



Labour trafficking in North Macedonia: risk factors, trends and challenges

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe



Labour trafficking in North Macedonia: risk factors, trends and challenges

Council of Europe
September 2022

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe



**ENGLISH EDITION:
LABOUR TRAFFICKING IN NORTH
MACEDONIA:
RISK FACTORS, TRENDS AND CHALLENGES.**

This publication was produced with the financial support of the European Union and the Council of Europe, through the joint action "Preventing and combating trafficking in human beings in North Macedonia".

The views expressed herein can in no way be taken to reflect the official opinion of either party.

The reproduction of extracts (up to 500 words) is authorised, except for commercial purposes as long as the integrity of the text is preserved, the excerpt is not used out of context, does not provide incomplete information or does not otherwise mislead the reader as to the nature, scope or content of the text.

The source text must always be acknowledged as follows
"© Council of Europe, 2022".

All other requests concerning the reproduction/ translation of all or part of the document, should be addressed to the Directorate of Communications, Council of Europe (F-67075 Strasbourg Cedex or publishing@coe.int).

Cover design and layout:
Marketing Agency Division LTD

Cover photo:
Shutterstock

This publication has not been copy-edited to correct typographical and grammatical errors.

© **Council of Europe, September 2022.**
All rights reserved. Licensed to the European Union under conditions

Table of Contents

Acknowledgements	7
List of acronyms	8
I. Introduction	9
II. Country situation of trafficking in human beings for the purpose of labour exploitation – developments since 2017	18
Types of trafficking and exploitation, victim profiles (2017-2021)	19
Gender aspects of human trafficking for the purpose of labour exploitation	20
Prosecutions and convictions	22
Public awareness of human trafficking for labour exploitation	24
III. Risk assessment in the context of trafficking for the purpose of labour exploitation	26
Poverty as a risk factor of trafficking	26
Labour market	26
Employment levels	27
Informal economy	28
COVID-19 impact on labour market	30
Labour shortages	32
Access to the labour market for vulnerable groups - Roma	33
Groups at risk of trafficking for the purpose of labour exploitation	35
Migrant workers	36
Emigration, youth migration and labour migration towards the EU	40
Impact of information and communication technology (ICT)	41

IV. Conclusions and proposals for action	43
Bibliography	48
ANNEX I. Overview of relevant international instruments	50
ANNEX II. Overview of the “Serbaz” case	59

Acknowledgements

The project “Preventing and Combating Trafficking in Human Beings in North Macedonia” is grateful to the following national and international consultants and practitioners who provided valuable input and expertise that greatly supported the preparation of this study.

Goran Ristovski is an independent expert with extensive anti-trafficking experience. He previously worked as Chief Inspector and Head of the Unit for Fight against Human Trafficking in the Ministry of the Interior in North Macedonia.

Irena Zdravkova is a lawyer and Programme Manager in the NGO Macedonian Association of Young Lawyers. She is a member of the anti-trafficking team and provides free legal aid to potential trafficking victims. She has extensive legal knowledge and practical experience on issues related to human trafficking, migration and asylum.

Klara Skrivankova is an international consultant on modern slavery issues and responsible business. She has worked for several civil society organisations such as Anti-Slavery International, La Strada and the Ethical Trading Initiative. She is a facilitator, trainer, and author of numerous publications.

Kjmet Amet is a researcher on Roma inclusion and women’s rights. She is the Programme Manager of the NGO Luludi, which seeks to achieve gender equality and protection of women’s rights.

Lazar Jovevski is Professor at the Faculty of Law of the University St Cyril and Methodius in Skopje. His expertise encompasses labour and social welfare legislation and policies in North Macedonia. He has contributed to ILO and Council of Europe projects.

Marija Risteska is the founder and Executive Director of the think tank Centre for Research and Policy Making. She holds a PhD in Political Science from Cyril and Methodius University in Skopje and Master of Arts in European Public Administration and Public Policy from Katholieke Universiteit Leuven. She is specialised in gender issues.

List of acronyms

CRPM - Centre for Research and Policy Making

ECHR – European Convention on Human Rights

EU – European Union

GRETA – Council of Europe Group of Experts on Action against Trafficking in Human Beings

ILO – International Labour Organisation

ICT - Information and communication technology

SOPs - Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings

UNGPs - UN Guiding Principles on Business and Human Rights

I. Introduction

This study was commissioned in the framework of the project “Preventing and Combating Trafficking in Human Beings in North Macedonia” 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 North Macedonia, further clarify risk factors, and suggest ways to prevent or mitigate them. A first report on trafficking for the purpose of labour exploitation in North Macedonia was published in May 2017.¹ 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 consultants collected data through desk research and by making requests for information to institutions. No primary data was gathered, but information was analysed using triangulation of secondary sources.

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

¹ Klara Skrivankova, Lazar Jovevski, Report on trafficking for the purpose of labour exploitation, 2017; available at: <https://rm.coe.int/report-trafficking-in-human-beings-for-labour-exploitation-in-the-form/168073798f>

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 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 and a Guidance Note on preventing and combatting trafficking in human beings for the purpose of labour exploitation (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 the Guidance note of the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA),

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: 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.”²

GRETA’s Guidance Note further noted 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”.³

² GRETA, Guidance note on preventing and combatting trafficking in human beings for the purpose of labour exploitation (2020), p.4. Available at: <http://rm.coe.int/guidance-note-on-preventing-and-combating-trafficking-in-human-beings-1680a1060c>

³ Ibid., p.4, See Annex I for a list of relevant international treaties.

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,⁴ albeit one that is poorly defined and is not static. At one end lie situations which amount to labour law violations, such as failure to pay a mandated minimum wage, and at the other extreme are situations where the unfair advantage is acute and the resulting harm very severe. 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.”⁵

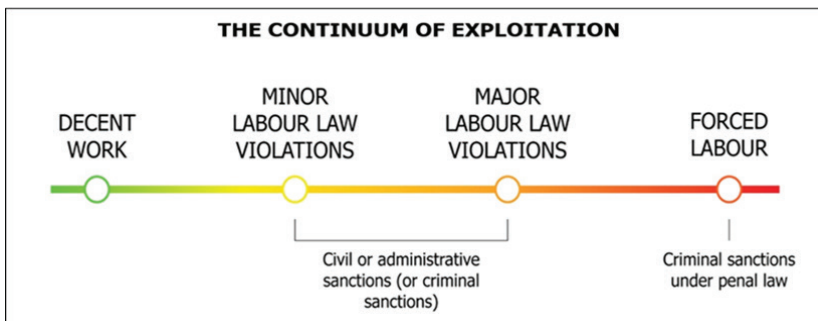


Figure 1: Continuum of exploitation

⁴ Klara Skrivankova, Between decent work and forced labour: examining the continuum of exploitation, Joseph Rowntree Foundation, November 2010.

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

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

Reports by the GRETA show that trafficking for the purpose of labour exploitation has been on the rise across Europe.⁶ 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 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 proactively identify situations of labour exploitation. Differences in interpretation and practical application of labour standards and understanding of labour exploitation pose further challenges.⁷

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 and a Guidance Note on preventing and combatting trafficking in human beings for the purpose of labour exploitation (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.

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

⁶ GRETA, Thematic Chapter on human trafficking for the purpose of labour exploitation in GRETA's 7th General Report, 2017.

⁷ Ibidem.

and a Guidance Note on preventing and combatting trafficking in human beings for the purpose of labour exploitation (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.

The 2017 report prepared under HF I identified four areas that required attention by the North Macedonian authorities:

- Adopt policy framework (revision of National Action Plan and Strategy to include the Labour Inspectorate and the State Employment Agency as actors mandated in anti-trafficking action) following the United Nations Guiding Principles on Business and Human Rights and the Council of Europe Recommendation on Human Rights and Business, and consider adopting further regulation of private employment agencies;
- Ensure that the Labour Inspectorate is included in the Standard Operating Procedures for Treatment of Victims of Trafficking in Human Beings and increase the capacity of the Labour Inspectorate to carry out pro-active investigations to identify and prevent trafficking in identified areas of risk;
- Increase awareness about risks of trafficking for labour exploitation linked to the operation of the labour market and engage trade unions and private sector in anti-trafficking policy development and implementation;
- Launch a pilot project on pro-active identification in an at-risk industry (such as agriculture, textile and shoe and leather production), with participation of NGOs, trade unions, private sector, and cross-agency collaboration.

