



# **Actors against Trafficking for Labour Exploitation**

Report on Cooperation between Stakeholders at the  
National Level in the countries of the Baltic Sea region  
to Address Trafficking for Labour Exploitation

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This study was produced with funding from the Task Force against Trafficking in Human Beings.

This publication has not been formally edited

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The aim of the study is to obtain an overview of the different actors who are currently involved in the work of combating and preventing trafficking for labour exploitation. Actors have occasionally also been included who have a significant potential to be involved in this work. In addition, the study has analysed existing resources and structures, primarily for cooperation at the national level.

**This work was a necessary starting point in identifying existing resources as well as challenges encountered by different actors at the national level.** The results have been compiled into the report which will serve as a starting point and as a basis for dialogue at the

national level in each member state. The report has been designed to present an overview of relevant actors and mandates; governmental as well as non-governmental. It further analyses the current forms of cooperation, in terms of mechanisms in place as well as relevant policies and legislation.

The findings are based mainly on the expertise and experience of national actors currently working on the issue of trafficking for labour exploitation and forced labour. As such, the report is meant to capture resources as well as challenges as they are perceived and identified by the relevant national actors, according to the individual context in that specific country.

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## EXECUTIVE SUMMARY

Trafficking for labour exploitation has not been a prevalent issue on the trafficking agenda of the Baltic Sea countries until recently. Levels of awareness and knowledge about trafficking in human beings for labour exploitation amongst relevant actors are still rather low, and trafficking for sexual exploitation remains the main focus.

There is no clear understanding of the definition of human trafficking for forced labour and labour exploitation, or of the specific elements of human trafficking. Definitions also differ between countries. Trafficking for forced labour is intertwined with other types of exploitation, social dumping<sup>1</sup> or simply bad working conditions.

The main limitations for cooperation at the national level are a narrow focus of current efforts and inadequate cooperation with civil society actors. Many stakeholders working on trafficking in human beings have thus far concentrated primarily on trafficking for sexual exploitation.

There is a growing awareness of the need to involve a broader spectrum of relevant actors in order to identify and assist victims of trafficking for labour exploitation. Particularly trade unions, tax authorities, labour inspectorates, employers and migrants' organisations which are in position to identify victims of trafficking for labour exploitation, have not been, or have only recently been formally included in the current cooperation mechanisms. Labour actors

often have a limited mandate, and they lack the knowledge, capacity, and experience needed to identify and assist victims of trafficking for labour exploitation. Due to these reasons, the number of identified cases of trafficking for labour exploitation and the number of referrals in the region remain low.

There is a growing need to develop knowledge and training efforts for both actors working directly with the issue of trafficking in human beings and actors who could be instrumental in identifying trafficking for labour particularly in the CBSS Member States.

Short summaries of the conclusions of each of the national reports from eleven CBSS member states are provided below for your ease of reference.

### Denmark

Training efforts and cooperation efforts have developed from a narrow to a broader focus. Like other countries, Denmark struggles to define the difference between trafficking in persons, social dumping, and bad working conditions. While Denmark has made a distinct commitment to establish a formal referral system, some respondents still experience a lack of referral mechanisms. There still seems to be a lack of knowledge and capacity among the relevant actors. Initiating joint efforts, such as joint inspections, which have already taken place in Denmark, is one way to coordinate efforts and enhance the understanding for the work of other actors.

Cooperative and individual efforts are more advanced with regard to trafficking in persons for sexual exploitation. Future needs include applying lessons learned from trafficking for sexual exploitation to

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<sup>1</sup> A simplified definition of social dumping is a practice of employers to use cheaper labour, than what is usually available at the country of production and/or selling. The use of cheap labor allows the entrepreneur to save money and potentially increase their profit.

labour trafficking, and identifying a broader spectrum of relevant actors to develop a more integrated and flexible approach.

### **Estonia**

Estonia is mainly a source country for trafficking in persons for forced labour and labour exploitation, although it is also on the receiving end for migrant workers from other countries within the former Soviet Union. Trafficking in persons has only been in the penal code for a short period of time, which makes it difficult to assess the impact of the legislation and to measure the scope of the crime.

Labour actors still have limited knowledge on the subject of trafficking for labour exploitation. There is a greater awareness of trafficking for sexual purposes rather than labour and a lack of identified cases of trafficking for labour exploitation. As a result, the limited capacity and resources available are used to work on trafficking for sexual exploitation rather than trafficking for other purposes.

### **Finland**

Finland has come relatively far in terms of discussing and dealing with the concept of trafficking for labour exploitation, although actors continue to experience a lack of resources and capacity to legislate, investigate, coordinate and provide assistance to victims of trafficking.

Additional actors may be relevant to include in the work on trafficking for labour exploitation, including trade unions, tax authorities and the Labour Inspectorate. Creating a lead agency or a coordinating body could help formalise existing mechanisms and the prevailing “culture of cooperation,” free capacity of the other actors, and serve as a capacity-building function for its partnering institutions. On-going discussions and findings of the working groups within the

Ministry of Justice and the Ministry of Interior on legislation should guide future efforts to improve national cooperation.

### **Germany**

Cooperation mechanisms and resources on trafficking in persons vary among the different states of Germany. Cooperation structures are more easily identified at the state level than at the federal level, especially structures for operational work. Federal mechanisms mirroring state mechanisms are needed and should include a national rapporteur, a national coordinator, or both.

At the state level, many actors working on trafficking in persons mainly work with trafficking for sexual exploitation. While actors recognize the importance of a holistic approach, a division of responsibility for the different forms of trafficking between two separate ministries hardly promotes such an approach. Actors working with migrant workers and labour exploitation could be instrumental in identifying and referring victims. Trade unions, the labour inspectorate, and employer’s organisations need to be included, and training and tools are needed in order to ensure that victims are referred to the most competent authority.

### **Iceland**

Iceland has limited experience in preventing and combating trafficking in persons. There is a lack of legislation and policy that clearly defines and describes the roles, mandates and cooperation procedures. Low identification rates could be due to a lack of general awareness and a lack of identification and referral procedures, particularly in working on trafficking for labour exploitation.

Efforts and discussions are generally focused on trafficking for sexual exploitation. Iceland neither has a national

coordinator, nor an independent rapporteur on trafficking in persons. There are also currently no specialised units within the authorities focusing on trafficking in persons. Cooperation has so far mostly taken place on a case-to-case basis.

More training and awareness-raising is needed. Cooperation may need to be formalised further in order to increase identification rates and to increase efficiency. Civil society actors, as well as government authorities, working on labour market issues and the rights of workers and migrants, need to be included in working groups as well as in planning.

### **Latvia**

Latvia is mostly a source country for trafficking in persons, while cases within Latvia are rare. Latvia provides various reintegration and rehabilitation services to victims of trafficking who return. The existing legislation, policy and mechanisms are less limiting in themselves than the lack of experience, knowledge and resources.

Trafficking for labour exploitation has only recently been included in the discussions which previously focused on trafficking for sexual exploitation. Cooperation efforts between civil society actors and governmental agencies have focused on prevention activities. NGOs are implementing partners. Trade Unions and employers' organisations have only recently been invited to participate in the work. Joint workplace inspections are already taking place in Latvia.

### **Lithuania**

Lithuania is a source, destination and, to some extent, transit country for victims of trafficking in persons, but has also experienced some internal trafficking. The National Action Plan mainly focuses on

trafficking for the purpose of sexual exploitation. Lithuania has an interdepartmental working group on trafficking in persons and values international cooperation.

The main limitation at the national level is the narrow focus of the current efforts and the inadequate cooperation with civil society actors. Methods used and actors included are still more relevant for trafficking for sexual exploitation. Apart from generally improving cooperation between government and civil society actors, there is also a need to include a different set of actors in order to identify, refer and assist victims of trafficking for labour exploitation. New approaches and methods are needed to ensure that victims of trafficking for labour exploitation participate in criminal proceedings in a constructive manner and receive the necessary assistance and support.

### **Norway**

Norway has come quite far in terms of developing a number of cooperation mechanisms for trafficking in persons. There is legislation in place, and the National Action Plan provides a strategy as well as description, to some extent, of the roles of the different actors. There are specialised units within several agencies which are focused on trafficking in persons, as well as NGOs and other civil society actors focused on the issue. Nevertheless, most actors and units have focused primarily on trafficking for sexual exploitation up until recently.

The main problems currently limiting work of the relevant actors are; a lack of capacity, knowledge, policy, and insufficient coordination or cooperation. There is no common strategy for referrals in Norway. Referral procedures and cooperation could be improved through an MoU specifying the roles of each actor, and policy and legislation distinguishing



trafficking for labour from social dumping more clearly. Cooperation could also be improved by establishing a central authority responsible for verifying the status of victims. A dialogue on priorities and future efforts on trafficking for labour exploitation was requested by some actors, as well as an increased commitment to work specifically on this type of trafficking, through increased capacity and development.

### **Poland**

Poland is a source as well as destination country for trafficking in persons, including trafficking for labour exploitation. Although this was partly amended in 2009, victim assistance programmes are largely directed at foreign citizens. The country has an ambitious and comprehensive National Action Plan, and several specialised units focused on all types of trafficking in persons. Future efforts should be based on the goals set up in this document, although cooperation efforts specifically may need to go beyond the tasks included.

There is a need for further training and capacity building, particularly on the subject of trafficking for labour exploitation. Steps have been taken to include different sets of actors in discussions, planning and implementation. Training needs to be directed specifically at NGO and government authority staff members on the front line, in order for victims of trafficking to be identified and referred to a larger extent. Expertise at a higher level needs to be complemented with more awareness-raising and training at a lower level. This includes the identification and referral of returning Polish victims of trafficking. Successful investigations and prosecutions are dependent on effective identification and referral mechanisms.

### **Russia**

Cooperation between government departments in the Russian Federation is governed by legislation, but the existing legislation does not clearly define the roles and responsibilities of these departments in working on trafficking in persons. Legislation does not include the provision of victim assistance and support. There is no National Action Plan on trafficking for labour exploitation specifically.

There is a number of NGOs which could be relevant as cooperation partners in working on trafficking for labour exploitation. Although these organisations are already cooperating with government authorities, the cooperation could be formalised as well as expanded. Trade Unions and employer's organisations were not referred to as cooperation partners by government agencies or NGOs.

### **Sweden**

Although Sweden has established a number of seemingly well-functioning coordination mechanisms, there is still work to be done, particularly on trafficking for other purposes than sexual exploitation. Actors relevant for fighting human trafficking often lack resources and a proper mandate to work against human trafficking for labour exploitation. There is a need to develop existing mechanisms and to include actors which are currently working on very closely related issues. For this to occur, some changes to policy, structure, and resources are needed. Certain basic improvements, such as training and the availability of tools for labour inspections, could also improve daily work and increase the ability to identify trafficking for labour.

More actors need to be involved in discussions as well as coordination efforts. For this to happen, the mandate of the National Coordinator needs to be

expanded to all forms of human trafficking and not only trafficking for sexual exploitation. Cooperation between government authorities and civil society actors, such as NGOs and trade unions, also needs to be developed further. Knowledge and training development efforts should not be restricted merely to

specialised training of those actors working directly on trafficking in persons, but should also be conducted in order to raise general awareness more broadly, with actors who could be instrumental in identifying particularly trafficking for labour.

## INTRODUCTION

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The study **“Actors against Trafficking for Labour Exploitation. Report on Cooperation between Stakeholders at the National Level in the countries of the Baltic Sea region to Address Trafficking for Labour Exploitation”** was conducted by Peace and Security Consulting (PS. Consulting) for the Task Force against Trafficking in Human Beings (TF-THB) of the Council of the Baltic Sea States (CBSS).

CBSS is a political forum for regional inter-governmental cooperation in the Baltic Sea Region. The Members of the Council are eleven states of the Baltic Sea Region, as well as the European Commission. The Task Force is an expert group composed of national experts on human trafficking from ministries in all of the eleven member states of CBSS. The work of this group falls under the CBSS long term priority on Civil Security and the Human Dimension, and works to counteract trafficking in human beings in the Baltic Sea Region and its vicinity, through preventative and protective activities. The Task Force provides an intergovernmental platform for regional cooperation and a forum for the transfer of knowledge and best practice. As such, it aims to strengthen, build upon and improve current policies and operational work in the region through joint collaborative projects. These projects include research and analysis, data collection, trainings and facilitation of cooperation among stakeholders at the national level in CBSS Member States. The Task Force is supported by staff members at the CBSS Secretariat in Stockholm, Sweden.

This study was conducted in the eleven Member States of the CBSS: **Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, Poland, Russia, and Sweden**, as the second phase of the DEFLECT project, and in preparation for the implementation of a two-year flagship project **“ADSTRINGO - Addressing trafficking in human beings for labour exploitation through improved partnerships, enhanced diagnostics and intensified organisational approaches”**. The CBSS TF-THB and European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI), the Ministry of the Interior of Lithuania and the University of Tartu commenced ADSTRINGO on August 1 with a project kick-off meeting in Finland. ADSTRINGO aims at preventing trafficking for forced labour through enhanced national and regional partnerships and through improved understanding of the mechanisms that facilitate exploitation of labour<sup>2</sup> in Denmark, Estonia, Finland, Germany, Iceland, Latvia, Lithuania, Norway, and Sweden. The project is implemented with the financial support of the Prevention of and Fight against Crime Programme of the European Commission Directorate General Home Affairs. The Swedish Institute Baltic Sea Cooperation Unit separately finances a similar project “ADSTRINGO Poland and Russia”.

The main activities foreseen in the ADSTRINGO project are national workshops in each participating country to establish a dialogue among key labour actors at the national level and a baseline research on recruitment practices in relation to trafficking in human beings for labour exploitation in both countries of origin and destination. As an outcome of these activities, the project also aims at developing concrete guidelines on how to prevent this form of human trafficking. The findings of the research will be presented and discussed on 18 October 2013 at a high level conference in Vilnius during the Lithuanian Presidency of the European Union.

