offences which might have been committed on the territory of the State receiving the request might amount to an "arguable claim" raised before the authorities of that State, triggering its duty to investigate those allegations further.

The Azerbaijani authorities had also been aware of the 2011 report of the European Commission against Racism and Intolerance ("ECRI") on Azerbaijan according to which many employers employing migrant workers in Azerbaijan, including in the construction sector, had had recourse to illegal employment practices and, as a result, migrants employed illegally often found themselves vulnerable to serious forms

of abuse. The findings of this report had been later developed in the 2014 Report of the Group of Experts on Action against Trafficking in Human Beings of the Council of Europe ("GRETA") concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Azerbaijan. This report observed that law-enforcement officials in Azerbaijan reportedly had a tendency to see potential cases of human trafficking for labour exploitation as mere labour disputes between the worker and the employer and there seemed to be a confusion between cases of human trafficking for labour exploitation and disputes concerning salaries and other aspects of working conditions. While far from being conclusive, the general context described in both these reports was relevant in the assessment of the facts of the present case.

In view of all the above, the authorities had been under an obligation to act on their own motion by instituting and conducting an effective investigation.

(ii) Whether there was any effective investigation – The Government had not submitted any information or comments about any investigation conducted by the domestic law-enforcement authorities, failing thus to demonstrate that any effective investigation had taken place into the applicants' allegations. Nor did it follow from the case file, including the documents submitted by the third party, that any such investigation had taken place. Amongst other things, these documents contained no information as to any attempts to identify and question any potential or already-identified alleged victims, including the applicants. In so far as the Anti-Trafficking Department of the Ministry of Internal Affairs had known that many alleged victims had been sent back to Bosnia and Herzegovina and had been informed about the criminal proceedings there, it could have sent a formal legal-assistance request to the authorities of that country under the Mutual Assistance Convention, requesting the latter to identify and question such potential victims and to provide copies of their statements to the Azerbaijani law-enforcement authorities. Furthermore, it had not been demonstrated that any attempts had been made to identify and question any of the allegedly implicated persons who were nationals or residents of Azerbaijan.

The respondent State had thus failed to comply with its procedural obligation to institute and conduct an effective investigation of the applicants' claims concerning the alleged forced labour and human trafficking.

Conclusion: violation of Article 4 § 2 under its procedural limb (unanimously)

Article 41: EUR 5,000 to each of the applicants in respect of non-pecuniary damage; claim in respect of pecuniary damage dismissed.



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