GRETA's second evaluation report on North Macedonia (2018)⁸ recommended, inter alia, that the national authorities make efforts to prevent and combat human trafficking for the purpose of labour exploitation by:

- Continuing to raise awareness of the risks of human trafficking for the purpose of labour exploitation both

⁸ GRETA, Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by "the former Yugoslav Republic of Macedonia", 2017, available online:

<https://rm.coe.int/greta-2017-39-frg-mkd-en/168078aeba>

- within the country and abroad;
- Training and sensitising relevant officials, in particular labour inspectors, prosecutors and judges, about trafficking for the purpose of labour exploitation and the rights of victims;
 - Expanding the mandate of labour inspectors to cover non-registered businesses and private homes and providing them with resources and guidance so that they can be actively engaged in the prevention of human trafficking;
 - Introducing licensing and monitoring of recruitment and temporary work agencies;
 - engaging with the private sector and trade unions, in line with the Guiding Principles on Business and Human Rights;
 - Increasing efforts to proactively identify victims of trafficking for the purpose of labour exploitation by reinforcing the role and training of labour inspectors, and providing the Labour Inspectorate with the tools and resources required to effectively prevent and combat trafficking;
 - Paying increased attention to detecting potential victims of trafficking among migrants and asylum seekers and securing access to interpretation to facilitate the process.

Under the project “Preventing and Combating Trafficking in Human Beings in North Macedonia”, a number of activities have been implemented since 2017 to address trafficking for the purpose of labour exploitation. The activities have focused on the training of labour inspectors and inclusion of the labour inspectors in the SOPs for the identification of victims of trafficking. Some 90% of labour inspectors in North Macedonia were trained to recognise signs of human trafficking during inspections. However, almost half of them were retired in the past years, which makes it important to ensure that newly recruited labour inspectors receive training on this topic. Other project activities focused on awareness raising among the general public and young people, in particular two campaigns on labour trafficking implemented in cooperation with the NGOs Open Gate and Association of Journalists for Human Rights.

When examining the risk factors that may give rise to labour trafficking, the conduct of private sector actors is one of the factors to consider. 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.”⁹

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.¹⁰ Following the introduction of UNGPs, there has been a move towards requiring companies to undertake human rights due diligence.¹¹ 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

9 European Commission, 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 p.61.

10 Mike Dottridge, Council of Europe 2016, available online: Emerging Good Practice by State Authorities, the Business Community and Civil Society in the Area of Reducing Demand for Human Trafficking for Labour Exploitation

11 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.

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 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.¹² 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.

¹² Draft Recommendation of the Committee of Ministers to member States on preventing and combating trafficking in human beings for the purpose of labour exploitation and Explanatory Memorandum.

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

The socio-political context in North Macedonia 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 North Macedonia in 2022 was 18,000 denars (approximately 294 euro)¹³ which is lower than 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 Population with a housing cost over 50 % of disposable household income in North Macedonia;¹⁴
- In 2017, 84,558 individuals and households were in receipt of social assistance;¹⁵
- North Macedonia poverty rate for 2018 was 17.90%, a 1.6% decline from 2017;¹⁶
- The Commitment to Reducing Inequality Index ranks North Macedonia at the bottom in Europe and 103rd on the list of 163 countries in the world.¹⁷

13 Eurostat data for 2022, available online:

https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Minimum_wage_statistics

14 Eurostat data, updated 2017, available online:

<https://www.helgilibrary.com/indicators/population-with-a-housing-cost-burden-over-50-of-disposable-household-income-owner-no-outstanding-mortgage-or-housing-loan/macedonia>

15 State Office of Statistics, available online: Државен завод за статистика - Соопштенија по области (stat.gov.mk)

16 Available online : North Macedonia Poverty Rate 2009-2022 | MacroTrends

17 Available online: Inequality Index

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

The National Strategy for Combatting Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025)¹⁸ was adopted in April 2021. Between 2017 and 2020, only three out of a total of 24 identified victims of human trafficking were victims of labour exploitation. At the same time, the Strategy notes that the authorities together with NGOs identified 345 persons from vulnerable categories as being at a high risk of trafficking (potential victims). This suggests that the real number of victims trafficked for labour exploitation is likely to be much higher.

Table 1: Victims of trafficking in human beings for the purpose of labour exploitation (2017-2021)

IDENTIFIED	LABOUR EXPLOITATION								
	Female	Male	Adults	Children	Citizens of MKD	Foreigners	Exploited in MKD	Exploited abroad	
2017	/	/	/	/	/	/	/	/	/
2018	/	/	/	/	/	/	/	/	/
2019	1	/	1	/	1	/	1	1	/
2020	1	/	1	1	/	1	/	/	1
2021	41	6	35	40	1	1	40	41	/
Total	43	6	37	41	2	2	41	42	1

Source: National Commission for Combatting Trafficking in Human Beings¹⁹

18 National Strategy for Combatting Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), available online: <http://nacionalnakomisija.gov.mk/wp-content/uploads/2021/10/NACIONALNA-STRATEGIJA-MKD-ALB-ANG-25.10.2021.pdf>

19 Forced begging is not included in the Table.

The two victims identified in 2017-2020 were one adult man and one minor girl; the man was a Macedonian citizen and the girl was a foreign citizen.

The number of identified victims increased in 2021, when the authorities identified 39 victims (35 men and four women) originating from Taiwan in a case of trafficking for labour exploitation involving online criminal activities. Furthermore, two citizens of North Macedonia were also identified as victims of labour trafficking.

The low number of identified cases of labour exploitation indicates that the prevalent focus is still on other forms, such as sexual exploitation. Consequently, exploitation in agricultural seasonal work, or forced begging continue to be unregistered in the official statistics. Forced marriages are also an issue, usually as a combination of sexual and labour exploitation.

Gender aspects of human trafficking for the purpose of labour exploitation

The society in North Macedonia is still predominantly patriarchal. Prevailing gender stereotypes determine behaviours and expectations of society on women to be submissive, humble, care for the family, while men are considered to be the main breadwinners. This can explain why women in most cases become victims of trafficking. They are more likely to be targeted because their expected behaviour makes them easier victims as they fear condemnation by society if they make their situation public.

Table 2: Push and pull factors, grounds for exploitation

	Push factors	Pull factors
	Poverty, unemployment, social insecurity, gender inequality, discrimination, dysfunctional family, conflicts and violence, including domestic violence	Promises of regular employment, better living conditions, but also demand for cheap labour and services.
Grounds for exploitation of women	<p>The expected role of a woman in the society is to be submissive, humble, to take care of the family, while the man provides for the family financially. The obligation to be submissive and humble also includes an expectation to accept various forms of gender-based violence, as a part of her everyday life and as her own fault.</p> <p>The way out from poverty and/or from the violent environment for a woman often means looking for alternative, and often risky, means to provide for herself, usually outside of her local community. This might lead to trafficking for sexual exploitation or forced labour.</p>	
Grounds for exploitation of men	<p>The expected role of a man in the society is to be the head of the family, a decision maker, but also responsible for the financial well-being of the family. The inability to provide sufficient means leads to seeking risky sources for work, which may lead to forced labour or other forms of trafficking.</p>	

The lack of gender sensitivity and understating of gender-based discrimination in the labour means that most “exploitation of victims, is about sexual exploitation, which is most often performed in catering facilities and night clubs in the western part of the country”, according to the National Anti-Trafficking Strategy,²⁰ but without data to support this claim, as cases remain unidentified, and perpetrators are not prosecuted.

Roma women and girls are considered most vulnerable to early and forced marriages as well as trafficking for labour and sexual exploitation. It is important that any anti-trafficking measures take account of the dual disadvantage faced by Roma women – their gender and ethnicity. This makes them more vulnerable to trafficking than non-Roma women.

Prosecutions and convictions

The prosecution does not keep records of cases by type of trafficking. It is therefore difficult to analyse the effectiveness of procedures against perpetrators. According to the data received from the Public Prosecutor’s Office for Organised Crime and Corruption, between January 2018 to 31 October 2021, 10 criminal charges were filed for trafficking in human beings,²¹ which involved 28 people, 15 of whom were indicted. In the same period 10 criminal charges were dropped. The table below shows that in 2020, COVID-19 impacted law enforcement authorities and there is no data on convictions in this period.

20 National Strategy for Combatting Trafficking in Human Beings and Illegal Migration in the Republic of North Macedonia (2021-2025), available online: <http://nacionalnakomisija.gov.mk/wp-content/uploads/2021/10/NACIONALNA-STRATEGIJA-MKD-ALB-ANG-25.10.2021.pdf>

21 Written reply by the Basic Public Prosecutor’s Office for Prosecuting Organised Crime and Corruption of the request for access to public information, 18.11.2021.