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<sup>2</sup>Although the terms *labour exploitation* and *forced labour* refer to different crimes, these crimes are closely related, especially in cases of trafficking in persons. In this study, the terms *trafficking for labour* and *trafficking for labour exploitation* have been used intermittently, and should be assigned the same meaning. For the purpose of this study, both terms include trafficking for forced labour as well as labour exploitation.

## METHODOLOGY

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The purpose of this study was to map out existing actors, resources and cooperation mechanisms at the national level, which are relevant in addressing trafficking for labour exploitation. For this purpose, national actors were identified and asked to provide their expertise as well as perceptions of existing resources. In each member state, the national delegate of the TF-THB assisted in identifying relevant actors with government departments and ministries, as well as civil society actors such as Non-Governmental Organisations (NGOs) and trade unions. When needed, this information was complemented with input from other relevant national experts and additional contacts using a snowball sampling approach<sup>3</sup>.

Representatives from these different organisations and departments were asked to participate in a survey and to fill in an electronic questionnaire with mainly open, descriptive questions. Respondents were chosen according to their level of experience and expertise and were selected in order to encompass as many relevant stakeholders as possible. The questionnaire was generally distributed to approximately ten to twelve respondents from different organisations and departments in each member state, although the number of respondents varied between states. The questionnaire included questions on the mandate and role of the specific actor, existing cooperation with other actors, existing legislation and policy, existing structures and cooperation mechanisms, as well as limitations and challenges encountered in the current work on trafficking for labour exploitation.

The respondents who made the assessment that they did not have the experience, mandate, or knowledge needed to fill in the

questionnaire were asked to fill in a few short, alternative questions, focusing more specifically on their work. These questions concerned their role with regards to trafficking in persons for labour, existing cooperation partners and modes, the potential role which they felt they could take on within this area, and what would be needed for them to extend their role or mandate. When complimentary information or clarifications were needed, in addition to the questionnaires, this was generally given via e-mail correspondence, and in a few cases interviews. The findings from the questionnaires were also complemented with other resources such as National Action Plans, policy and legislation documents, national reports and evaluations, as well as external reports, which were found relevant in the different member states. Nevertheless, the main purpose of the study was to map out the knowledge and perceptions of relevant actors working with trafficking or labour exploitation issues, which is why the survey and its related correspondence constitute the core of the national reports.

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<sup>3</sup>The snowball sampling approach is based on the idea that one respondent will lead you on to another. In this particular case, some respondents were asked for advice on additional relevant contacts.

# DENMARK

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## Findings

Out of ten Danish respondents asked to participate in the survey, eight completed the questionnaire<sup>4</sup>. These respondents represented: the Danish Centre against Human Trafficking (CMM), local Tax Administration from Fredensborg, the National Centre of Investigation of the National Police, the Danish Immigration Service (DIS), the Working Environment Authority (WEA), and two trade unions; 3F and the Painters' Union (Malerforbundet).

Denmark has begun to expand its efforts on trafficking in persons to involve other types of trafficking than trafficking for sexual exploitation. New mechanisms have also been developed quite recently to facilitate the implementation of the National Action Plan (NAP). Amongst other things, a Memorandum of Understanding (MoU) has quite recently been developed and signed by several actors. The respondents of this survey described the main issues limiting their work within this area as: insufficient legislation, lack of knowledge and capacity, lack of referral mechanisms, and lack of coordination between civil society actors and government actors. Such referral mechanisms exist for trafficking for sexual exploitation but seem to be less developed with regards to trafficking for labour exploitation.

The findings of this report are divided into two parts. The first part concerns relevant actors with regards to trafficking in persons, as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included who are relevant

only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms on the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

In addition to the seven actors responding to the survey, at least fifteen other Danish actors were mentioned by the respondents, as cooperation partners, or as relevant stakeholders. These were: local police forces, the National Investigation Centre of the National Police (NEC: *Nationalt Efterforskningscenter*), the Central Tax Administration (SKAT), the Public Prosecutor's Office, the Ministry of Justice (MoJ), the Department for Gender Equality in the Ministry for Gender Equality and Ecclesiastical Affairs, the Danish Agency for Labour Retention and International Recruitment, the municipality of Copenhagen, trade unions (Bygge- Anlægs- og Trækartellet-BAT and the Danish Confederation of Trade Unions- LO were specifically mentioned), multinational companies, and NGOs (the Nest International, HopeNow, ProVest, the International Organization for Migration-IOM, and the Danish Red Cross were specifically mentioned).

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<sup>4</sup>This report is in fact based on seven questionnaires from nine respondents in total, since two of the invited respondents from the same department chose to fill in the questionnaire jointly, while one of the respondents from one of the trade unions chose to fill in the questionnaire with the assistance of a colleague from a different union.

What follows below is a brief description of the work of the different relevant actors on trafficking in persons for labour exploitation. This includes the respondents in the survey, but also to some extent other relevant actors, as well as the cooperation of the respondents with other actors, as this was described in the survey.

## **Governmental**

**National Police:** From the National Police, the National Centre of Investigation responded to the survey. The role of this centre is to guide and assist the 12 police districts, as well as to analyse the overall situation in Denmark. The National Centre of Investigation cooperates with: the Labour Inspectorate, the Central Tax Administration and CMM, trade unions and DIS. Cooperation consists mainly of sharing information and best practices, but also of coordinated activities specifically concerning cases of social dumping and irregular labour migration<sup>5</sup>.

**Centre against Human Trafficking:** CMM reports to the Ministry for Gender Equality and Ecclesiastical Affairs, but has been placed under the National Board of Social Services, under the Ministry of Social Affairs. The role of the centre is to coordinate the assistance offered to victims, but also to collect and disseminate information about human trafficking. CMM is also in charge of determining the status of victims of trafficking in persons, when these potential victims are legal residents in Denmark. The centre stated that they cooperate with DIS, NEC of the National Police, the Local Police, WEA, the Tax Administration, trade unions, the Municipality of Copenhagen, and the Public Prosecutor's office. According to the National Action Plan for 2011-2014, CMM is responsible for initiating, coordinating and implementing activities focused on trafficking for labour. Cooperation efforts are further

governed by the current Memorandum of Understanding. The section on cooperation further describes the NAP, the current MoU, as well as the coordination efforts of CMM more closely<sup>6</sup>.

**Immigration Service:** The role of DIS when it comes to trafficking for labour is to grant asylum seekers and irregular migrants in Denmark with the status of victim of trafficking (as opposed to CMM which grants victim status to legal residents of Denmark). DIS further provides assistance to such victims, regardless of the type of trafficking. The service cooperates with CMM and the National Police regarding the identification of victims of trafficking in persons, and with CMM as well as the International Organisation for Migration (IOM) on the repatriation of victims to their countries of origin. DIS further stated that they cooperate with the Ministry of Justice and the Department for Gender Equality<sup>7</sup>.

**Tax Administration:** Representatives from the Tax Administration in Fredensborg as well as Copenhagen were invited to participate in the survey for this study. The Fredensborg office responded, which is why SKAT is represented by this regional office (Skattecenter Fredensborg) in this report. The tax administration stated their part in the NAP and their participation in the national efforts coordinated by CMM. The Tax Administration has also established a working group on the subject of human trafficking. Cooperation with other actors mainly consists of exchange of information<sup>8</sup>.

**Working Environment Authority:** In addition to their own participation in the survey, the role of the Working Environment Authority (WEA) on labour exploitation and trafficking for labour was described by several of the other respondents. WEA stated that

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<sup>5</sup>Questionnaire 2012: the National Centre of Investigation, National Police

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<sup>6</sup>Questionnaire 2012: Centre against Human Trafficking

<sup>7</sup>Questionnaire 2012: The Immigration Services

<sup>8</sup>Questionnaire 2012: The Tax Administration, SkattecenterFredensborg

they have no mandate as such, concerning trafficking for labour specifically. However, the agency reports such crimes to the police when they are encountered<sup>9</sup>. Whereas the Tax Administration has the authority to access and investigate workplaces in relation to taxation issues, WEA has the authority to access and inspect registered workplaces with regards to safety and environmental issues. Nevertheless, they do not have the authority to examine other working conditions such as wages and contracts. Joint inspections have taken place, where WEA, the Tax Administration, as well as the National Police have participated. More such inspections have also been planned for the future<sup>10</sup>. WEA further stated that they cooperate with CMM and with the National Investigation Centre of the National Police.

**Agency for Labour Retention and International Recruitment:** This agency is a newly established entity under the Ministry of Employment. One purpose of the agency is to process applications for residence permits for work, studies, internships and au pair positions. The Agency for Labour Retention and International Recruitment will further carry out workplace inspections to ensure that workplaces comply with the relevant regulations<sup>11</sup>.

## Non-Governmental

**3F:** Through working with irregular labour migration and the present issues with regular, but underpaid, labour, 3F state that they cooperate with the authorities to combat trafficking. 3F is the largest trade union in Denmark and coordinate their work through 76 branch offices. They coordinate their efforts on the ground with the local police, and participate in the working group chaired by CMM four times per year. This is a forum

where they exchange information and experience on current trends and events<sup>12</sup>.

**Painters' Union and 3F:** The Painters' Union chose to fill in the questionnaire with the assistance of a colleague at 3F, which is why this particular questionnaire represents both organisations. These actors stated that they have a mandate to identify and investigate cases of forced labour. The trade unions further have a mandate to bring cases to the labour court system. The Painters' Union and 3F cooperate with the police, Tax Administration, CMM, and other unions (such as BAT and LO). Foreign unions and multinational companies were also brought up as cooperation partners. The cooperation was mainly described as coordinating efforts and engaging the police as well as CMM in investigations initiated by the trade unions<sup>13</sup>.

**NGOs:** No Danish NGOs participated in this survey; nevertheless, a few international as well as local NGOs were mentioned as cooperation partners: IOM, Nest International, HopeNow, Pro Vest and the Danish Red Cross. IOM assists victims who choose to voluntarily repatriate from Denmark, which is also the case in other countries. Nest International as well as HopeNow are two NGOs which primarily focus on assisting female victims of trafficking for sexual exploitation, but which have started to look at other forms of trafficking in persons as well<sup>14</sup>. Pro Vest is an NGO which offers advice and health services to foreign women, men and transsexuals with experience from prostitution, including, but not exclusively limited to trafficked women<sup>15</sup>. The Danish Red Cross provides support to asylum seekers, but does not make a reference

<sup>12</sup> Questionnaire 2012: 3F

<sup>13</sup> Questionnaire 2012: Painters' Union and 3F

<sup>14</sup> Nest International (2012) *About Us*. Retrieved April 17, 2012, from Nest International, Denmark: <http://redeninternational.dk/?pid=29> and HopeNow (2012) *About Us*. Retrieved April 17, 2012, from HomeNow, Denmark: [http://hopenow.dk/?page\\_id=25&langswitch\\_lang=en](http://hopenow.dk/?page_id=25&langswitch_lang=en)

<sup>15</sup> Pro Vest (2012) *About Pro Vest*. Retrieved April 17, 2012, from Pro Vest Denmark: <http://www.provest.dk/en/news.php>

<sup>9</sup>Questionnaire 2012: The Working Environment Authority

<sup>10</sup>Questionnaire 2012: Centre against Human Trafficking

<sup>11</sup>Ibid

to victims of trafficking specifically<sup>16</sup>. According to the National Action Plan<sup>17</sup>, the Danish Red Cross runs centres which provide assistance for unaccompanied minors, including victims of trafficking in persons.

## Cooperation

The current distribution of tasks, in the work on trafficking in persons for labour exploitation, is that the labour unions and authorities which have been given a mandate to carry out inspections of workplaces may identify cases of trafficking for labour exploitation in their line of work. These are: the Work Environment Authority, the Tax administration and the Agency for Labour Retention and International Recruitment. When suspected cases are identified, they should be referred to the police and CMM. The actors involved in the national group of the referral system have all agreed to identify and refer cases of trafficking in persons to the police and/or CMM. The trade unions further report that they carry out investigations in some form on their own.

The Immigration Service has the mandate to determine the victim status of a potential victim of trafficking for labour exploitation, if this victim is not a legal resident in Denmark. If the potential victim encountered is legally residing in Denmark, CMM is responsible for establishing whether the person is a victim of trafficking in persons or not and, as a consequence, whether he or she is entitled to assistance.

CMM is further responsible for the assistance offered to victims of trafficking in persons; including legal aid, healthcare, social support and support during the repatriation process. In this work, a few NGOs have been contracted to provide support to victims; primarily victims of sexual exploitation. IOM has further

been assisting with the repatriation of victims of trafficking.

## Policy and legislation

Concerning legislation and policy regulating cooperation mechanisms on trafficking in persons in Denmark, no legal documents were mentioned other than the **penal code** (§ 260-forced labour and § 262a-Trafficking in Persons). Some of the respondents mentioned the obligation to refer or report cases encountered. Certain mandates of government authorities provide for a clear distribution of tasks. One example would be the division between CMM and DIS, where the former are responsible for establishing the victim status of those legally residing in Denmark, while the latter establish the status of irregular migrants. Other regulations were also mentioned, which determine which type of information may be exchanged between agencies. Legislation guarding the privacy of the individual may also pose an obstacle to agencies and departments in their cooperation and coordination efforts.

Denmark has the **National Action Plan for 2011-2014**<sup>18</sup>. Amongst other things, the NAP emphasises the need to involve the relevant actors in the efforts to combat trafficking, and to train these actors. The issue of trafficking for forced labour is specifically mentioned, where focus is placed on identifying the victims. According to the NAP, a working group should be set up, led by CMM, to examine trafficking for labour specifically, and to develop methods for identification. Other policy documents which were mentioned were CMM documents and reports on the issue of forced labour.