Table 3: Prosecuted cases of trafficking in human beings and child trafficking (2017-2021)

Year	Criminal charges	Suspected	Investigation	Indicted persons	Convicted persons	Dropped Criminal Charge
2017	3	3	2	3	2	2
2018	4	13	6	9	3	8
2019	4	10	9	9	7	2
2020	/	/	/	/	12	/
2021	1	3	/	/	1	/
Total	12	29	18	21	25	12

Source: Basic Public Prosecutor's Office for Prosecuting Organised Crime and Corruption, November 2021

Since 2015 there have been no orders closing down a business/hospitality establishment that was used to commit a trafficking offence. Neither has there been any judgment in a case of trafficking for labour exploitation. As regards other forms of exploitation, judgements imposing more than 10 years of imprisonment were passed in 2017- 2018.²² Following an appeal by the Public Prosecutor's Office for Prosecuting Organized Crime and Corruption, the defendants were sentenced to 17 and 14 years in prison, respectively.²³ In 2021, two judgments were passed, one imposing a 12-year sentence of imprisonment while the other one was an acquittal.²⁴

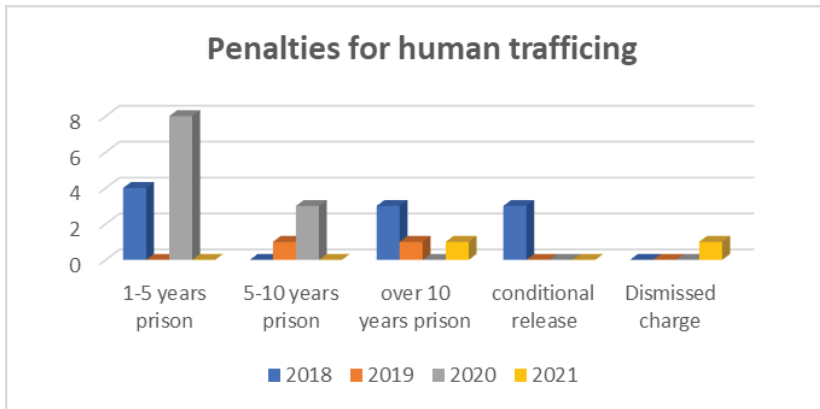
²² In 2018, a judgment was passed where the highest prison sentence ever was imposed for the crime of child trafficking.

²³ Lazetik and Zdravkova, The rights of the victims of human trafficking during the court proceedings, 2020 available at:

<https://rm.coe.int/hf29-research-thb-mkd/16809f035d>

²⁴ Information obtained by the Basic Criminal Court Skopje for period 01.01.2018-31.10.2021

Figure 2: Convictions and penalties for human trafficking (2017-2021)



Source: Basic Criminal Court Skopje for period 01.01.2018-31.10.2021 based on freedom of access to information request, November 2021

Public awareness of human trafficking for labour exploitation

Various awareness-raising activities have been undertaken, targeting particularly vulnerable groups, such as migrant and seasonal workers, Roma and persons considering employment abroad.

To increase awareness about the vulnerability of seasonal workers to labour exploitation, five information videos in three languages (Macedonian, Albanian and Romani) were produced and distributed in the media.²⁵ Information materials on the rights of victims of human trafficking were produced in Macedonian, Albanian, Turkish and Romani languages.

The Roma Women and Youth Association "LULUDI" conducted an awareness-raising campaign in five towns, focused on Roma girls and produced in Macedonian and Roma languages²⁶

²⁵ Campaign for seasonal work: <https://www.youtube.com/channel/UCtubQoGuPkk1PgMzEunZ9UQ>, <https://kazistop.mk/>

²⁶ Campaign for Roma <https://bit.ly/3rb7bd9> , <https://bit.ly/3DOI1nK>

In addition to awareness-raising activities, several capacity building efforts were undertaken: (i) production of a Manual for seasonal workers with information on how to recognize and report labour exploitation²⁷; (ii) a Pocket Guide for Identifying Victims of Trafficking that has been prepared and delivered to labour inspectors²⁸; (iii) basic and advanced trainings to identify and refer potential victims of trafficking²⁹ were delivered to labour inspectors; (iv) trainings for mobile teams that resumed active work in 2021.

Poverty, unemployment, low educational level, migration, and lack of personal documents make Roma population in the Republic of North Macedonia most vulnerable to trafficking. Therefore, awareness needs to be specifically raised about exploitation of Roma. Awareness campaigns especially need to be targeting Roma youth. A survey conducted by the NGO "Luludi" showed that 75.19 % of the respondents' high school children need a detailed explanation of the forms of trafficking for labour exploitation, coercion for committing crimes and forced begging.³⁰ What is more, significant number of young people do not perceive forced labour to repay a debt or a loan as a form of trafficking in human beings for purpose of labour exploitation. This indicates that debt bondage may be an issue within the community, but may not be identified as a form of trafficking.

Therefore, additional efforts are needed in the area of prevention to build capacities how to recognize trafficking for labour exploitation and what are the available protection mechanisms.

27 Manual for seasonal work available online:

<https://kazistop.mk/wp-content/uploads/2021/04/MZMP-Priracnik-za-sezonski-rabotnici-vnatre-korici-za-web.pdf>

28 Pocket guide for labour inspectors, available online <https://rm.coe.int/skopje-pocket-guide-for-detection-and-preliminary-identification-of-vi/1680786ae3>

29 The trainings are part of the Horizontal Facility project for the Western Balkans and Turkey, through the project Prevention and Fight against Trafficking in Human Beings

30 Analysis of the research findings concerning the perceptions and understanding of trafficking in human beings among secondary school students, May 2021, available online: <https://bit.ly/30OoZzC>

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

Poverty as a risk factor of trafficking

Understanding how poverty is one of the root causes of human trafficking for the purpose of labour exploitation is important for creating policies and designing prevention strategies. Vulnerable groups are more at risk of accessing precarious jobs, which can lead to situations of forced labour and labour exploitation.

Labour market

The Macedonian labour market has been characterized by high rates of long-term unemployment, going back to the transition process after independence,³¹ and high inactivity among women. The aging population also weighs down the economy and projections are that the working age (15-64) population will drop by 10.2 percentage points in 2050 compared to 2015.³² This means that employers may need to increasingly rely on migrant workers.

Positively, recent labour market indicators show a decline in the unemployment rate among women and young people, notwithstanding the effects of the COVID-19 pandemic. In 2020, the share of young people (15-24) who were neither in employment nor in education and training had fallen to 19.4 % for males and 19.8 % for females, which is a significant drop compared to figures close to 25 % in 2011; nevertheless, the current rate is still almost twice the EU average.³³

31 National Bank of the Republic of Macedonia, 2017. Developments in major labour market indicators and active labour market measures in dealing with unemployment.

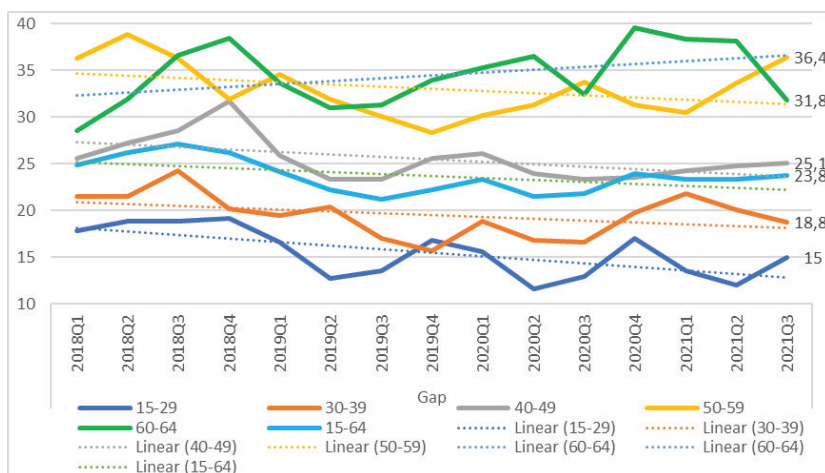
32 ILO, Decent work country Programme 2019–2022.

33 Eurostat, 2020. Young people neither in employment nor in education and training by sex, age and labour status (NEET rates).

Employment levels

Labour force participation, measured as a percentage of the labour force of the working age population, is showing signs of a slow improvement, even though the high inactivity rate of women remains a concern. In the working age population, men participated with 77.4 % in their target group, while women with 53.6 % in their target group in the third quarter of 2021.³⁴ The gender gap in labour participation is present across all age groups and is among the highest in the European Union.³⁵

Figure 3. Labour force participation, gender gap



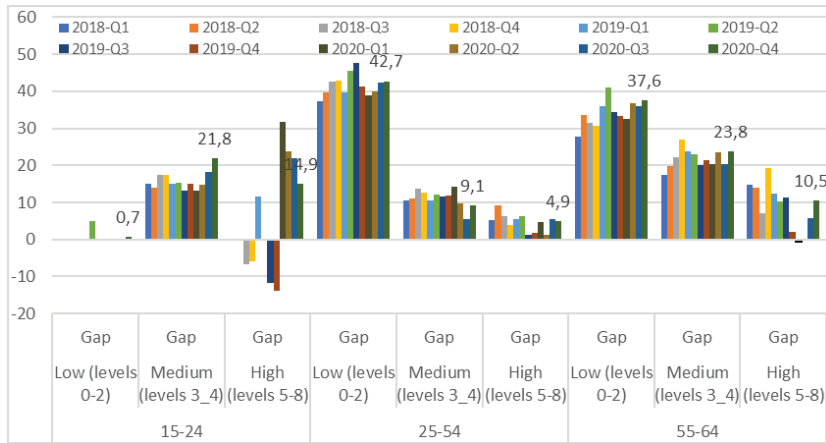
Source: Authors' own calculations based on data from the State Statistical Office and Eurostat, 2021

The employment rate is calculated as the percentage share of employed people to the working age population. This indicator also shows a slow improvement, but still significantly lags behind the EU average, especially among women.

34 State Statistical Office, 2021, Women and Men in North Macedonia.

35 Eurostat 2020, available on-line : https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Enlargement_countries_-_labour_market_statistics

Figure 4. Employment rates gap by educational attainment and age



Source: Authors' own calculations based on data from Eurostat (Eurostat database, 2022)

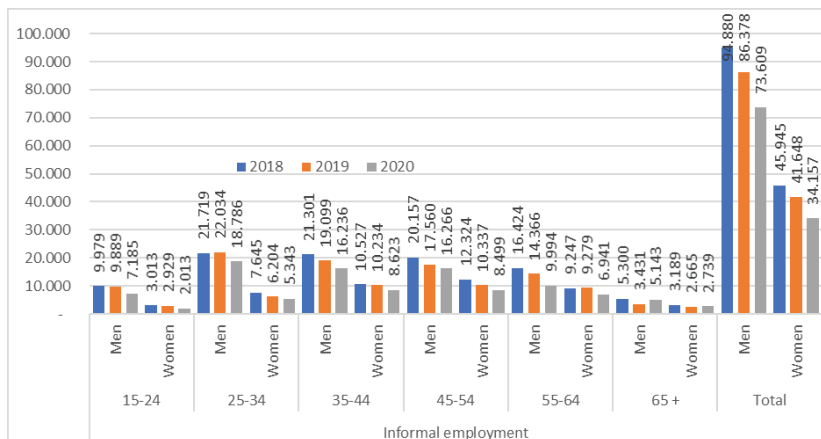
When controlled for age, the employment rate gap varies across sub-groups of educational attainment. In the age groups of 25-54 and 55-64 the employment rate gap is highest among those with low levels of education, and the lowest among those with higher levels of education. Comparing to these age groups, the employment rate among young people (15- 24) shows different movements. The gap is high for those with medium levels of educational attainment.

Informal economy

Informal workers are known to be at a higher risk of exploitation. It is therefore important to monitoring and analyse data relating to informal working.

Figure 5 shows that the number of informal workers has been declining for both men and women. Thus, compared to 2018 these figures have fallen by 21,271 or 22.42 % for men and 11,788 or 25.66% for women for the whole working age population (15+).

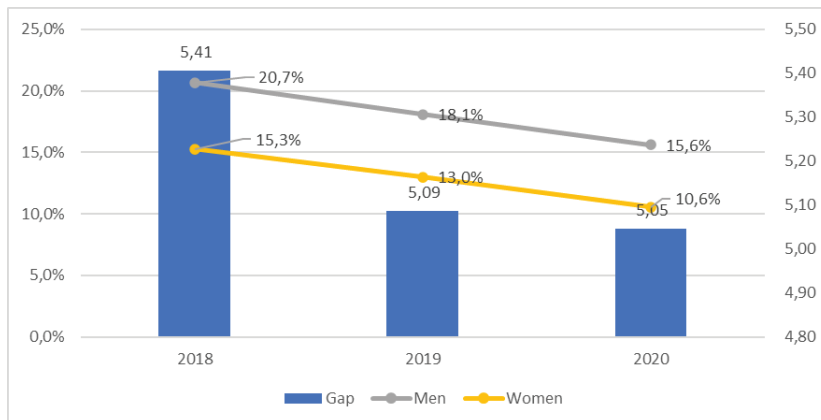
Figure 5. Informality (15+) by gender



Source: Informal employees by age and sex, (State Statistical Office, 2021)

The percentage share of informal employment to total employment for all working age population (15+) is showing a downward trend in the period 2018-2020, both for women and men.

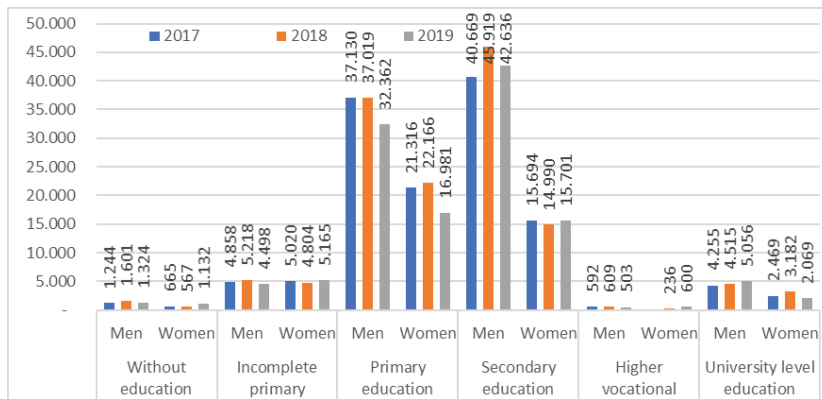
Figure 6. Share of total informal employment 15+ years old



Source: Editor's own calculations based on informal employees by sex data, (State Statistical Office, 2021)

Figure 7 presents the number of people who work in the informal sector disaggregated by gender and educational attainment. The majority of both men and women engaged in informal employment have primary and secondary educational backgrounds. The numbers are stable across years for both men and women, but there are some notable changes at both ends of the educational scale. Namely, the number of informal female workers without education almost doubled in 2019 over 2018. On the other spectrum, the number of men with university education who work informally rose by 12 % in 2019 over 2018, while in the same period the number of female informal workers with university education decreased by 35 %.

Figure 7. Informality by education (2017-2019)



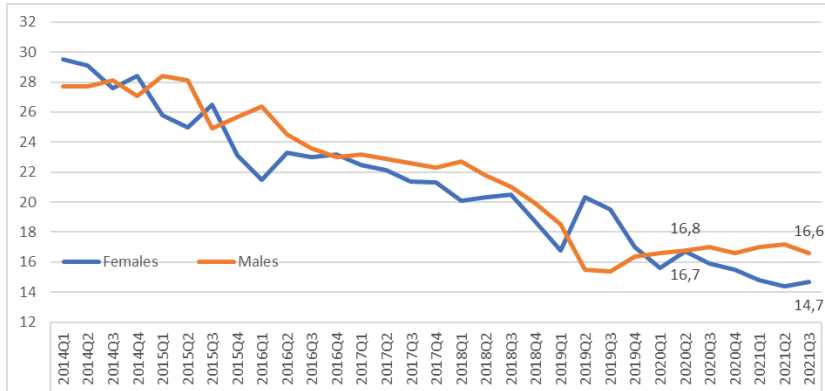
Source: Informal employment by educational attainment and sex, (State Statistical Office, 2019 and 2021)

COVID-19 impact on labour market

The unemployment rate has continued to decline during the COVID-19 pandemic. After the second quarter of 2020, the rate continued to decline for women and did not increase for men. However, this is partly due to the shift of women to the service sector and the decline in women’s participation in the labour market.³⁶ Thus, women’s unemployment rate reached a record low level in the third quarter of 2021 at 14.7%, while men’s rate stagnated at 16.6%.