When asked about issues with current legislation and policy, the answers differed significantly, and the respondents associated such limitations primarily with the challenges encountered by their specific agency or organisation. The lack of a clear distinction

<sup>16</sup> The Danish Red Cross (2012) *Det gør vi*. Retrieved April 18, 2012, from the Danish Red Cross: <http://www.rodekors.dk/det+g%C3%B8r+vi>

<sup>17</sup> Friis et al. (2011) *Handlingsplan till bekæmpelse af menneskehandel 2011-2014, Ligestillingsafdelingen*, p. 27

<sup>18</sup> Friis et al. (2011) *Handlingsplan till bekæmpelse af menneskehandel 2011-2014, Ligestillingsafdelingen*



between interrelated concepts such as social dumping, trafficking for labour exploitation or forced labour, and simply “bad working conditions” was brought up. The difficulty of following through with investigations, as victims would leave Denmark was also mentioned as well as the regulations which govern confidentiality and the lack of knowledge among authorities, politicians, and civil society actors.

Other issues brought up in this section of the questionnaire were the lack of protection efforts, particularly long-term efforts to prevent victims of trafficking from being forcefully repatriated or re-trafficked, as well as prevention measures against social dumping of labour migrants.

## Mechanisms

**National Coordinator/National Rapporteur:** In Denmark, CMM, under the National Board of Social Services, has been given a coordinating role. As such, the centre coordinates victim assistance, but also collects and disseminates information about human trafficking. CMM is further in charge of determining whether legal residents in Denmark are victims of trafficking.

CMM has previously been focused primarily on trafficking for sexual exploitation. This has begun to change. According to the National Action Plan for 2011-2014, CMM is responsible for initiating, coordinating, and implementing outreach work regarding forced labour through:

- an increased focus on discovering the prevalence of human trafficking for forced labour;
- assuring that new groups of organisations (especially social partners) are identified and trained;
- strengthening and systemising the outreach work in relation to potential victims of forced labour further, and;
- forming a working group on forced labour where relevant authorities and

other organisations participate. The Centre against Human Trafficking chairs this group, with the aim of sharing knowledge on the prevalence of trafficking for forced labour as well as best practices for how victims can be identified.

CMM employs one coordinator, 3 consultants and 5 social workers. The centre has agreements with various NGO's such as Nest International, HopeNow, Pro Vest and the Danish Red Cross.

**Lead agency:** Most of the respondents stated that CMM was the one lead agency, or one out of several lead agencies, in which case the other lead agencies were described as NEC of the National Police and/or The Ministry of Gender Equality and Ecclesiastical Affairs. One respondent stated that there was no lead agency as such, but that CMM as well as trade unions would take initiatives in the work on trafficking in persons.

**Referral system:** A national referral system was established in 2008, according to EU recommendations and the NAP for 2007-2010. This system consists of a national reference group (National Referencegruppe) and six regional groups. CMM chairs all groups and has been responsible for the establishment as well as coordination and planning of the regional groups. In 2010, the national group consisted of representatives from CMM, the Ministry of Gender Equality and Ecclesiastical Affairs, the National Board of Social Services, DIS, the Ministry of Interior, NEC and the Immigration Department of the National Police, police departments of Sydsjælland, Lolland Falster, and Nordjylland, the Prostitution Centre with the National Board of Social Services, the Red Cross, Pro Vest and Save the Children, the Public Prosecutor's Office, a law firm, IOM, as well as the Municipality of Copenhagen. The purpose of this system was to provide a mechanism for dialogue and reference between the parties of the NAP, to ensure that actors across the country are aware of the

present legislation and procedures, as well as to ensure that they are organised in a similar manner<sup>19</sup>.

Some of the respondents referred to the national group as an inter-ministerial working group rather than a referral system. In reality it could be defined as both. Although the idea was to create a referral system, the national and regional groups of this system similarly function as working groups. It is somewhat unclear to which extent these groups actually establish and uphold referral procedures. In fact, the lack of referral mechanisms was mentioned as a problem by some of the respondents.

**Working Groups:** The respondents described the existence of an inter-ministerial working group or task team when referring to the national group chaired by CMM, which is mentioned above. The national group meets four times a year and develops the broader outlines of the work on trafficking in persons, in accordance with the focus of the NAP. One of the respondents described its meetings as meetings where general as well as practical problems are discussed. Another respondent stated that the group provides information and tools for the participating actors. In addition, the regional groups were mentioned as working groups including different departments and organisations at the regional level.

**Memorandum of Understanding (MoU):** When asked about the existence of an MoU, some of the respondents stated that there is none, others referred to the national working group, while some stated that there is an MoU, although the descriptions of its purpose and parties differed somewhat.

CMM<sup>20</sup> stated that the MoU was only signed recently (end of March) by the following

parties: CMM, the Tax Administration, the National Police, the Immigration Service, the Working Environmental Authority, and the Agency for Labour Retention and International Recruitment. The primary objectives of the MoU are to: improve identification rates, provide adequate support to victims, increase conviction rates, and prevent trafficking in persons. As was stated in the NAP, efforts to reach victims of trafficking for forced labour should be expanded, while knowledge as well as referral procedures need to be strengthened. As such, the MoU concerns the responsibility of authorities to refer to either the police or CMM, but also the roles of different actors when it comes to identifying victims. It was also mentioned that there is a need to include more actors from the trade unions and employers' organisations into the current agreements.

**Specialised Units:** The national working group chaired by CMM was mentioned as a specialised unit with CMM. Other units which were mentioned were a unit within the tax administration focused on the perpetrators of trafficking in persons, a specialised unit with the Copenhagen police force (although focused on trafficking for sexual exploitation), a unit with the National Police, and a specialised unit with the Public Prosecutor's Office. Judging from the responses, it seems that most of these units also work with trafficking for labour.

## Challenges and Limitations

There is a lack of knowledge, capacity and referral mechanisms in Denmark. Although there are a few mechanisms and systems in place meant to improve cooperation and referral procedures, cooperation within this area is fairly new to the actors and more could be done, particularly with more funding.

When it came to current agreements and the MoU which is underway, the need to include new actors was mentioned, as well as the need to include actors from the local level, such as municipalities. This could be an indication that

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<sup>19</sup> COWI (2010) Evaluering af den nationale indsats til bekæmpelse af menneskehandel 2007-2010: Evalueringsrapport; pp. 21-22

<sup>20</sup> Questionnaire 2012: Centre against Human Trafficking

the current cooperation mechanisms are undergoing a renewal process to cater for other types of trafficking than trafficking for sexual exploitation. When addressing trafficking for labour exploitation, trade unions and employers' organisations might be more relevant to include than some of the civil society actors currently included.

There is a need for improved referral mechanisms and procedures to make sure that cases are referred to the police as well as to CMM, and that the police refer cases to CMM. A common strategy involving all relevant actors could be improved as well.

Lack of knowledge is an obstacle to the work on trafficking for labour. Law enforcement officers and other actors experience difficulties separating trafficking for labour exploitation or forced labour from social dumping and other issues of poor working conditions. There is also a need for international contacts as well as capacity development efforts.

## Conclusions

During the past few years in Denmark, both training efforts and cooperation efforts have developed from a narrow focus on trafficking in persons for sexual exploitation, to a broader focus involving, for example, trafficking for labour exploitation. Denmark has encountered the same issues of defining the concept as most of the countries facing challenges with the issue of trafficking in persons, that is; where does one draw the line between trafficking in persons, social dumping, and a case of bad, although legal, working conditions? Training for all relevant actors, as well as an on-going debate and discussion, are necessary tools to make sure that victims of trafficking in persons are identified and assisted, and that the perpetrators are identified and prosecuted. There still seems to be a lack of knowledge and capacity with the relevant actors.

Coordination efforts are particularly important for agencies whose mandates are overlapping

to some extent, and which were initially designed for other issues than trafficking in persons. In Denmark, the Working Environment Authority has the mandate to access and control registered workplaces when it comes to safety and other issues related to the work environment. Nevertheless, they do not have the authority to look into matters such as wages and contracts of employees, which makes the identification of labour exploitation difficult. The Tax Administration also has the authority to access, control and investigate workplaces, employers and employees, but only when such efforts relate to matters of taxation. A newly established agency under the Ministry of Employment; the Agency for Labour Retention and International Recruitment, will on the other hand be processing all applications for residence permits for work, studies, internship, and au pair positions. Based on their mandate, they will also have the authority to carry out inspections in order to ensure that the rules are being followed. These actors, as well as trade unions, all have the potential to identify suspected cases of trafficking for labour, as well as other types of labour exploitation. Nevertheless, referral mechanisms are a vital tool to enable an observation to be passed on to the actor which has the mandate to initiate an investigation and/or intervene. Initiating joint efforts, such as joint inspections, which have already taken place in Denmark, is one way of coordinating efforts as well as enhancing the understanding for the work of other actors.

Denmark has made a distinct commitment to establish a formal referral system. Some of the respondents though experience a lack of functioning referral mechanisms. This proves just how complicated and problematic it can be to develop a functioning referral system. It further shows how difficult it can be to establish a referral system which is applicable to different types of trafficking.

Both cooperation efforts and the individual efforts of different actors are more advanced with regard to trafficking in persons for sexual exploitation. It needs to be considered how cooperation efforts which have been successful in dealing with trafficking for sexual exploitation can be applied to trafficking for labour, and to which extent different approaches are needed. There is also a need to

identify and include a broader spectrum of actors, relevant for different types of trafficking. This could result in more differentiated and separated methods for dealing with different types of trafficking in persons, but could also lead to a more integrated and flexible approach to identify, refer and assist victims of trafficking.

## **Relevant Danish departments and organisations**

### **Invited actors who participated in the study:**

- **The Danish Centre against Human Trafficking** (CMM- Center Mod Menneskehandel, the National Board of Social Services)
- **Tax Authorities, Fredensborg** (Skattecenter Fredensborg)
- **The National Police** (Rigspolitiet, NEC)
- **The Immigration Service** (Udlændingestyrelsen)
- **3F** (Trade Union- Fagligt Fælles Forbund)
- **The Painters' Union** (Trade Union- Malerforbundet)

### **Other invited actors:**

- Tax Authorities, Copenhagen (Skattecenter København)

### **Other actors mentioned by respondents**

- Local police forces
- The National Centre of Investigation of the National Police
- Central Tax administration (SKAT)
- The Working Environment Authority (WEA- Arbejdstilsynet)
- The Public Prosecutor's office (Rigsadvokaten)
- The Ministry of Justice (MoJ)
- The Department for Gender Equality and Church (Ministeriet for Ligestilling og Kirke)
- The Danish Agency for Labour Retention and International Recruitment (Styrelsen for Fastholdelse og Rekruttering)
- The municipality of Copenhagen
- Trade Unions (BAT; Bygge- Anlægs- og Trækartellet and LO; The Danish Confederation of Trade Unions, were specifically mentioned)
- Multinational companies
- NGOs (the Nest International/Reden International, HopeNow, Pro Vest, IOM; The International Organization for Migration, and the Danish Red Cross were specifically mentioned).

# ESTONIA

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## Findings

Out of twelve Estonian respondents asked to participate in the survey, six submitted the questionnaire. These respondents represented: The Border Guard Department of Police and Border Guard Board, Office of the Prosecutor General, the Labour Inspectorate, the Gender Equality Department of the Ministry of Social Affairs (SM), the Ministry of Justice (MoJ), and the NGO Living for Tomorrow (LFT).

Estonia is reported to still lack knowledge, capacity, and resources to address trafficking for labour exploitation, especially seeing as trafficking for sexual exploitation has received more attention so far. Being a source country for trafficking in persons, there have been some valuable preventive efforts and cooperation with labour and employers' organisations has been initiated. However, respondents stated that resources and training are still needed, as well as an enforcement of existing cooperation mechanisms.

The findings of this report are divided into two parts. The first part concerns relevant actors working on trafficking in persons, as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second

part of the findings section also concerns existing cooperation mechanisms at the national level, such as institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

Apart from the six actors who submitted the questionnaire for the survey, at least fifteen other authorities and organisations were mentioned as relevant stakeholders or as existing cooperation partners: the Border Guard, the Military Police, the Tax and Customs Board, the Competition Authority (ECA), the Environmental Inspectorate, the Defence Forces, foreign embassies in Estonia, the Working Life Development Department of the Ministry of Social Affairs (SM), the Ministry of Economic Affairs and Communications, the Law Enforcement and Criminal Policy Department of the Ministry of Interior, the Unemployment Insurance Fund, the Estonian Chamber of Commerce and Industry, the Estonian Employers' Confederation, the Estonian Trade Union Confederation (ETUC), and the European Job Mobility Network – EURES (European Employment Services).

The section below describes the roles and cooperation efforts of the participating actors, as well as the roles of a few other actors identified as relevant.

## Governmental

**Police and Border Guard Board:** In the survey for this study, the Citizenship and Migration Department (CMD) participated, as part of the Police and Border Guard Board. CMD provides information to the Central Criminal Police Department on the cases of trafficking for forced labour and labour exploitation which they encounter. The

Central Criminal Police Department is also their main cooperation partner<sup>21</sup>.

According to Markina and Kask<sup>22</sup>, CMD also drafts regulations and law proposals concerning migration control. In addition, it is the mandate of the department to control the legal status of immigrants and migrant workers. This work includes inspections of workplaces where migrant workers are thought to be employed. In preparing for these inspections, CMD exchanges information with, for example, the Tax and Customs Board and the Border Guard.

**Office of the Prosecutor General:** The mandate of the Prosecutor General is to lead investigations concerning cross-border and international crimes, including trafficking in persons. According to the Office of the Prosecutor General's Act, the office participates in planning surveillance efforts to prevent and detect crime, leads preliminary investigations, and represents public prosecution in court<sup>23</sup>.

Preliminary investigations and prosecutions are carried out in cooperation with the Border Guard Department of Police and Border Guard Board, the Military Police, the Tax and Customs Board, the Competition Authority, the Environmental Inspectorate, and the General Staff of the Defence Forces<sup>24</sup>.