³⁶ World Bank, 2021, Greening the Recovery, Western Balkans no. 20, available online: Western Balkans Regular Economic Report, No. 20, Fall 2021 : Greening the Recovery (worldbank.org)

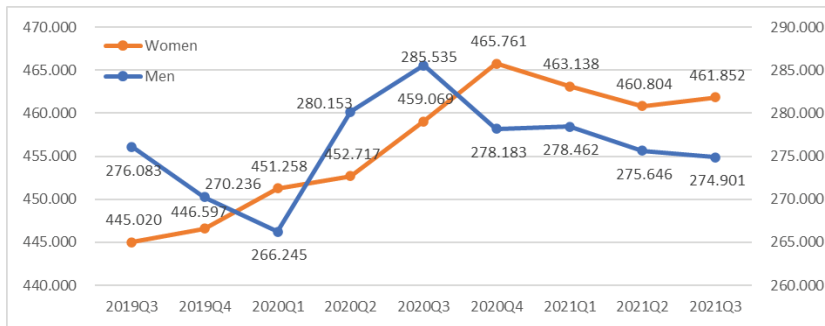
Figure 8. Unemployment rate by sex



Source: State Statistical Office, 2021

After the crisis related to the COVID-19 pandemic hit, both men and women have left the labour market in higher numbers: in the third quarter of, the State Statistical Office registered 3.25% more men who left the labour market compared to the first quarter of 2020, while this change is 2.35% for women. In absolute numbers this translates to total of 19,250 people who gave up searching for job (10,594 women and 8,656 men).

Figure 9. Inactive population, absolute values



Source: State Statistical Office, 2021

The COVID-19 pandemic impacted mainly low-paid workers, workers in the informal economy, paid domestic workers and unpaid family workers. The cross-analysis of precarious work “suggests that the total loss of jobs during the pandemic of about 7.500 at the annual level has been predominantly among low-pay workers, of whom a large share are paid domestic workers and informal workers.”³⁷

The pandemic has affected jobs differently for men and women. Thus, between the fourth quarter of 2020 and the first quarter of 2021, most of the job losses of women were in the sectors of accommodation and catering (5,500), followed by manufacturing (4,100), agriculture (3,800) and commerce (3,500) trade. Men lost most employment positions in the sectors of travel agencies (3,600), mining (3,200) and agriculture (2,800).

The minimum net wage was increased from 12,000 denars (approximately 196 euro) in 2017, to 15,194 denars (approximately 236 euro) in 2021, and to 18,000 denars (approximately 294 euro)³⁸ in 2022.

Labour shortages

The labour market fluctuations in the period 2017 – 2020 are largely due to the labour outflow to the EU and education policy that does not meet market needs. The COVID-19 pandemic reduced the intensity of labour outflows. In some sectors, despite the high unemployment rate, there is a shortage of workers. The construction sector has been experiencing a long-term shortage of workers, and there is a practice of hiring migrant workers from Albania and Turkey. The Centre for Research and Policy Making (CRPM) study on seasonal workers in agriculture found that employers in the agricultural sector also face serious labour

37 Finance Think, Open Society Foundation, Policy Study No. 36, THE EFFECT OF COVID-19 ON PRECARIOUS WORKERS IN NORTH MACEDONIA, Tracking low-pay workers, unpaid family workers, paid domestic workers, workers with atypical working contracts and informal workers, 2021, p. 59.

38 Eurostat data for 2022, available online: https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Minimum_wage_statistics

shortages.³⁹ The COVID-19 pandemic significantly affected the availability of medical staff in hospitals, primarily due to their departure to EU countries, United Kingdom, and Switzerland. Other shortage occupations include welders, locksmiths, waiters, machine operators, and occupations in the field of information and technology.⁴⁰

Where labour shortages are filled by migrant workers, it is important that labour market and labour migration policies include safeguards against exploitation.

Access to the labour market for vulnerable groups - Roma

In North Macedonia, the unemployment rate of people from the Roma communities is 33%, compared to 16% of non-Roma.⁴¹ Data from the Employment Agency of the Republic of North Macedonia shows that as of October 2021, a total of 134,219 unemployed persons were registered in the country, 13,644 of whom were Roma (approximately 10% of the total number of unemployed persons).⁴² However, this number is probably higher, given that a number of Roma persons are unregistered at birth and do not have personal documents. In April 2021 there were 659 persons without a birth certificate, 60% of whom are children, mostly Roma (428).⁴³

39 CRPM Policy study 39: From shadow to visible seasonal worker in agriculture: reasons, challenges and models for formalization of seasonal labour in agricultural sector, 2020, available online:

http://www.crpm.org.mk/wp-content/uploads/2020/11/CRPM_od_senka_vo_vidliv_sezonski_rabotnik_final-eng-cikp.pdf

40 The labour force shortage data by professions have been collected based on the job post announcements published in the last four years by the Employment Service Agency of North Macedonia.

41 State Statistical Office, MAKStat Database, 2021.

42 Employment Service Agency, Employment Statistics, Skopje: Employment Agency of the Republic of North Macedonia, 2021. available online:

<https://av.gov.mk/pregled-na-evidentirani-nevraboteni-lica.nspix>

43 Ombudsman of North Macedonia, available online: <https://bit.ly/3nzFokd>

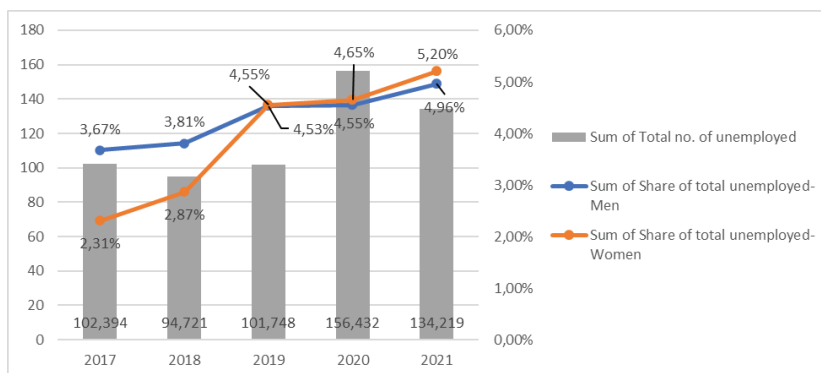
Table 4: Registered unemployed among Roma by sex 2017-2021

Overview of registered unemployed persons		31.10.2021	31.12.2020	31.12.2019	31.12.2018	31.12.2017
Roma	all	13,644	14,396	9,239	6,321	6,127
	women	6,986	7,280	4,632	2,715	2,366
Total no. of unemployed		134,219	156,432	101,748	94,721	102,394

Source: Employment Service Agency

Roma find it hard to access the labour market despite the state supported measures specifically targeting them. The main barrier to employment is low education compounded by discrimination. The employment rate for the Roma is 22 %, whereas that of non-Roma is double. In 2017 only 1% of the total number of users of measures for employment were Roma (self-employment, support for new work positions, and work engagement). Although there is an increase in Roma who benefit from employment measures, their number is 10 times less in comparison to other ethnicities.

Figure 10: Roma women and men as share of total unemployed (2017-2021)



Source: Employment Service Agency

Groups at risk of trafficking for the purpose of labour exploitation

Certain groups of the population are at a greater risk, as the vulnerability to exploitation and trafficking is determined by a combination of factors, most of which are structural and related to social, economic, labour and immigration policies. Personal vulnerability is exacerbated when people are isolated - either physically or socially - and do not organise or advocate collectively. Migrant workers, asylum seekers, disadvantaged ethnic minorities and young people are particularly vulnerable to trafficking for labour exploitation.

Specific factors lead to increased vulnerability:

- *Persons with insecure migration status* who are accommodated in reception centres are particularly vulnerable, as well as asylum seekers who still do not have regulated status. Asylum seekers from the Kosovo*⁴⁴ refugee crises in 1999 whose status has not yet been regulated following the break-up of Yugoslavia, and who do not have access to education, health care, and bank accounts, are also them very vulnerable.⁴⁵
- *Migrant workers* are increasingly needed to fill labour shortages in the country. However, without language, knowledge of their rights, lack of social networks and often precarious status, these workers are at an increased risk of labour exploitation.

Macedonian citizens migrating for work abroad who have unregulated status in the destination countries or in some cases, work in violation of the regulations, are particularly vulnerable.

44 *This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

45 Estimated at 343 persons they remain in a precarious situation, with uncertain status. Except for a limited number (16) of recognised refugees, the rest have either subsidiary protection (198) or no status (129) at all.

The vulnerability of the Roma community to exploitation and trafficking in human beings stems from a number of interrelated factors.⁴⁶ It is estimated that 80% of the children working or living on the street are from the Roma community.⁴⁷ The day centres for street children have not decreased the number of children that are forced to beg, suggesting that these programmes are insufficient to combat child labour.⁴⁸ The main policy document⁴⁹ was in force until 2015 and there is no information on any renewed efforts.