**Labour Inspectorate:** The Labour Inspectorate investigates and enforces the compliance of workplaces with occupational health and safety regulations through regular inspections, and conducts overall analyses of compliance in Estonia in general. The Border Guard Department of Police and the Border

Guard Board are the main cooperation partners of the Labour Inspectorate in the work on trafficking in persons. The labour inspectors report suspected cases of trafficking in persons encountered to the police or border guard, while also assisting the police as labour relations experts during criminal proceedings<sup>25</sup>.

**Ministry of Social Affairs:** In the survey for this study, the Ministry of Social Affairs was represented by the Gender Equality Department. This department works mainly on trafficking for sexual exploitation, with women's rights as a starting point. Nevertheless, the ministry also works with labour market issues. For example, it is the mandate of SM to register labour market service providers and temporary employment agencies, and to enforce the regulations governing this area (for example the prohibition to charge job seekers with any fees)<sup>26</sup>.

The Gender Equality Department stated that they mainly cooperate with MoJ and Living for Tomorrow. The latter have been contracted by SM since 2006 to provide an anti-trafficking hotline. Cooperation with ministries as well as NGOs takes place through a national working group on anti-trafficking which was established in 2006, and which will be described in more detail further on (under Cooperation: Mechanisms). Cooperation efforts are mainly concerned with implementing the Development Plan for Reducing Violence for the period of 2010-2014. Trafficking in persons is one of the four areas included in the development plan<sup>27</sup>.

**Ministry of Justice:** The Criminal Policy Department and its Analysis Division holds the post of the National Coordinator on Trafficking in Persons in Estonia, since 2006. The Coordinator chairs and sets the agenda for the meetings of the Coordination

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<sup>21</sup> Questionnaire 2012: Citizenship and Migration Department, Board of the Police and Border Guard Board

<sup>22</sup> Markina, A. and Kask, M. (2011) "Trafficking for Forced Labour and Labour Exploitation in Estonia" in Jokinen, A.; Ollus, N.; Aromaa, K. (eds.) (2011) *Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia*, HEUNI, Helsinki.

<sup>23</sup> Questionnaire 2012: Office of the Prosecutor General

<sup>24</sup> Questionnaire 2012: Office of the Prosecutor General

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<sup>25</sup> Questionnaire 2012: Labour Inspectorate

<sup>26</sup> Questionnaire 2012: Ministry of Social Affairs

<sup>27</sup> Ibid

Network, which monitors the implementation of the National Action Plan (NAP). In addition, he or she is responsible for the annual report on the implementation of the NAP, based on the input of different actors. The post as national coordinator is not a full-time position<sup>28</sup>.

A set of roundtable discussions has been planned for 2012, which MoJ will be organising in cooperation with SM. To these discussions, the labour organisations will be invited to discuss the latest changes to legislation, and to be informed on the issue of trafficking for labour exploitation<sup>29</sup>.

### **Non-Governmental**

**Living for Tomorrow:** LFT was founded in 1999, and has since worked with Sexual Health Education and the prevention of Human Trafficking through gender-sensitive and active learning. The anti-trafficking activities have been implemented throughout Estonia since 2000, including: information campaigns, training for youth, adults and professionals, a victim assistance hotline, prevention efforts amongst vulnerable populations, research activities and the implementation of pilot project<sup>30</sup>.

LFT cooperates with SM, EURES, the Labour Inspectorate, the Police, and foreign embassies in Estonia. Cooperation mainly consists of sharing information on a case-to-case basis with SM and the Police, assisting victims in their contacts with authorities such as the Labour Inspectorate and the police, and of the implementation of preventive measures with EURES and foreign embassies<sup>31</sup>.

**Estonian Trade Union Confederation:** ETUC were invited to participate in the survey for this study, but chose to answer an alternative set of questions, as they do not have a mandate, nor experience, when it

comes to trafficking for labour exploitation. It was stated that neither ETUC nor its affiliated unions work on trafficking for labour or closely related issues, such as migrant workers or labour exploitation. The unions in Estonia usually operate on a company level, whereas the level of individual memberships is low. Migrant workers are not normally members of a union. The main tasks of the confederation are to improve collective agreements for workers, and to monitor the implementation of legislation. As a consequence, ETUC has been involved in the task of preparing amendments to the Aliens Act, through which the minimum wages for migrant workers were established. Nevertheless, ETUC stated that they do not particularly see themselves as capable of doing more within this area. This is due to a lack of funding, as well as a lack of training and capacity<sup>32</sup>.

**European Job Mobility Network:** EURES similarly declined to participate in the survey for this study, as they did not see themselves as competent to answer the questionnaire. Nevertheless, they answered a set of alternative questions. The purpose of EURES is to provide information, advice and recruitment services for workers as well as employers. Their main goal is to maximise safety for migrant workers within the EU. As such, EURES is a network of advisers specialised on the legal and administrative aspects of employment, usually working within partnering institutions. Informing on the risks of labour migration is included in this work, as is informing on the conditions and rights of non-EU citizens working within the EU<sup>33</sup>.

EURES cooperates with Living for Tomorrow in providing information events on safe work abroad, to which representatives from the police, social insurance fund, and the tax and customs board are also invited. Information events have also been organised on the ferry

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<sup>28</sup> Questionnaire 2012: Ministry of Justice

<sup>29</sup> Ibid.

<sup>30</sup> Questionnaire 2012: Living for Tomorrow

<sup>31</sup> Ibid.

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<sup>32</sup> E-mail Correspondence 2012: Estonian Trade Union Confederation

<sup>33</sup> E-mail correspondence 2012: European Job Mobility Centre

from Tallinn to Helsinki, concerning social rights, taxation and contracts<sup>34</sup>.

EURES were also described as one of the lead agencies within this area, as they have been instrumental in analysing trends and vulnerable groups, referring victims, and disseminating information material. The representative of the organisation stated that they could be doing more within this area, with more training, cooperation with other countries to share lessons learnt and experience, and generally an increased exchange of information<sup>35</sup>.

## Cooperation

The current distribution of tasks in Estonia is to some extent governed by the NAP (the Development plan for Reducing Violence for 2010-2014).

Criminal investigations on trafficking in persons are conducted by the police and border control. These are part of the same Police and Border Guard Board, nevertheless, the Citizenship and Migration Department has specialised on this particular issue. This unit further proactively identifies victims through workplace inspections of migrant workers. The participation of the Labour Inspectorate as well as labour/trade unions is very limited in proactively identifying and referring victims.

The Ministry of Social Affairs has commissioned Living for Tomorrow to conduct preventive work on Human Trafficking, as well as to provide a hotline for potential victims. LFT also provides legal aid and social support to victims. All cases of trafficking in persons which LFT encounters are reported to SM. Apart from this collaboration between LFT and SM, cooperation between civil society actors and government authorities mainly takes place through the coordination network organised by MoJ. In this forum, NGOs and other actors

participate in discussions on the implementation of the NAP.

## Policy and legislation

Trafficking in persons has been included in the Estonian penal code since 2012. Certain provisions of the **Aliens Act and Penal Code** also address the working conditions of migrant workers and related issues. According to one of the respondents, this legislation is up to date with the standards of the European Union and provides comprehensive protection for victims of trafficking.

According to the respondents, there is a lack of both cooperation mechanisms and legislation which govern cooperation in Estonia. Cooperation usually takes place on a case-to-case basis. However, it was mentioned that there are plans to develop procedural rules during 2012.

The cooperation between the police and the prosecutor general is regulated through the **Criminal Procedure Code**, which for example establishes the leading role of the prosecutor in a preliminary investigation. In addition, the Office of the General Prosecutor's Act states that the mandate of this authority is to participate in the prevention and detection of crimes; to lead preliminary investigations, and to represent public prosecution in court.

Estonia has previously published a Development Plan for Combating Trafficking in Human Beings for 2006-2009. This specific area is currently incorporated into the **Development Plan for Reducing Violence 2010-2014**, which brings up findings and planned activities related to trafficking in persons. The issue of forced labour is specifically mentioned in the plan, referring to activities such as a dialogue between for example: the Labour Inspectorate, the Chamber of Commerce and Industry, the Employers' Confederation, and the

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<sup>34</sup> Ibid.

<sup>35</sup> Ibid.



Unemployment Insurance fund<sup>36</sup>. No other policy documents were mentioned by the respondents.

When asked about limitations to the current legislation on trafficking in persons, the respondents stated that the legislation does not provide a clear definition of trafficking for labour exploitation, something which constitutes an obstacle to the identification of victims. Victims of trafficking for labour exploitation are often forced to turn to an administrative court, rather than a criminal court, which leads to large expenses for the victim. Another respondent pointed out that the provisions in the penal code on trafficking in person have not been in place long enough to produce crime statistics, or to allow for an evaluation of whether the legislation serves its purpose. No issues were raised concerning the existing policy documents.

## **Mechanisms**

**Specialised Units:** The Estonian Police have assigned the Unit for Serious Crimes and Crimes against Persons with the Northern Police Prefecture and with the Central Criminal Police the task of investigating cases of trafficking in persons in general. No unit has been given the mandate to specifically investigate trafficking for labour exploitation. Within the Office of the Prosecutor General, there seems to be staff which have specialised on cases of trafficking in persons to some extent, but not a unit working only on this matter.

**Lead Agency:** For the role as lead agency in Estonia, a few suggestions were raised by the respondents. MoJ was suggested, seeing as the ministry is responsible for the implementation of the current NAP. The Labour Inspectorate, Police and Border Guard Board were also suggested, as was EURES and LFT, seeing as they have led the preventive work in Estonia, as well as the provision of victim assistance.

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<sup>36</sup> Ministry of Justice (2010) Development Plan for Reducing Violence for Years 2010-2014, Tallinn

**National Action Plan:** Estonia has previously published a Development Plan for Combating Trafficking in Human Beings for 2006-2009. All respondents mentioned the current Development Plan for Reducing Violence 2010-2014, when asked about a National Action Plan. This plan is not an NAP focused solely on trafficking, but does bring up issues and activities related to this specific crime. In fact, preventing and combating trafficking in persons is one of the four objectives of the plan. Preventive efforts such as awareness raising activities are included, mostly for schools. The issue of forced labour is specifically included in the plan, where a scoping study has been planned as well as carried out, and information work has been conducted. A dialogue between actors such as the Labour Inspectorate, the Chamber of Commerce and Industry, the Employers' Confederation, and the Unemployment Insurance fund has been initiated. During 2012, these actors are to be included in discussions of the Coordination Network. Most of the other activities which have been planned concern victim assistance, mainly for victims of trafficking for sexual exploitation, as well as measures to improve investigations<sup>37</sup>.

**Working Groups:** There is a national working group referred to as the Coordination Network, consisting of ministries as well as NGOs, it has met for roundtable discussions twice a year since 2006. This group is chaired by the national coordinator within the MoJ and has the mandate to discuss and monitor the implementation of the NAP. In addition, the members may discuss operational needs as well as the revision of policy, and agree on measures to be taken. This network has stated the importance of placing trafficking for labour exploitation on the agenda. One of the activities of the current NAP, to be conducted by MoJ in cooperation with SM, is to include labour organisations and employers' organisation in roundtable discussions during

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<sup>37</sup> Ministry of Interior (2010) Development Plan for Reducing Violence for Years 2010-2014, Tallinn

the second half of 2012. These organisations are to be informed on recent changes to legislation and on trafficking for labour exploitation.

**National Coordinator or Rapporteur:**

Although not all respondents were aware that Estonia has a National Coordinator, this function has been in place since 2006. It is an advisory post with the Criminal Policy Department Analysis Division of MoJ, although not a full-time position. The coordinator chairs and sets the agenda for the meetings of the Coordination Network described above. In addition, he or she collects input and suggestions, data and crime statistics from different stakeholders for the annual report on the implementation of the NAP, which is presented to the government. This reporting function resembles the tasks of a National Rapporteur, although the national coordinator in Estonia is also involved in implementation efforts, is not independent, and does not have the capacity which a national rapporteur normally has.

**Memorandum of Understanding:** In terms of MoUs or current agreements between Estonian actors, only the agreement between LFT and SM was mentioned, where LFT has been commissioned to provide certain victim assistance services and to conduct preventive work on trafficking in persons.

**Challenges and Limitations**

When asked about challenges and obstacles currently limiting their work on trafficking for labour exploitation, the respondents in the survey stated the lack of knowledge and capacity, as well as the lack of legislation and policy. The lack of cooperation was also mentioned by one of the respondents, while the lack of referral mechanisms was raised by two participants.

Knowledge on the topic of trafficking for labour is still very limited, as is the number of identified cases. It was stated that many actors lack capacity, mainly staff. The existing

capacity and resources are used to work on trafficking for sexual exploitation rather than trafficking for other purposes, since cases of the former are more frequently identified.

Trafficking for labour exploitation was described as a new phenomenon in Estonia. In fact, it was stated that there is practically no trafficking for labour exploitation in Estonia, and therefore also no cooperation. At the same time, it was mentioned that Estonia is a source country for trafficking for labour exploitation and that preventive efforts are needed to resolve this situation. It was further stated that there is a lack of understanding with the different authorities, but also a lack of human resources and funding to work on the issue. Cooperation was described as still being in a development phase, where more concrete plans are yet to follow from general discussions. In addition, a clear framework for cooperation is missing.

Trafficking in persons as a crime has only recently been included in the Estonian penal code, hence there are no crime statistics to determine the scope of the issue, and it is too early to evaluate the effects of the amendments. Nevertheless, one of the respondents stated that the legislation is insufficient in allowing actors to identify and refer cases of trafficking for labour exploitation. NGOs currently identify victims who cannot be assisted since they are not legally recognised as victims of a crime. The roles of different agencies also need to be clarified, while referral mechanism should be strengthened.

**Conclusions**

Estonia is mainly a source country for trafficking in persons for forced labour and labour exploitation, although it is also on the receiving end for migrant workers from other countries within the former Soviet Union. Being a source country for victims of trafficking, normally means receiving a large number of repatriated victims of trafficking in persons. This is a good a reason to implement

preventive efforts as well as victim assistance programmes. It is fortunate that Estonia holds a number of actors who have realised the importance of this type of work. It is unfortunate that these actors still have a limited knowledge on the subject of trafficking for labour exploitation.

Levels of awareness concerning trafficking for labour exploitation are still low, compared to trafficking for sexual exploitation. Actors such as trade unions, employers' organisations and labour market organisations have only recently been invited to participate in discussions on the topic, and readily admit to both a lack of knowledge and experience, and a limited mandate. Organisations such as EURES certainly have both the potential and the will to do more within this area, nevertheless, training and capacity building efforts are needed to expand their mandate and to ensure efficient cooperation with other organisations. The lack of identified cases of trafficking for labour exploitation, combined with a lack of knowledge, has led to the current situation where the limited capacity and resources which

exist are used to work on trafficking for sexual exploitation rather than trafficking for other purposes.

Trafficking in persons has only been included in the penal code for a short period of time, which makes it difficult to assess the impact of the legislation and to measure the scope of the crime, particularly seeing as the legislation lacks a clear definition of trafficking for labour exploitation. A lack of cases identified does not necessarily mean that cases do not exist. Sufficient legislation, as well as well-trained law enforcement and prosecutors, are instrumental in making sure that trafficking for labour exploitation is recognised as just that, and is prosecuted accordingly. Only when perpetrators are prosecuted they contribute to crime statistics which describe the scope and nature of the crime. Research is also important in order to investigate scope, modus operandi, as well as limitations to existing resources and mechanisms. Nevertheless, such efforts similarly, to some extent, depend on knowledge and awareness of the issue and its nature.

## Relevant Estonian departments and organisations

### Invited actors who participated in the study:

- **Ministry of Justice** (Justiitsministeerium: national coordinator for issues related to human trafficking)
- **Ministry of Social Affairs** (Sotsiaalministeerium: gender equality department)
- **Police and Border Guard Board** (Politsei- ja Piirivalveamet: **Citizenship and Migration Department**)
- **Office of the Prosecutor General** (Riigiprokuratuur)
- **Labour Inspectorate** (Tööinspeksioon: Labour Relations Department)
- **Living for Tomorrow** (NGO)

### Other invited actors:

- Police and Border Guard Board (Politsei- ja Piirivalveamet: Border Guard)
- Ministry of Social Affairs (SM: Sotsiaalministeerium: Working Life Development Department)
- Ministry of Interior (Siseministeerium: Law Enforcement and Criminal Policy Department)
- Estonian Employers' Confederation (Eesti Tööandjate Keskliit)
- Estonian Trade Union Confederation (ETUC: Eesti Ametiühingute Keskliit)
- European Job Mobility Network (EURES)

### Other actors mentioned by respondents:

- Estonian Chamber of Commerce and Industry (Eesti Kaubandus-Tööstuskoda)
- Ministry of Economic Affairs and Communications (Majandus- ja Kommunikatsiooniministeerium)
- Military Police (Sõjaväepolitsei)
- The Defence Forces (Eesti Kaitseväge)
- Tax and Customs Board (Maksu- ja Tolliamet)
- Competition Authority (ECA: Konkurentsiamet)
- Environmental Inspectorate (Keskkonnainspeksioon)
- Foreign embassies in Estonia
- Unemployment Insurance fund (Eesti Töötukassa)

## Findings

Out of fourteen Finnish respondents asked to participate in the survey, nine submitted the questionnaire. These respondents represented the Ministry for Foreign Affairs (MFA), the Office of the Ombudsman for Minorities, the Border Guard, the Ministry of the Interior (MoI), the Finnish Immigration Service (FIS), the National Assistance System for Victims of Trafficking, the Ministry of Employment and the Economy (MoEE), the Central Organisation of Finnish Trade Unions (SAK), and the Confederation of Finnish Industries (EK).

In Finland, a wide variety of actors have been involved in working against trafficking in human beings, including trafficking for labour exploitation, which has been on the agenda for some time. The respondents did not list lack of cooperation as the main problem in combating trafficking in persons. Rather, a lack of capacity and/or knowledge was often cited as the main limitation to this work. Although there seems to have been a good culture of cooperation between departments and organisations on this subject in the past, no commonly acknowledged lead agency or coordinating body could be identified on the national level.

The findings of this report are divided into two parts. The first part concerns relevant actors with regards to trafficking in persons as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to

map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

In addition to the nine actors responding to the survey, at least fifteen other actors were mentioned by the respondents, as cooperation partners, or as relevant stakeholders. The following actors were mentioned: the various national organs in the police organisation (National Bureau of Investigation, National Police Board), Customs, the Oulu reception centre, the Office of the Prosecutor General, the Ministry of Social Affairs and Health (MoSH), the Ministry of Justice (MoJ), the Association of Finnish local and regional authorities, Regional State Administrative Agencies, the municipalities' Social Services Departments, the European Institute for Crime Prevention and Control affiliated with the United Nations (HEUNI), and various NGOs (Pro Centre Finland, Multicultural Women's Association, and Victim Support Finland were specifically mentioned).

What follows below is a brief description of the work of the different relevant actors on trafficking in persons for labour exploitation. This includes the respondents in the survey, but also to some extent other relevant actors, as well as the cooperation of the respondents with other actors, as it was described in the survey.

## Governmental

**Border Guard:** the Border Guard mentioned training efforts for border control officers, criminal investigators, and crime intelligence officers as one of the tasks conducted within this particular area. They further stated that there is a close cooperation with the national police in criminal investigations related to trafficking in persons, and that the Finnish Border Guard has the same authority as the police to identify and investigate such crimes. The Border Guard further train MFA staff during regional training session organised in source countries for victims of trafficking in persons<sup>38</sup>.

**Immigration Service:** FIS is responsible for granting residence permits to victims of trafficking, according to the Aliens Act. In order to gain the information necessary to make such a decision, the Immigration Service cooperates with the police, the National Assistance System for Victims of Trafficking, and the Office of the Prosecutor General. FIS also cooperates with MFA concerning, for example, visas. In general, cooperation with other actors involves sharing information concerning a specific case, sharing general information on the topic, and launching joint projects<sup>39</sup>.

**National Assistance System for Victims of Trafficking:** This national referral and assistance system is coordinated by two state reception centres; the Joutseno reception centre, which is responsible for adult victims, families and groups, and the Oulu centre, responsible for assisting underaged victims<sup>40</sup>. In this capacity, the Joutseno reception centre has participated in this study. Their role within

the area of trafficking in persons for labour was described as being “a competent authority in identifying victims of trafficking”, and their mandate “to make decisions on whether an individual is granted a status in the national support system”. The National Assistance System cooperates with the Police, the National Bureau of Investigation, FIS, the Border Guard, the National Rapporteur on Trafficking in Human Beings, NGOs, trade unions, municipal social and health services, the other reception centres for asylum seekers, and the Occupational Safety and Health authority. This cooperation mainly consists of joint training and discussions, as well as the exchange of information and assistance on specific cases<sup>41</sup>.

Three ministries participated in the survey for this study: the Ministry for Foreign Affairs, the Ministry of the Interior, and the Ministry of Employment and the Economy.

**Ministry for Foreign Affairs:** Within MFA, the Unit for Human Rights Policy responded to the survey. Quite naturally, the role and mandate of MFA mainly concerns the external relations of the Finnish government. Within the area of trafficking in persons, this could involve participation in regional or multilateral fora on the subject. The MFA further administers the development of cooperation programmes, which may relate to trafficking in persons, and, more specifically, trafficking in persons for labour exploitation. At the national level, MFA to some extent participates in working groups on trafficking in persons, but otherwise has a limited role. Partners of cooperation at the national level which were mentioned in the survey were: MoI, the Ombudsman for Minorities, MoJ, and MoSH. At the national level, this cooperation consists of joint preparation of legislation and policy, as well as follow-up

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<sup>38</sup> Questionnaire 2012: The Border Guard

<sup>39</sup> Questionnaire 2012: The Immigration Service

<sup>40</sup> Ollus, & Jokinen. (2011). Work on any terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland. In Jokinen, Ollus, & A. (eds.), *Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia* (pp. 31-164). Helsinki: European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI)

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<sup>41</sup> Questionnaire 2012: The National Assistance System

activities which concern trafficking in persons<sup>42</sup>.

**Ministry of the Interior:** MoI and its Migration Department stated that the role of the department within this area consisted mainly of preparing legislation and policy, concerning support, reflection period, and residence permit to victims of all forms of trafficking. It was also stated that the department coordinates the anti-trafficking efforts within MoI. As the national focal point, MoI co-operates with all relevant ministries and other relevant authorities in human trafficking questions.

**Ministry of Employment and the Economy:** MoEE has the mandate to draft and prepare legislation and policy on labour and employment issues, which is thereby related to efforts to curb and prevent trafficking in persons. In this work, the ministry cooperates with MoJ on criminal law, and with the Ministry of Social Affairs and Health when it comes to labour protection. MoEE also cooperate with MoI and the Ombudsman for Minorities. Cooperation mainly consists of representation in the same working groups<sup>43</sup>.

**Labour Inspectorate and Tax authorities:** The Labour Inspectorate in Finland is part of the Ministry of Social Affairs and Health and consists of Regional State Administrative Agencies which are in charge of the supervision as well as direction of standards and practices in workplaces. The Ministry of Social Affairs and Health did not participate in this survey, and one respondent stated that: *“the Occupational Safety Administration does not have a formal mandate on trafficking for labour”*. Nevertheless, literature shows that the Finnish Labour Inspectorate has inspectors working solely with foreign and migrant employees, and that there is a unit specialised in the “grey economy” within the Finnish tax authorities,

the existence of which is regulated by law<sup>44</sup>. This indicates that there are resources within these authorities in Finland which are currently addressing organised crime and other issues closely related to trafficking for labour.

**National Rapporteur:** Finland currently has no coordinating unit or agency on trafficking in persons. Nevertheless, an advisory and supervisory role at the national level has to some extent been granted to the National Rapporteur on Trafficking in Human Beings, who is the Ombudsman for Minorities. The role of this institution is to monitor phenomena related to human trafficking, to oversee actions taken against human trafficking, as well as to issue proposals, recommendations, statements and advice in order to develop anti-trafficking work and to promote the status and rights of victims of human trafficking. The Ombudsman provides legal advice to authorities and other actors, and can also assist victims of trafficking and related crimes in securing their rights<sup>45</sup>.

The National Rapporteur has the mandate, and is obliged, to monitor and report not only on the phenomena related to human trafficking, but also on the fulfilment of international obligations and the effectiveness of national legislation. Reports are regularly issued to the Government and Parliament on human trafficking and related phenomena. The rapporteur has the right, notwithstanding the secrecy provisions, to obtain information from authorities, as well as from service and support providers for victims of trafficking. In this regard, The National Rapporteur cooperates with a large number of actors, such as ministries and operational actors (police, social services, immigration services etc.), NGOs, trade unions, universities and research institutes. It should be emphasised that the purpose of this cooperation is to monitor,

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<sup>42</sup> Questionnaire 2012: Ministry for Foreign Affairs

<sup>43</sup> Questionnaire 2012: Ministry of Employment and Economy

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<sup>44</sup> Middelmann & Bergsten. (2012) Rapport 2012:5: Förstudie om det fortsatta arbetet med utländska företag och arbetstagare. Stockholm: Arbetsmiljöverket, pp. 3(12)-4(12).

<sup>45</sup> Questionnaire 2012: The Ombudsman for Minorities

rather than to coordinate, the work of these actors. The rapporteur also monitors on-going criminal investigations and court procedures, as well as provides advice to authorities such as police, prosecutors, judges, immigration officers, border guards and customs officers<sup>46</sup>.

## Non-Governmental

Trade Unions were often referred to in more general terms, as a cooperation partner as well as a relevant reference point. In this study, the Central Organisation of Finnish Trade Unions and the Confederation of Finnish industries took part in the survey. Their responses provide some insight into the work of trade unions within this area:

**Central Organisation of Finnish Trade Unions:** SAK is a confederation of trade unions, stating that their main cooperation partners are employers' organisations, governmental agencies, and their affiliated unions. Cooperation efforts consist mainly of efforts to improve current legislation, to monitor adherence to the current legislation, and to provide advice on labour issues<sup>47</sup>.

**Confederation of Finnish industries:** EK stated that they do not have a direct role when it comes to trafficking for labour. Nevertheless, this issue is closely related to their work against labour exploitation. The confederation cooperates with governmental departments and agencies as well as trade unions, mainly through the exchange of information and through the development of common goals<sup>48</sup>.

**NGOs:** The non-governmental organisations mentioned by respondents in this survey were: Pro Centre Finland, Multicultural Women's Association, and Victim Support Finland, out of which none were included in the survey for this study. Pro Centre Finland is an NGO

which has focused mainly on providing support and services to sex workers<sup>49</sup>. Fighting human trafficking has also been a strong focus for the organisation, albeit limited to trafficking for sexual exploitation. Pro Centre was a member of the steering group of the Finnish Plan of Action Against Trafficking in Human Beings until 2011. Until spring 2011, it was also a member of the planning group for information, guidance and training. It currently functions as the coordinator of the national network of NGOs against human trafficking, described more closely in the section on cooperation mechanisms. The Multicultural Women's Association is an umbrella organisation for several associations for women of ethnic minorities and migrant women<sup>50</sup>. Victim Support Finland offers advice and support to victims of crime, but also works with advocacy to influence general attitudes towards victims of crimes and to improve legislation<sup>51</sup>.

**HEUNI:** The European Institute for Crime Prevention and Control (HEUNI) is a partner organization in the DEFLECT project and a coordinator of the ADSTRINGO project. HEUNI has also produced research material which examines trafficking for labour exploitation and forced labour specifically in Finland, Estonia, as well as Poland, and is therefore a relevant source of expertise on this particular type of trafficking. HEUNI was not included in this survey, but was referred to as a relevant stakeholder as well as point of reference by other respondents in the questionnaire as well as in correspondence.