- Numerous unaccompanied children are still identified in the country, and they are vulnerable to trafficking.
- Children and young people who have been in conflict with the law, have a history of running from home, do not have a social support network, and have low self-esteem or physical or mental disability, are also vulnerable.

Migrant workers

North Macedonia is mainly a transit country for migrants and refugees. Many continue to pass through the territory or stay for a while, waiting for the next opportunity to move further to the EU. Only a small number apply for asylum. The migration goes in two directions: (i) from Greece to Western Europe, and (ii) smaller number of migrants who failed to reach the EU from Serbia and other Balkan countries return to Greece through the territory of North Macedonia. Exact numbers are not available as many migrants are not registered. Adequate protection and access to the asylum procedure of vulnerable groups is still a challenge especially for unaccompanied children.

46 Franet National contribution to the Fundamental Rights Report 2020, available online: https://fra.europa.eu/sites/default/files/fra_uploads/north-macedonia-frr2020_en.pdf

47 According to a survey by the Ombudsman Office published in 2018, a total of 337 child beggars were registered on the street, only nine of whom were not of Roma ethnicity.

48 2020 Findings on the Worst Forms of Child Labour: North Macedonia, https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/North-Macedonia.pdf

49 Action Plan for Children in the Street Situations (2013-2015).

In the period 2017-2021 the number of migrants increased, and in 2019 a record number of asylum applications was registered. The vast majority of applications are made by men. In 2021, there was a 57% decrease in new arrivals compared to 2020. In 2021, 10% (119) of applications were submitted by women (18+) and 17% (198) by children, including 37 unaccompanied and separated children.⁵⁰

Table 5: Number of migrants and asylum seekers (2017-2021) by sex and category of migrant children

Year	Total number of new migrants' arrivals	Number of asylum seekers	Male asylum seekers	Children asylum seekers	Unaccompanied children asylum seekers
2017 ⁵¹	17,000	162	145	28	13
2018 ⁵²	32,500	297	211	78	41
2019 ⁵³	40,887	505	465	132	94
2020 ⁵⁴	41,257	187	157	30	19
2021 ⁵⁵	17,644	95	62	23	14

Source: RBE and MYLA, 2018-2021

The countries of origin of the migrants and refugees transiting through North Macedonia include Pakistan, Iraq, Afghanistan, Turkey, and Congo. At the end of 2021 a new trend was observed, with the number of migrants from Afghanistan and Syria increasing.⁵⁶

50 RBE - Western Balkans - Asylum Statistics - Summary of key trends observed as of 1 October 2021.

51 MYLA data base,; <https://myla.org.mk/wp-content/uploads/2020/01/2017-CSOs-Report-on-Irregular-Migration-for-South-Eastern-Europe.pdf>

52 MYLA report, <https://myla.org.mk/wp-content/uploads/2020/11/Sostojba-so-azil-RSM-2018-2019.pdf>

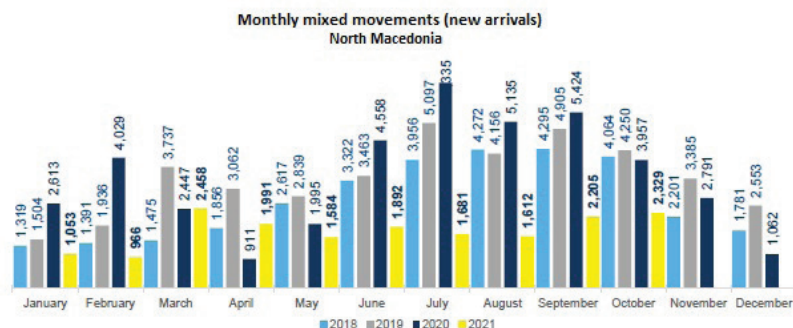
53 Ibid.

54 Western Balkans - Refugees, asylum-seekers and other people in mixed movements, as of end October 2021.

55 RBE - Western Balkans - Asylum Statistics - Summary of key trends observed as of 1 October 2021.

56 Western Balkans - Refugees, asylum-seekers and other people in mixed movements, as of end October 2021, page 2 for North Macedonia.

Figure 11: Monthly migration flows (2018-2021)



Source: RBE - Western Balkans - Asylum Statistics - Summary of key trends observed as of 1 October 2021

The National Strategy for Combating Trafficking in Human Beings identifies bars and restaurants in the Western part of the country as the most common location for exploiting victims. Although there are police raids and controls, none of them have so far resulted in convictions for labour exploitation, but only in misdemeanour proceedings against the migrant women working illegally as singers, dancers or waitresses, and with their deportation and a ban on entering the country. No criminal charges were filed against owners of the bars and restaurants for involvement in human trafficking and labour exploitation.

Table 6: Police raids and foreign citizens detected (2017-2020)

Year	Number of police raids	Number of bars / restaurants	Foreign citizens detected	Macedonian citizens detected
2017	28	16	119	67
2018	/	/	/	/
2019	45	68	204	/
2020	24	/	124	/

Source: Ministry of the Interior

The number of irregular migrant workers in the construction sector has also been on the increase according to the police and the labour inspection. Due to labour shortages in the sector, foreign construction companies are bringing workers from

Turkey, Albania, and Kosovo*.⁵⁷ In January 2022, a case of 97 foreign construction workers working for a Turkish company was reported.⁵⁸ They were arrested for working illegally and the police indicated that criminal charges would be brought against the company and its subcontractors.

Furthermore, labour inspections have found migrants from Syria, Pakistan, Iran, Bangladesh, and Morocco who were engaging in informal work while transiting through the country. None of the cases resulted in convictions for labour exploitation, but in misdemeanour proceedings against the foreign nationals, fines, and deportation.

It appears that the focus is on the status of the workers in the country, rather than the conditions of their employment and recruitment. It would be important to ensure that any case of an irregular worker is approached as a possible trafficking situation, and workers should have the opportunity to describe to an independent third party how they came to the country and what their conditions of employment were.

Table 7: Number of foreign nationals working irregularly in construction

Year	Number of detected foreign nationals working irregularly in construction
2018 ⁵⁹	61
2019 ⁶⁰	94
2020 ⁶¹	91
2021 ⁶²	97

57 *This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

58 <https://civilmedia.mk/politsijata-privede-rechisi-100-stranski-rabotnitsi-na-gradilishte-vo-skopje/>

59 <https://netpress.com.mk/stranski-gradezhni-kompanii-nosat-rabotnici-od-albani-a-i-od-kosovo-da-rabotat-na-crno/>

60 Ibid.

61 <https://bit.ly/3r1Szw9>

62 <https://sdk.mk/index.php/makedonija/od-97-te-ilegalni-zidari-privedeni-na-gradilishteto-na-limak-94-bile-od-turtsija-trojtsa-od-albanija-sudot-pochna-da-gi-proteruva/>

Another trend is observed among undocumented Roma (mainly Macedonian, but also some coming from Kosovo*⁶³ and Albania) who are engaged as seasonal workers in agriculture. A recent study showed that in the cities of Vinica and Kočani, 40% of the Roma residents are unemployed and regularly engage in seasonal work. 48% of Roma children who are seasonal workers do not attend school at all, and the remaining 52% irregularly attend school in May, June, September and October.⁶⁴

Emigration, youth migration and labour migration towards the EU

Emigration has been a tradition in North Macedonia, but some changes can be observed. While in the last century people were emigrating due to socio-economic reasons (mostly economically deprived and less educated persons), in the 21st century it is the young, well-educated, and financially secured citizens who are looking for political stability and better quality of life in developed countries. Almost 30% of people with higher education live and work abroad, and almost 80% of the students in the final years of their studies at the technical faculties are considering or planning to leave the country⁶⁵. This creates pressure on the labour market as the number of active job seekers aged is decreasing. The 2019 and 2020 labour force data indicate that the number of people aged 15 to 24 decreased by 5,387, and those aged 25 to 49 by 12,402.