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<sup>46</sup> Ibid.

<sup>47</sup> Questionnaire 2012: the Central Organisation of Finnish Trade Unions

<sup>48</sup> Questionnaire 2012: The Confederation of Finnish industries

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<sup>49</sup> Pro-tukipiste. (2012) Organisation: Iris-Fighting Human Trafficking. Retrieved April 6, 2012, from Pro-tukipiste- Pro Centre Finland: <http://www.pro-tukipiste.fi/>

<sup>50</sup> Monika - Multicultural Women's Association in Finland (2012) *About: Monika*. Retrieved April 6, 2012, from [www.monikanaiset.fi](http://www.monikanaiset.fi): <http://www.monikanaiset.fi>

<sup>51</sup> Victim Support Finland. (2012). *About: Victim Support Finland*. Retrieved April 6, 2012, from [www.riku.fi](http://www.riku.fi): <http://www.riku.fi/fi/victim+support/>



## Cooperation

The current distribution of tasks in Finland, is that the Tax Administration and the Labour Inspectorate carry out workplace inspections, sometimes with the police, where cases of trafficking for labour exploitation may be identified. The Occupational Safety Administration does not have a formal mandate to address trafficking for labour, but is nevertheless obliged to report any suspected cases of crimes against the aliens act or the penal code, regarding work discrimination, trafficking in persons or labour exploitation, to the police. The same goes for other Finnish authorities encountering suspected cases of trafficking in persons. As such, most cases are identified by the different authorities while carrying out their regular duties. The police investigate most such crimes, while the Border Guard has also investigated a few cases identified through their work.

The Immigration Service has been given the mandate to grant victims of human trafficking residence permits, while the police and border guard may grant victims a reflection period of at least thirty days, maximum six months. The National Assistance System, administered by two reception centres, is referred cases by authorities, private or public service providers, or is approached by the victim in person. These reception centres then grant the victim a status in the system, and subsequently, the access to assistance. A victim may be accepted to the Assistance System without there being an on-going investigation. It is sufficient that the authorities suspect that the particular individual is a victim of trafficking.

The National Rapporteur has a monitoring and advisory role but may also assist individual victims in securing their rights. Two working groups within the Ministry of the Interior and the Ministry of Justice are currently looking into improvements of the current legislation on trafficking in persons.

## Policy and legislation

Cooperation mechanisms, on trafficking in persons specifically, are not currently described in Finnish law relating to the issue. The crime and its different forms are included in the penal code and the cooperation, referral, as well as different roles of government departments is to some extent governed by more general regulations. Furthermore, Finland has a National Assistance System for Victims of Trafficking, which is described in **the Act on the Reception of Persons Applying for International Protection (746/2011)**<sup>52</sup>. Current legislation also describes the procedures for handling confidential information and stipulates who is eligible for a residence permit.

All of the respondents are aware of the **National Action Plan against Trafficking in Human Beings**<sup>53</sup>, and mentioned it as the only or one of the most important, policy documents on trafficking in persons. The NAP is a government resolution which was first adopted in 2005, and revised in 2008<sup>54</sup>. The initial NAP focused on victim assistance and adopted a multi-professional approach, using existing service systems, including; outreach efforts, crisis therapy, and victim support services (for example; housing, financial support, education, training, employment, social support, psychological support, health services, legal aid, and administrative support). Cooperation between authorities and the civil society was regarded as an important precondition for the success of the support measures. The Plan of Action

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<sup>52</sup> Lag om mottagande av personer som söker internationellt skydd: 746/2011. Lakikansainvälistäsuojeluahakevanvastaanotosta, Sisäasiainministeriö, 01.09.2011

<sup>53</sup> Working Group on the Plan of Action Against Trafficking in Human Beings. (2005) *National Plan of Action against Trafficking in Human Beings*. Helsinki: Publications of the Ministry for Foreign Affairs.

<sup>54</sup> Steering Group for the Plan of Action Against Trafficking in Human Beings. (2008) *Revised National Plan of Action against Trafficking in Human Beings*. Helsinki: Publications of the Ministry of the Interior.

also included measures to establish the legal basis for residence and the possibility of a reflection period as well as the granting of residence permits for victims of trafficking as specified in the Aliens Act.

The revised NAP concerned the identification of victims specifically, with the aim of keeping a low threshold for identification. Efforts to improve the ability of authorities to identify victims were also prioritised. The revised plan similarly stated the goal of increasing cooperation between government authorities and civil society organisations.

In 2008, a steering group was set up to monitor the implementation of the Revised Plan of Action and to support its coordination from 2008 to December 2010. The mandate of this group was later extended until March 2011. At the end of its term of office in 2011, the Steering Group submitted a report containing recommendations for measures to improve legislation and combat human trafficking, to the Minister of Migration and European Affairs. This report included the recommendation that a working group be set up to draft a proposal for an act specifically focused on trafficking in persons, regulating assistance and identification efforts, as well as the communication of information related to human trafficking cases between various authorities and other relevant actors. According to these recommendations, two working groups are currently being set up, led by MoI and MoJ. The purpose of these working groups (described further under Mechanisms) is, amongst other things, to develop legislation to regulate the identification and referral process of victims of trafficking.

Other relevant policy documents mentioned by the respondents were: **The Report/Evaluation of the Steering Group of the Revised National Action Plan against Trafficking in Human Beings from 2011** (the report mentioned above), Guidelines for the labour inspectorate by the Ministry of Social Affairs and Health, the annual **Report**

**of the Ombudsman for Minorities on Trafficking in Persons**, the Report of the parliament's Employment and Equality Committee, as well as the report of the parliament based upon it, from 2010, and finally internal regulations with different governmental departments.

When asked about the limitations of current legislation and policy, three respondents replied that a lack of resources for implementation was the main issue, or one of the main issues. Nevertheless, three respondents also replied that there were issues of clarity with the current legislation, where human trafficking offences need to be distinguished from extortionate work discrimination<sup>55</sup>, and the concept of forced labour needs to be more closely defined. Where the distinction between trafficking and extortionate work discrimination is difficult to make, there may be a tendency to go with the latter. Some of the respondents also mentioned difficulties with identifying victims of trafficking, as well as a lack of NGOs taking an interest in victims of labour exploitation. The following issues were also brought up: The need for a specific act on the system for victim assistance, the need for a specialised investigating unit on trafficking in persons, the development of labour legislation on foreign labour, the amendment of the Aliens Act to terminate the granting of residence permits which are only valid for one employer, and the ratification of the Council of Europe Convention on Action against Trafficking in Human Beings.

## Mechanisms

**Specialised Units:** The respondents mentioned a number of specialised units within different departments, for example with the Office of the Prosecutor General, the Police, the Ombudsman for Minorities, the Labour Inspectorate and the National

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<sup>55</sup> Extortionate work discrimination is a crime included in the Finnish penal code, closely resembling trafficking in persons.

Assistance System/The Immigration Services. The Ombudsman for Minorities, however, pointed out that there were no specialised units, although some departments have staff specifically trained in dealing with trafficking in persons. The answer to the question on specialised units will of course depend to some extent on the definition of a specialised unit.

**National Rapporteur/Coordinator:** The function of the National Rapporteur was elaborated upon earlier in the report. In Finland, this function has been placed with the Ombudsman for Minorities. The National Rapporteur mainly has a monitoring role, and should not be confused with a coordinator. His/her role is to monitor phenomena relating to trafficking in persons, to oversee action taken against it, as well as to provide recommendations and statements to improve this work. Besides monitoring court procedures, criminal investigations and providing legal advice, the Ombudsman may also assist individual victims of trafficking and related crimes in securing their rights<sup>56</sup>.

**Referral System:** The national system of assistance for victims of human trafficking was established in 2006. The system is coordinated by two state reception centres for asylum seeker; the Joutseno reception centre is responsible for assisting adults, families and groups who have become victims of human trafficking, while the Oulu reception centre assists minors. This assistance is based on the Act on the Reception of Persons Applying for International Protection (746/2011). According to the current legislation, victims are offered services and support measures such as: legal advice, crisis support, social and health services, and the service of an interpreter. Victims are also offered accommodation, subsistence support, as well as assistance with their repatriation process. Authorities responsible for pre-trial investigations, such as the police and the border guards, are in a good position to

identify as well as refer victims to the assistance system. They also have the mandate to grant victims a reflection period. Nevertheless, the decision on whether to grant a potential victim access to the assistance system is made by the heads of the reception centres<sup>57</sup>. Victims do not necessarily need to be referred by the police or border guard. Hence, public authorities, private or public service providers, private citizens, as well as the victim can all refer a potential victim of trafficking (or himself/herself in the case of a victim), to the Assistance System<sup>58</sup>.

**Memorandum of Understanding (MoU):**

All respondents stated that there is no MoU to regulate roles and cooperation between actors to combat trafficking in persons in general, or trafficking for labour specifically. Nevertheless, most of them also stated that there is legislation and regulations which determine the mandates of each department and which concerns cooperation between agencies and departments in more general terms.

**Working Groups:** According to the recommendations included in the report of the steering group from 2011, two working groups are currently being set up, led by MoI and MoJ. The members of the MoI working group have only recently been nominated. The purpose of this group is to investigate the possibility of creating a separate law on trafficking in persons. This law would specifically regulate the identification and referral of victims, as well as the assistance offered to them. The working group is expected to finalise its work by the end of 2013<sup>59</sup>.

The MoJ working group on the other hand, is concerned with amending existing legislation. Their work is primarily focused on clarifying the distinction between trafficking in persons and other crimes, such as procuring and

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<sup>56</sup> Questionnaire 2012: The Ombudsman for Minorities

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<sup>57</sup> Questionnaire 2012: The Ombudsman for Minorities

<sup>58</sup> Questionnaire 2012: the National Assistance System

<sup>59</sup> Questionnaire 2012: The Ombudsman for Minorities

extortionate work discrimination. This work is conducted in order to reduce the amount of trafficking cases being investigated and/or prosecuted as other crimes and, as a consequence, to increase assistance for victims of trafficking<sup>60</sup>.

**Networks:** An NGO-led network was further mentioned by the Ombudsman for Minorities. This national network of NGOs against human trafficking has been coordinated by Pro Centre Finland since 2007. The network is an informal coalition, which brings together NGOs and researchers interested in the subject on approximately four occasions per year. These meetings are intended to provide a forum for actors to share information and experience of trafficking in persons as well as victim support. The network may further draft statements regarding the work on human trafficking, which members are invited to sign<sup>61</sup>.

In general, the respondents from the different government departments all stated that they cooperated with civil society actors, mainly through different working groups, or through NGOs functioning as service providers. The participating trade unions similarly mentioned cooperation through the exchange of information and on developing legislation. Nevertheless, some respondents stated that there is still room for improvement with regards to cooperation between civil society and government departments.

## Challenges and limitations

The respondents were asked about factors limiting their work on trafficking in persons, and were given eight alternatives: *legislation, lack of policy, lack of cooperation, lack of referral mechanisms, corruption, lack of knowledge, lack of capacity*, and *other*. Out of nine respondents, only one stated that cooperation constituted a

limitation to his/her work. Four respondents chose *lack of knowledge*, while four respondents chose *lack of capacity*. Both of the respondents who ticked the “other” box, stated that a *lack of resources* constituted the main limitation. Two respondents also stated that legislation constituted an obstacle. A *lack of policy* and a *lack of referral mechanisms* were both chosen by only one respondent.

The issues with the current legislation which were brought up concerned boundaries between trafficking in persons and other crimes, but also general critique that the legislation could be clearer. More specifically, one statement concerned the fact that the term “forced labour” is not defined in the current legislation. The legislation which governs the National System of Assistance was also brought up as a complicated and challenging legislation to work with.

A general lack of resources was mentioned by several respondents, especially for legislative work and coordination efforts. A lack of capacity and/or knowledge was also mentioned, which is closely related to the lack of resources. Respondents mentioned difficulties with identifying victims, a lack of NGOs focused on male victims or victims of labour exploitation, as well as the fact that the Occupational Safety Administration has no mandate when it comes to trafficking in persons.

Although lack of cooperation was not often brought up as one of the main obstacles, the general impression was that cooperation could still be improved. For example, it was mentioned that the roles and mandates of different actors could be specified more closely in legislation or regulations. Cooperation could also be improved to increase the exchange of information and lessons learnt between government departments on the national level. This could further benefit efforts on the international level to combat trafficking in persons.

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<sup>60</sup> Ibid

<sup>61</sup> Pro-tukipiste. (2012) Organisation: Iris-Fighting Human Trafficking. Retrieved April 6, 2012, from Pro-tukipiste- Pro Centre Finland: <http://www.pro-tukipiste.fi/>

Finland currently has no lead agency or coordinating unit responsible for coordinating the efforts of different actors at the national level. The steering group for the NAP ceased to exist in 2011, but has recommended the set-up of the current working groups with MoI and MoJ to consider, amongst other things, the creation of a coordinating unit at the national level. When asked about the existence of a lead agency, some respondents stated that there is none, while others suggested one or several government departments, which differed significantly between the respondents. The Ministry of Interior was suggested by two respondents, which could be related to the fact that MoI coordinates one of the national working groups on the subject. Hence, there seems to be some confusion amongst different actors as to which the lead agency is. In reality, Finland presently lacks a national coordinating body.

## Conclusions

Although Finland has come relatively far in terms of discussing and dealing with the concept of trafficking for labour exploitation, a few issues continue to hinder further development. The actors included in this survey experience a lack of resources and capacity to legislate, investigate, coordinate and provide assistance to victims of trafficking. In

terms of cooperation between civil society and government departments, different actors may be relevant to include in the work on trafficking for labour exploitation. NGOs in particular are mostly focused on trafficking for sexual exploitation. Trade unions, tax authorities and the Labour Inspectorate may be actors which could be involved more in this work. This demands different approaches to victim assistance as well as preventive work.

Although lack of cooperation is not the main problem for the Finnish stakeholders, the existing mechanisms and the prevailing “culture of cooperation” could benefit from being more formalised. Creating a lead agency or a coordinating body could free capacity with other actors as well as serve as a capacity-building function for its partnering institutions. As such, this could at least partly be a solution to the lack of capacity, resources and knowledge which many actors still seem to experience.

The recommendation to create a national coordinating unit has already been made. The on-going discussions and findings of the working groups within the Ministry of Justice as well as the Ministry of Interior on the issue of legislation should guide any future efforts to improve national cooperation on trafficking for labour in Finland.

## **Relevant Finnish departments and organisations**

### **Invited actors who participated in the study:**

- **Ministry for Foreign Affairs**, Political Department, Unit for Human Rights Policy
- **Office of the Ombudsman for Minorities** (National Rapporteur)
- **Border Guard**: Headquarters
- **Ministry of the Interior**: Migration Department
- **Finnish Immigration Service**
- **National Assistance System for Victims of Trafficking**, Joutseno Reception Centre
- **Ministry of Employment and the Economy**
- **Central Organisation of Finnish Trade Unions** (SAK)
- **Confederation of Finnish Industries** (EK)

### **Other invited actors:**

- National Bureau of Investigation, National Police Board
- Ministry of Social Affairs and Health (MoSH): Department of Occupational Safety and Health
- The Ministry of the Interior: the Police department
- City of Helsinki: Social Services Department: Immigration Unit

### **Other actors mentioned by respondents:**

- Customs
- Oulu reception centre
- The Office of the Prosecutor General
- Ministry of Justice (MoJ)
- The Association of Finnish local and regional authorities
- Regional State Administrative Agencies
- The Social Services Departments of the municipalities
- The European Institute for Crime Prevention and Control, affiliated with the United Nations (HEUNI)
- NGOs (Pro Centre Finland, Multicultural Women's Association, and Victim Support Finland were specifically mentioned)

# GERMANY

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## Findings

Out of eight German respondents asked to participate in the survey, five submitted the questionnaire. These respondents represented: The Federal Criminal Police (BKA: Bundeskriminalamt); the Federal Ministry for Family Affairs, Senior Citizens, Women and Youth (BMFSFJ); the European Migrant Workers' Union (EVW); the International Organisation for Migration (IOM); and KOK e.V. (German nationwide activist coordination group combating trafficking in women and violence against women in the process of migration).

Germany is a federation of states (Länder) which have their own state governments, developing both state legislation and policy. Due to this structure, cooperation mechanisms and resources vary between the different states. In particular when it comes to the operational work, cooperation structures are more easily identified at the state level. Many actors working on trafficking in persons have so far limited their work to trafficking for the purpose of sexual exploitation. Particularly trade unions and organisations for migrant workers have only recently been included in discussions and activities on trafficking in persons.

The findings of this report are divided into two parts. The first part concerns relevant actors with regards to trafficking in persons as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to

map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

In addition to the five actors who submitted the questionnaire for the survey, a large number of other authorities and organisations were mentioned as relevant stakeholders or as existing cooperation partners: the state police offices, the Public Prosecutor's Office, the Ministry of Labour and Social Affairs (BMAS: Bundesministerium für Arbeit und Soziales, Finanzkontrolle Schwarzarbeit (FKS) of the Federal Ministry of Finance (MOF), the Federal Ministry of the Interior (MoI), the Federal Ministry of Justice (MoJ), the Federal Ministry of Economic Cooperation and Development, the Federal Government Commissioner for Migration, Refugees and Integration, the Federal Foreign Office, the Federal Office for Migration and Refugees, the Technical committees of the state ministries of Interior, Justice, Social Affairs and Gender Equality, the Regional Council for Berlin-Brandenburg, the Berlin Senate for Integration, Labour and Women's Affairs, the German Institute for Human Rights, specialist counselling services, church counselling centres and other NGOs<sup>62</sup>, law offices, employers' associations, trade unions, ILO Germany, and Berliner Bündnis Gegen Menschenhandel- BBGM. The sections below provide information on the work and

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<sup>62</sup> A list of NGOs working on trafficking for labor exploitation can be found at [www.kok-buero.de](http://www.kok-buero.de)

cooperation partners of some of the most relevant actors when it comes to trafficking for labour exploitation in Germany.

## Governmental

**Federal Criminal Police:** The Federal Criminal Police (Bundeskriminalamt) is the central, national police office of the German police and the German central office for Interpol and Europol. BKA nevertheless stated that investigating cases of trafficking in persons is not included in their original mandate<sup>63</sup>.

In general, BKA cooperates with the state police offices, the Federal Police, the Public Prosecutor's office, different ministries, the Federal Ministry of Finance (specifically the unit for Finanzkontrolle Schwarzarbeit), trade unions, KOK, specialised counselling services, church counselling centres, and migrant organisations. This cooperation is based on legal documents and cooperation agreements<sup>64</sup>.

**Federal Ministry for Family Affairs, Senior Citizens, Women and Youth:** The Unit for Protecting Women from Violence (unit 403) of BMFSFJ participated in the survey for this study. This unit is the coordinating unit for actions to prevent and combat trafficking in persons, as well as for victim assistance, of the federal government of Germany. The original mandate concerned the coordination of actions related to trafficking of women for the purpose of sexual exploitation. The unit presently serves as a focal point for work related to all types of trafficking in persons, and has the mandate to collect data on all actions taken against trafficking in persons, regardless of purpose<sup>65</sup>.

Unit 403 heads the Federal Working Group on Trafficking in Women, an inter-agency working group including NGOs. The purpose

of the group is to facilitate exchange of information and experience, to compile and analyse regional and national information, to develop best practices, and to provide recommendations for decision-makers. This group will be described further under Cooperation: Mechanisms. In addition, BMFSFJ provides funding as well as other support to KOK e.V.; a coordination network for NGOs working on trafficking in women and the protection of female migrants, representatives of which are also included in the federal working group<sup>66</sup>.

**Federal Ministry of Labour and Social Affairs:** BMAS declined participation in the survey for this study, based on their lack of mandate as well as experience within this particular area. BMAS stated that the ministry is only just beginning to understand the concept of trafficking in persons for labour exploitation, and that it does not have a clear mandate within this area, nor does it have a budget to work on the issue. It was stated that this may change once the Human Trafficking convention of the Council of Europe, and the new EU directive, are integrated into German legislation. Nevertheless, BMAS commissioned KOK from 2009 to 2010 to conduct a study on; Trafficking for the Purpose of Labour Exploitation in Germany – Developing Sustainable Support Structures for exploited Persons<sup>67</sup>. The study resulted in a lengthy report, which stated that while there are structures for assisting victims of trafficking for sexual exploitation, there is a lack of efforts to identify as well as assist victims of trafficking for labour exploitation. Victims of trafficking for labour are treated as irregular migrants rather than victims of crime. The report further provides a few suggestions

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<sup>63</sup> Questionnaire 2012: Federal Criminal Police

<sup>64</sup> Ibid.

<sup>65</sup> Questionnaire 2012: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth

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<sup>66</sup> Questionnaire 2012: Federal Ministry for Family Affairs, Senior Citizens, Women and Youth

<sup>67</sup> Questionnaire 2012: Ministry of Labour and Social Affairs



for networking models to increase cooperation at the national, regional and local levels<sup>68</sup>.

**Ministry of Finance:** The unit with MoF referred to as Finanzkontrolle Schwarzarbeit is well worth mentioning, although they did not participate in the survey. The unit was mentioned by several respondents and furthermore surfaces in various reports and literature on trafficking in persons in Germany. For example, one respondent stated that FKS is the actor which is responsible for investigating the compliance of employers with labour standards.

### **Non-Governmental**

**Trade Unions:** The Confederation of Trade Unions (DGB) did not participate in the survey for this study, as they were not initially identified as a relevant actor. Nevertheless, the organisation was mentioned by several of the respondents. It was stated that DGB addresses the exploitation of migrant workers as well as the issue of trafficking for labour exploitation. The DGB is currently running a project called "Fair Mobility", which concerns the rights of EU migrant workers to fair and decent working conditions. This project may to some extent address labour exploitation and trafficking in persons.

**European Migrant Workers' Union:** EVW stated that they do not normally work on the issue of trafficking for labour exploitation or forced labour. Nevertheless, they are occasionally contacted by individual victims of trafficking, since migrant workers are familiar with the work of the organisation. EVW cooperate with trade unions as well as BKA. In cases of trafficking in persons, they further cooperate with FKS of MoF. When cases are

encountered, EVW normally contacts the police or FKS<sup>69</sup>.

**International Organisation for Migration:** IOM Germany has only recently begun working on trafficking for labour exploitation specifically. The first activity constituted a three year pilot project referred to as "Berlin Alliance against Trafficking for Labour Exploitation" (BBGM). This project was initiated, and is managed by IOM. In the implementation of this project in the states of Berlin and Brandenburg, IOM cooperates with ILO, DGB, the regional council of Berlin-Brandenburg, the Berlin Senate for Integration, Labour and Women's Affairs, the Ministry of Labour, as well as the European Social Fund, of which the last two actors are the funding partners. The aim of this project is to sensitise state and non-state actors who could come in touch with potential victims of trafficking for labour. So far, a study has been commissioned which will examine the scope and nature of trafficking for labour exploitation in the region. Workshops as well as international conferences have been organised on best practices and in order to identify overlapping areas of work. In addition, training programmes and materials, as well as tools for identification have been developed for specific sector<sup>70</sup>.

Apart from the project partners for the specific project mentioned above, IOM also cooperates with the BKA on training and identification procedures, law offices and trade unions on a case-to-case basis, the Federal Office for Migration and Refugees when it comes to training, political organisations in terms of advocacy and awareness raising, and counselling centres in order to transfer expertise on trafficking in persons for labour exploitation<sup>71</sup>.

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<sup>68</sup> BMAS (ed) (2011) Studie: Entwicklung tragfähiger Unterstützungsstrukturen für die Betroffenen von Menschenhandel zur Arbeitsausbeutung - coordinated by KOK - Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess e. V.

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<sup>69</sup>Questionnaire 2012: European Migrant Workers' Union

<sup>70</sup>Questionnaire 2012: International Organisation for Migration

<sup>71</sup>Ibid.

**KOK e. V.:** KOK was founded in 1999, as a national coordination group and umbrella organisation for NGOs (mainly women's organisations and counselling centres) working on combating trafficking in women and on violence against women in the migration process. As an umbrella organisation it was founded by its member organisations, who also determine the mandate of the organisation. It is supported and funded by BMFSF, participates in the Federal Working Group on Trafficking in Women, and coordinates regular network meetings for its member organisations. It was stated that KOK does have the mandate to address all types of trafficking in persons, including trafficking for forced labour and labour exploitation. The majority of the member organisations in fact work on both trafficking for sexual exploitation and trafficking for labour exploitation<sup>72</sup>.

Cooperation within KOK consists mainly of the exchange of information and experience, as well as developing best practice models and working methods for victim assistance. The organisation also works with advocacy, nationally and internationally, from a right's perspective for victims of trafficking, women in prostitution, and female migrants. External cooperation partners for the work on trafficking in persons, include: BMFSFJ, BMAS, and to some extent trade unions and organisations working with migrants' rights. The representative from KOK stated that BMFSFJ has previously focused on trafficking for sexual exploitation, but that discussions currently concern trafficking for labour exploitation as well. In 2009 and 2010, KOK was commissioned by BMAS to conduct a study on support mechanisms for victims of trafficking for labour exploitation. Cooperation with trade unions and NGOs working with the rights of migrants is currently being developed, as is cooperation with DGB. In addition, it was stated that the member organisations cooperate with actors at the

regional level regarding trafficking for labour exploitation<sup>73</sup>.

## Cooperation

The distribution of tasks in Germany is to some extent governed by legislation, while some agreements of cooperation also exist at the federal level (see Mechanisms: Memorandum of Understanding). Agreements have increasingly been expanded to include work on trafficking for labour exploitation, and actors relevant for such work.

Victims of trafficking for labour exploitation are occasionally identified by EVW, who refers such cases to the police or to FKS with MoF. FKS has an investigative function regarding the compliance of work places with labour regulations. The Federal Office for Migration and Refugees may grant a residence permit, or the extension of such a permit, to victims of trafficking, including trafficking for labour. This applies to victims who have been employed irregularly and who have cooperated with law enforcement in a criminal proceeding, in order to allow them to claim unpaid wages.

The Unit for Protecting Women from Violence (unit 403) of the Gender Equality Department of BMFSFJ, is the coordinating unit for actions of the federal government to prevent and combat trafficking in persons, and to promote victim assistance.

The efforts of German NGOs within this area are to some extent supported by government departments, for example KOK is being supported by BMFSFJ. In general, certain support services such as counselling, are provided by civil society actors, in agreement with the State Police. Such services are today in a growing number also available for victims of trafficking for labour exploitation.

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<sup>72</sup>Questionnaire 2012: KOK e.V.

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<sup>73</sup>Ibid.

## Policy and legislation

Trafficking for labour exploitation is specifically included in the **penal code**. Since Germany is divided into states (Länder), which have their state legislation, cooperation between authorities is often regulated at this level. This includes legislation governing the responsibilities of the Public Prosecutor's office, the Federal Office for Migration and Refugees, and the State Police, as well as the cooperation between these actors. This legislation concerns trafficking in persons in general and mainly deals with issues of residence and legal status. Although victim assistance is mentioned, actors such as social services and medical facilities are not specifically mentioned. A **cooperation model** has been developed by the federal government, which is applied when dealing with trafficking for sexual exploitation. In some areas, this model is also applied to cooperation while dealing with other types of trafficking.