According to the State Statistical Office in the period 2017-2020, 2,681 citizens of North Macedonia emigrated (mostly to EU countries, as well as to Switzerland, USA, Canada, and Australia), the majority of them with secondary education (55%).⁶⁶

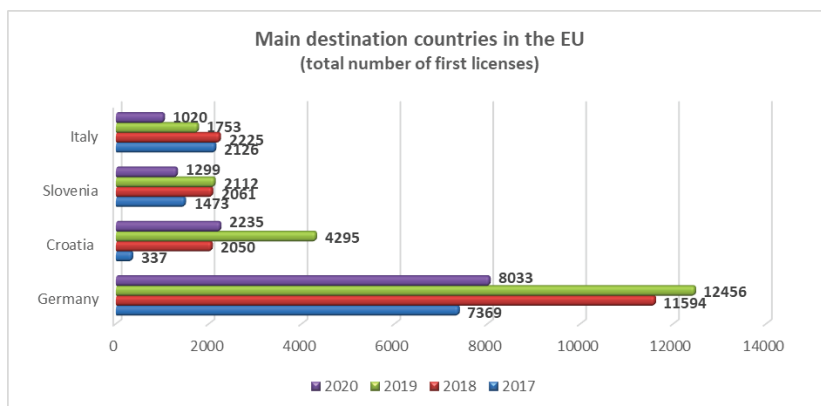
63 *This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

64 Association Initiative of Unemployed Intellectuals, Analysis of the conducted research on the reasons for the absence from the educational process of Roma students from Vinica and Kocani due to seasonal work, 2019.

65 National Strategy for Networking, Cooperation and Reduction of Outflow of highly educated and professional staff (2013-2020).

66 http://makstat.stat.gov.mk/PXWeb/pxweb/mk/MakStat/MakStat_Naselenie_NadvoresniMigraciji/176_Migraciji_drzavi_VkDosOts_mk.px/?rxid=e1061203-a84f-4559-92af-4098566d7d2f

Figure 12: Outward migration, countries of destination (2017-2021)



Source: State Statistical Office, 2021

According to Eurostat data on residence permits, 84,291 citizens of North Macedonia received residence permits in 2017-2020, of which 35% for work purposes.

According to Eurostat data, a total of 3,805 citizens of North Macedonia were returned from the EU was in 2017-2020; 1,670 of those were non-voluntary returnees in accordance with the readmission agreements and 2,060 returned voluntarily.⁶⁷

Impact of information and communication technology (ICT)

As trafficking is often organised online, the use of encrypted communication channels and social media platforms create more challenges for prevention and combating trafficking in human beings for the purpose of labour exploitation. This is especially problematic as all recent trafficking operations have online components. However, law enforcement agencies are less agile when it comes to monitoring technological developments and responding promptly. At the same time, social media and social networking channels can be used to reach vulnerable groups with information about their rights and access to support and advice.

⁶⁷ https://ec.europa.eu/eurostat/databrowser/view/MIGR_EIRT_VOL_custom_1713238/default/table?lang=en

The recruitment of trafficking victims is increasingly done via the internet through seemingly attractive announcements for employment, travel, marriage with foreigners, or dating websites. Most of the victims are aged 13-17, with the majority of the victims (reportedly up to 90%) belonging to the Roma community.⁶⁸ The socio-economic situation in the aftermath of the COVID-19 crisis, and the lack of information about the indicators of trafficking are factors making the Roma vulnerable to trafficking

The risks of labour exploitation of migrants increase as smugglers are making use of the migrants' vulnerability and their apparent willingness to accept any kind of job opportunity to earn some income. More and more digital solutions are used in the process. The payment methods have also changed and transferred to cryptocurrencies, which resulted with educated persons and persons with high-tech skills being involved in the trafficking for the purpose of labour exploitation. The online work is in particular precarious depriving employees from access to health and pension insurance, as well as contributing to tax evasion.

68 Public awareness campaign of Open Gate/La Strada "Opportunity or Exploitation"
Можност или Експлоатација - Ла Страда (lastrada.org.mk).

IV. Conclusions and proposals for action

The number of cases of trafficking in human beings for the purpose of labour exploitation in North Macedonia is rather low, except for 2021 when 39 foreign nationals were detected in a case of trafficking for the purpose of labour exploitation through online scam.⁶⁹ The Strategy for Combating Trafficking in Human Beings notes that the number of identified victims of trafficking for labour exploitation is “insignificant and limits the ability for identification of the risk sectors and risk groups”.⁷⁰ On the other hand, the number of potential victims is significantly higher; however, no data is available on their nationality, type of exploitation and other characteristics. The reasons for the difference between the low number of formally identified victims and the considerably higher number of potential victims are multiple and are related to institutional weakness and lack of resources. Victim statements are key pieces of evidence in cases of human trafficking for the purpose of labour exploitation. Law enforcement bodies lack technical, human and institutional capacities to gather evidence through the use of ICT, open-source information and the dark web where traffickers commonly exchange information and plan their actions.

According to Europol’s Serious and Organised Crime Risk Assessment 2021, trafficking victims are typically exploited as low-skilled, seasonal, and low-cost workers in transportation, construction, agriculture, forestry, food processing, factory assembly lines, catering, retail, car wash, beauty and cleaning, housework and home help.⁷¹

69 The case concerned 39 persons (35 men and four women) who were recruited in Taiwan and arrived in North Macedonia on tourist visas. They were locked in a house, their travel documents and cell phones were taken away, and they were compelled to make fraudulent calls to people in China, pretending to be insurance, bank, postal or police officers, requesting their bank data and withdrawing money. After receiving a tip-off from the Taiwanese authorities in November 2020, the authorities of North Macedonia investigated the case and in May 2021 arrested nine suspects and identified 39 persons as victims of THB. The victims and suspects were returned to Taiwan one month later.

70 National Commission for the Fight against Trafficking in Human Beings and Illegal Migration, Strategy for Combatting Trafficking in Human Beings (2021-2025).

71 EU SOCTA 2021EUROPOL https://www.europol.europa.eu/sites/default/files/documents/socta2021_1.pdf

As the number of identified victims of human trafficking for labour exploitation in North Macedonia remains low, it is not possible to carry out a case-based analysis to identify risk sectors. Instead, the study should focus on sectors that are poorly regulated, experience labour force shortages, and where vulnerable workers and the informal economy are prevalent, namely: (i) construction, (ii) textile, (iii) shoemaking industry, (iv) catering (night clubs), (v) places for relaxation (beauty and massage salons), (vi) agriculture, (vii) tourism, (viii) cleaning and (ix) maintenance services, (x) modelling agencies, (xi) loggers, (xii) livestock and (xiii) forestry.⁷²

Efforts have been put in place to increase awareness of the vulnerability of seasonal workers as well as the capacity of labour inspectorate and for mobile teams. Nevertheless, the capacity to identify cases of labour exploitation is still limited, as is the capacity to prosecute such cases.

Information sharing and coordination of the institutions within the country and internationally is also a matter of concern,

The following **proposals for action** 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.

General actions

- Ratify and implement the 2014 Protocol to the ILO Forced Labour Convention, 1930.
- Adopt national action plans for business, in particular for the larger trade companies, to implement the UN Guiding Principles on Business and Human Rights, including measures relevant for addressing human trafficking for the purpose of labour exploitation.
- Adopt binding acts for mandatory public disclosure of information related to the work of legal persons and to publicly disclose the imposed sanctions and misdemeanours for legal entities connected with the criminal offence of human trafficking.

⁷² CoE, Sanija Burageva, NGO Open Gate and Centre for the Study of Democracy, Proactive and gender-sensitive detection, identification and referral of trafficking victims for the purpose of labour exploitation, June 2021, Skopje.

- Integrate human trafficking prevention in public procurement policies and promote transparency in the supply chains.

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

- Upgrade the database of the Public Prosecutor's Office to enable recoding the type of exploitation in trafficking cases.
- Increase capacity and awareness among prosecution authorities of the special procedural measures for protection of child victims to avoid their secondary victimisation.
- Strengthen cross-border cooperation with other countries and to the use of mutual legal assistance procedures in order to obtain detailed information when there is a suspicion that Macedonian citizens were victims of forced labour abroad.
- Provide adequate legal and psychosocial protection for the Macedonian citizens who were victims of forced labour abroad and work on their reintegration to prevent and re-trafficking.
- Increase technical, human capacities for tracking, gathering information for intelligence purposes and their use as material evidence in court proceedings through OSINT, Dark Web, and etc.
- Develop an action plan for increasing the number of state funded shelter centres managed by NGOs registered as providers of social services according to the Law on social protection
- Improve availability of employment opportunities for trafficking victims and victims of violence through special and specific measures and subsidies, including through reviewing current programmes against unemployment.
- Improve community services to identify children at risk of trafficking for labour exploitation and to support child victims of violence, Roma children, and adults and children with disabilities, including through improved cross-sectoral cooperation.

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

Roma

- Ensure access and inclusion of Roma women in education by providing support for the continuation and completion of formal education, especially among single mothers and long-term unemployed. Support access to professional qualification and vocational training of long-term unemployed women, girls, persons from marginalized groups, victims of domestic violence, victims of trafficking.
- Improve community services to identify Roma children at risk of trafficking for labour exploitation and to support Roma child victims of violence and adults, including through improved cross-sectoral cooperation.
- Complete inclusion of Roma children in education, including returnees, children with unregulated status and without personal identification.
- Ensure vocational training and assistance in the job search process, access to the labour market, labour rights and access to education in the Roma community, with a focus on youth and women.
- Design and implement anti-poverty measures for the Roma community.

Migrant workers

- Improve access to legal and psycho-social support for foreign victims of human trafficking placed in the Centre for foreigners Gazi Baba through regular visits by the representatives of the mobile teams.
- Build capacity to register all migrants and refugees who transit through the country in order to improve victim identification.
- Develop a system to ensure that foreign victims of human trafficking are provided with an interpreter.
- Consider women and girls found during inspections in night bars as potential victims of human trafficking and provide them with information, access to interpreters, legal aid, safe accommodation as well medical and psychological assistance. Ensure that they are not returned/deported immediately to their country of origin.

Vulnerable/young workers

- Initiate proactive investigations, coordinated between all relevant institutions and support gathering material evidence, and establish a common database of the institutions in the working group on trafficking in human beings.
- Increase cooperation between state authorities, NGOs, trade unions and private companies in identification of victims of labour exploitation.
- Build capacity and raise awareness for recognition and application of gender aspects and appropriate measures and mechanisms to assist, protect and empower victims. Integrate gender perspective into the planning, decision-making and policymaking at a local and national level.

Business operations and supply chains

- Conduct more joint inspections by the responsible authorities (Ministry of the Interior, members of task force, labour inspectorate, mobile teams) in sectors that are considered high risk, including: construction, textile and shoe industry, night clubs (especially those located in the western parts of the country), agriculture, tourism, cleaning, and maintenance services.
- Encourage, in particular, larger companies that operate in risky sectors such as agriculture, construction, hospitality, to introduce a self-assessment tool regarding risk factors for labour exploitation of workers.

Bibliography

Association Initiative of Unemployed Intellectuals, Analysis of the conducted research on the reasons for the absence from the educational process of Roma students from Vinica and Kocani due to seasonal work, 2019

CoE Committee of Ministers, Decision CM/Del/Dec(2019)129/2, 2019

CoE, Mike Dottridge, Emerging Good Practice by State Authorities, the Business Community and Civil Society in the Area of Reducing Demand for Human Trafficking for Labour Exploitation, 2016

CoE, Sanija Burageva, NGO Open Gate and Centre for the Study of Democracy, Proactive and gender-sensitive detection, identification and referral of trafficking victims for the purpose of labour exploitation, June 2021, Skopje

CoE, Sanija Burageva, Pocket Guide for Labour Inspectors, rev.2019

CRPM policy study 39: From shadow to visible seasonal worker in agriculture: reasons, challenges and models for formalization of seasonal labour in agricultural sector, 2020.

EC(2021) North Macedonia 2021 Progress Report

EC Report from the Commission to the European Parliament and to the Council : Third report on the progress made in the fight against trafficking in human beings as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. European Commission, 2020

EU Strategy on Combatting Trafficking in Human Beings (2021-2025) | Together Against Trafficking in Human Beings (europa.eu)

Finance Think, Open Society Foundation, Policy Study No. 36, The effect of Covid-19 on precarious workers in North Macedonia, Tracking low-pay workers, unpaid family workers, paid domestic workers, workers with atypical working contracts and informal workers, 2021

GRETA(2020)08 Compendium of good practices in addressing trafficking in human beings for the purpose of labour exploitation, 2020

GRETA, 7th General report on GRETA's Activities, 2017

GRETA, 9th General Report on GRETA'S Activities, 2020

GRETA,(Guidance Note on preventing and combatting trafficking in human beings for the purpose of labour exploitation, 2020

GRETA, Second report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by "the former Yugoslav Republic of Macedonia", 2017

ILO, Decent work country Programme 2019-2022

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

Law of the Republic of North Macedonia on Criminal Procedure, 150/2010, 100/2012, 142/2016, 193/2016, 198/2018

Lazetic & Zdravkova, The rights of the victims of human trafficking in court proceedings, 2020

Luludi, Analysis of the research findings concerning the perceptions and understanding of trafficking in human beings among secondary school students, 2021

MYLA report, State of asylum in Macedonia for 2018 and 2019

National Commission on Fight against Trafficking in Human Beings and Illegal Migration, Reports of the National Commission, 2019 and 2020

RBE - Western Balkans - Asylum Statistics - Summary of key trends observed as of 01 October 2021

State Statistical Office, 2021, Women and Men in North Macedonia

State Statistical Office, MAKStat Database, 2021

PACE, Resolution 2311 (2019) on human rights and business

UNODC Global Report on Trafficking in Persons, 2020

Western Balkans - Refugees, asylum-seekers and other people in mixed movements, as of end October 2021

World Bank, 2021, Greening the Recovery, Western Balkans no. 20

ANNEX I. Overview of relevant international instruments

Forced and compulsory labour	
International instrument	Definition/reference
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	<p>Forced labour is not defined but referred to as one of the purposes of exploitation for which people are trafficked.</p> <p>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.</p>

<p>2005 Council of Europe Convention on Action against Trafficking in Human Beings</p>	<p>Forced labour is not defined but referred to as one of the purposes of exploitation for which people are trafficked.</p> <p>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.</p>
<p>2011 EU Directive on preventing and combating trafficking in human beings and protecting its victims</p>	<p>Forced labour is not defined but referred to as one of the purposes of exploitation for which people are trafficked.</p> <p>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.</p>
<p>2014 Protocol to the Forced Labour Convention</p>	<p>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).</p>
<p>Child labour⁷³</p>	
<p>International instrument</p>	<p>Definition/reference</p>
<p>International Labour</p>	<p>ILO defines "child labour" as work that deprives children of their childhood,</p>

⁷³ 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.

Organization (ILO)	<p>their potential, and their dignity, and that is harmful to physical and mental development. It refers to work that:</p> <ul style="list-style-type: none">• is mentally, physically, socially, or morally dangerous and harmful to children; 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.
-----------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

		The minimum age at which children can start work	Possible exceptions for developing countries
<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>	<p>Hazardous work</p> <p>Any work which is likely to jeopardize children's physical, mental or moral health, safety or morals should not be done by anyone under the age of 18.</p>	<p>18 (16 under strict conditions)</p>	<p>18 (16 under strict conditions)</p>
	<p>Basic minimum age</p> <p>The minimum age for work should not be below the age for finishing compulsory schooling and in any case not less than 15.</p>	<p>15</p>	<p>14</p>
	<p>Light work</p> <p>Children between the ages of 13 and 15 years old may do light work, as long as it does not threaten their health and safety, or hinder their education or vocational orientation and training.</p>	<p>13-15</p>	<p>12-14</p>

<p>1989 Convention on Rights of the Child</p>	<p>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.</p>
<p>1999 Worst Forms of Child Labour Convention (No. 182)</p>	<p>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.”</p>
<p>Trafficking in human beings (persons)</p>	
<p>International instrument</p>	<p>Definition/reference</p>
<p>1926 Slavery Convention</p>	<p>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.⁷⁴ 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.</p>

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

<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>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.</p>
<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>Exploitation/exploitative working conditions</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>Article2(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</p> <p>2015 report: Severe labour exploitation: workers moving within or into the European Union. States' obligations and victims' rights</p> <p>p.10</p>	<p>Severe labour exploitation</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” case⁷⁵

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” that they had been subjected to cross-border human trafficking and to forced or compulsory labour

⁷⁵ Case of *Zoletic and Others v. Azerbaijan* - 20116/12., European Court of Human Rights

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.

This publication was produced with the financial support of the European Union and the Council of Europe, through the joint action “Preventing and combating trafficking in human beings in North Macedonia”. The views expressed herein can in no way be taken to reflect the official opinion of either party.

The Council of Europe is the continent’s leading human rights organisation. It comprises 46 member states, including all members of the European Union. All Council of Europe member states have signed up to the European Convention on Human Rights, a treaty designed to protect human rights, democracy and the rule of law. The European Court of Human Rights oversees the implementation of the Convention in the member states.

www.coe.int

The Member States of the European Union have decided to link together their know-how, resources and destinies. Together, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders.

www.europa.eu

Funded
by the European Union
and the Council of Europe



EUROPEAN UNION

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Implemented
by the Council of Europe