Germany does not have a National Action Plan on trafficking in persons. The respondents mentioned a few policy documents which were seen as relevant to the work on trafficking for labour exploitation. The second **National Action Plan of the Federal Government to Combat Violence against Women** from 2007 was mentioned, as it also refers to protection measures for female migrants as a group which is particularly vulnerable to trafficking in persons. In Berlin, there is a Memorandum of Understanding (MoU) at the state level which concerns the improvement of working conditions and the protection of workers. In addition, the study of BMAS and KOK from 2011, on assistance mechanisms for victims of trafficking for labour exploitation, was mentioned.

When asked about limitations to existing legislation and policy, most of the respondents mentioned difficulties with applying the legislation to cases of trafficking for labour exploitation, especially in the work of law

enforcement agencies. The process of identifying victims was specifically mentioned as currently being problematic. The issuing of a residence permit depends on the cooperation of the victim during preliminary investigations and criminal proceedings, which was also seen as problematic.

The provision (§ 25 Abs. 4b AufenthG) allows the possibility for third country nationals who have been employed illegally and have been exploited to apply for the extension of their residence permit after criminal proceedings for the purpose of claiming unpaid wages. This provision does not apply for trafficked persons who have been regularly employed and who have been exploited.

The respondents stated that legislation and policy needs to define the actors involved in the work on trafficking in persons more clearly. The term "labour exploitation" also needs to be defined, as well as included in the penal code as a crime in itself. Furthermore, support for victims needs to be strengthened so that more cases may be prosecuted and legal processes finalised. The coordination at the federal level becomes problematic, seeing as two ministries are responsible for different types of trafficking in persons. The BMFSFJ is responsible for trafficking for sexual exploitation, while the BMAS is responsible for the work on trafficking for labour exploitation. It was suggested that activities and measures be coordinated through the same authority.

## Mechanisms

**Specialised units:** BKA has a unit which is specialised on trafficking in persons, including trafficking for labour exploitation. Some of the state police offices similarly have specialised units, although it is unclear to which extent these units focus on trafficking for labour. The Public Prosecutor's office and the Ministry of Finance (FKS) were also mentioned as having specialised units working specifically on trafficking in persons. It is unclear to which extent the Public Prosecutor's office works

specifically on trafficking for labour exploitation.

**Lead agency:** It was stated by most of the respondents that BMAS is the lead agency, officially responsible for the work on trafficking for labour exploitation from a policy level since 2010. Nevertheless, the Police, the Public Prosecutor's Office, the Ministry of Finance (FKS), trade unions, as well as NGOs were also suggested as lead agencies.

**National Action Plan:** Germany has no National Action Plan (NAP) which concerns trafficking in persons specifically. There is an NAP from 2007 which concerns the work of the federal government in combating violence against women (Aktionsplan II der Bundesregierung zur Bekämpfung von Gewalt gegen Frauen). This was raised by one of the respondents as it refers to the protection needs of female migrants, who are seen as particularly vulnerable to trafficking in persons, both for the purpose of sexual exploitation and for labour exploitation, although the focus of the report is on trafficking for sexual exploitation.

**Working Groups:** The federal working group on trafficking in women is an inter-ministerial working group, and a coordinating body, chaired by BMFSFJ (Division 403), which meets two to three times per year. This group has focused on trafficking for sexual exploitation so far but has begun to look at trafficking for labour exploitation, although primarily concerning female victims. The primary purpose of the working group is to facilitate the exchange of information and experience. Meetings also provide an overview of the different measures taken at the state level, at the national level, and at the international level, as well as the opportunity to create best practice models. In addition, the federal working group occasionally makes proposals to the relevant decision-makers and policy makers, based on the analyses of sub-committees and plenary discussions within the group.

The members of the working group are: BMFSFJ, BMAS, MoI, MoJ, the Federal Ministry for Economic Cooperation and Development, the Federal Government Commissioner for Migration, Refugees and Integration, the Federal Foreign Office, BKA, the technical committees of the state ministries of Interior, Justice, Social Affairs and Gender Equality, KOK, SOLWODI, and Diakonisches Werk EKD. BMAS are planning on developing a similar working group, albeit focused on trafficking for labour exploitation.

**Networks:** KOK, which has already been mentioned, could be described as an umbrella organisation, but also as a network of NGOs working on trafficking of women and violence against female migrants. As such, it allows smaller organisations to cooperate through the exchange of information and lessons learnt, joint advocacy efforts and other actions.

At the regional level, respondents mentioned that counselling centres have established regional cooperation networks and roundtable discussions, albeit mainly focused on trafficking for sexual exploitation. There are discussions on expanding this work to the issue of trafficking for labour exploitation and to organisations relevant for this topic, such as counselling centres and organisations for migrant workers.

**National Coordinator or Rapporteur:** Germany does not have a National Rapporteur, or a National Coordinator on trafficking in persons. The federal working group has a coordinating function and was mentioned by some respondents as a national coordinator. Nevertheless, it should be stressed once more that this working group is focused on trafficking in women, mostly looking at trafficking for sexual exploitation.

**Memorandum of Understanding:** In Germany, there is no comprehensive MoU at the national level, although a number of agreements exist at the state level. The federal working group has developed a Federal Cooperation Concept, to serve as a model

MoU for actors at the state level. This concept involves state as well as non-state actors (for example counselling centres and the police), and is used by many states as a basis for cooperation. The cooperation mostly concerns support to victims of trafficking for sexual exploitation, but has also been extended to victims of trafficking for labour exploitation in at least one state, where a trade union counselling centre was included in the structure. In some states, the MoUs are legally binding, whereas they merely constitute a recommendation in other states.

In addition, an agreement at the state level in Berlin was mentioned. This agreement is an agreement between the Social Democrats (SPD) and the Christian Democrats (CDU) currently forming a state coalition government. It concerns the establishment and enforcement of working conditions standards, and aims to reduce discrimination, as well as precarious and inhumane employment conditions. Although dealing with closely related issues, it does not specifically mention trafficking in persons.

## **Challenges and Limitations**

When asked about factors limiting their work on trafficking in persons, all but one of the respondents referred to the existing legislation. In addition, policy was mentioned by most of the respondents. Only two actors referred to the lack of cooperation and referral mechanisms. A lack of knowledge as well as capacity was also mentioned.

In terms of legislation, it was stated that convictions based on the relevant sections of the current penal code are very rare. The legislation was seen as difficult to apply to specific cases, as it does not define the roles and responsibilities of different actors, and due to the evidence required. Legislation (the penal code) similarly does not define labour exploitation. Respondents also explained that legislation on irregular migration and the legal status of migrants complicates the assistance of victims of trafficking in persons, since these

are primarily seen as irregular migrants, rather than victims of crime. It is furthermore problematic that the residence permits of victims of trafficking are tied to their cooperation during criminal proceedings. The current legislation on compensation for victims of crime is often not applicable to cases of trafficking in persons, and it is difficult for victims of trafficking for labour exploitation to even initiate a criminal proceeding.

A lack of common policy documents at the national level concerning trafficking in persons impedes national cooperation. In addition, structures and networks for cooperation still need to be developed at the national level. Since not all relevant actors have been brought together, there is a lack of common strategies and functioning referral systems. The identification and referral of victims of trafficking for labour exploitation is especially faulty. This is partly due to the fact that cooperation agreements mainly concern trafficking for sexual exploitation.

The lack of knowledge particularly concerns a number of actors which are relevant, although not currently included. The labour inspectorate was mentioned as not being sensitised nor trained on identifying cases of trafficking in persons. The lack of knowledge also makes the development of cooperation mechanisms difficult. Existing projects and actors, both NGOs and state actors, suffer from a lack of funding and resources, which impedes their ability to extend their work to the issue of trafficking for labour exploitation, even though there is such an ambition, and an obvious need. Assistance mechanisms for male victims of trafficking in persons are particularly scarce. BMAS similarly stated that they neither have the mandate nor funding to work on trafficking for the purpose of labour exploitation. In general, a lack of policy or legislation documents which clearly define the mandates of actors within this area contributes to the lack of interest in working on trafficking for labour exploitation, which most actors

agreed that Germany suffers from. The lack of such policy also makes the establishment of cooperation mechanisms and structures problematic.

In order to improve cooperation, it was suggested that working groups be established at the national level as well as at the state level. In addition, the mandates and roles of different actors need to be made clearer. One respondent suggested the establishment of a national and independent rapporteur on trafficking in persons. It was also suggested that a national coordinating body is needed, and that more relevant cooperation partners need to be identified. Separating the work on different types of trafficking in persons between ministries was seen as impeding on the ability to establish national approaches and strategies.

## Conclusions

Germany is a federation of states (Länder) with state governments which develop both legislation and policy. Due to this structure, cooperation mechanisms and resources on trafficking in persons vary between the different states. Cooperation structures are more easily identified at the state level, than at the federal level. This is particularly the case when it comes to operational work.

Many actors working on trafficking in persons have so far limited their work to trafficking for the purpose of sexual exploitation. Particularly trade unions and organisations for migrant workers have not been involved enough, and are also not familiar with the concept and terminology of trafficking for labour exploitation. Such actors still need to be included to a larger extent in order to reach and assist victims of trafficking for labour exploitation. Many German actors have stressed the importance of viewing the concept of trafficking in persons in a holistic manner, not separating trafficking in persons for different purposes. This is also seen as important since it is sometimes difficult to make a clear distinction between the different

types of trafficking. Victims of trafficking for sexual exploitation may be subjected to labour exploitation as well. This view could in turn explain why trafficking for sexual exploitation is more visible in discussions as well as policy and legislation on the subject, than trafficking for labour.

All the same, it must be recognised that trafficking for labour exploitation demands a different set of actors to identify as well as to support victims. Victims of trafficking for labour exploitation face different social and health issues in the aftermath of the exploitation and are more likely to be identified by a labour inspector than a social worker. In Germany, actors who would be relevant to include in the work on trafficking for labour have still not been included in this work. Although there have been some discussions and efforts to put the topic on the agenda, authorities and organisations which are seen as responsible, similarly lack the mandate as well as the necessary funding to work on trafficking for labour exploitation. In addition, the responsibility to work on trafficking in persons has been divided between a ministry which is responsible for trafficking for sexual exploitation (BMFSFJ) and a ministry which is responsible for trafficking for labour exploitation (BMAS), a division which hardly promotes a holistic approach.

There are a number of actors who work on closely related issues in Germany. For example, EVW has encountered numerous cases of migrant work force being “seconded” for work in the construction sector in Germany. This often involves German companies and recruitment agencies. EVW stated that such cases often seem to be based on leasing more than seconding personnel, something which is illegal in the construction sector. Such situations of employment and recruitment, with different methods being used to evade labour legislation and working place regulations, have been identified in relation to both organised crime and cases of

trafficking in persons in other countries. Where it is difficult to identify the employer and secondary agreements involved, it is also difficult to identify the real working conditions and possible cases of exploitation. Actors working with migrant workers and labour exploitation could be instrumental in identifying cases of trafficking in persons, identifying and referring victims, while also identifying and reporting on a severe form of organised crime. Nevertheless, for this to be possible, training and tools are needed in order for cases to be referred to the competent person within the relevant organisation. Actors such as trade unions, the labour inspectorate, and employer's organisations need to be included in the work on trafficking for labour exploitation.

Germany does not have an independent national rapporteur on trafficking in persons,

nor does it have a national coordinator or coordinating agency which is focused on all types of trafficking in persons, including trafficking for labour exploitation. The current federal working group has been focused primarily on trafficking for sexual exploitation, although its work has been expanded to some extent. In addition to the existing cooperation mechanisms at the state level, similar mechanisms at the national level are needed. Future national cooperation mechanisms, whether it is a national rapporteur, a national coordinator, or both, should preferably address all types of trafficking. Such mechanisms could thereby build on existing expertise while also including additional actors who have the potential to identify, refer, and assist victims of trafficking for labour exploitation.

## Relevant German departments and organisations

### Invited actors who participated in the study:

- **Federal Criminal Police** (BKA: Bundeskriminalamt: Department SO 13)
- **Federal Ministry for Family Affairs, Senior Citizens, Women and Youth** (BMFSFJ: Bundesministerium für Familie, Senioren, Frauen und Jugend, Gender Equality Department, Section: "protecting women from violence")
- **European Migrant Workers' Union** (EVW: Europäischer Verein für Wanderarbeiterfragen)
- **International Organisation for Migration** (IOM)
- **KOK e.V.** (Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess/German Nationwide Activist Coordination Group combating Trafficking in Women and Violence against Women in the Process of Migration)

### Other invited actors:

- Federal Ministry of Labour and Social Affairs (BMAS: Bundesministerium für Arbeit und Soziales)
- Federal Ministry of Finance (Bundesministerium der Finanzen: Finanzkontrolle Schwarzarbeit)
- German Institute for Human Rights (Deutsches Institut für Menschenrechte)

### Other actors mentioned by respondents:

- Public Prosecutor's Office
- State (Länder) Police offices
- Federal Foreign Office (Auswärtiges Amt)
- Federal Ministry of the Interior (MoI: Bundesministerium des Innern)
- Federal Ministry of Justice (MoJ: Bundesministerium der Justiz)
- Federal Ministry of Economic Cooperation and Development (Bundesministerium für Wirtschaftliche Zusammenarbeit und Entwicklung)
- Federal Government Commissioner for Migration, Refugees and Integration
- Federal Office for Migration and Refugees (Bundesamt für Migration und Flüchtlinge)
- Technical conferences of the state ministries of Interior, Justice, Social Affairs and Gender Equality.
- Regional Council for Berlin-Brandenburg
- Berlin Senate for Integration, Labour and Women's Affairs (formerly Senate for Integration, Labour and Social Affairs)
- Law offices
- Confederation of German Trade Unions (Deutsche Gewerkschaftsbund-DGB) and its member unions
- Trade Unions
- Employers' associations
- Specialised Counselling Services
- NGOs
- ILO Germany
- Berliner Bündnis gegen Menschenhandel- BBGM



# ICELAND

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## Findings

Out of ten Icelandic respondents asked to participate in the survey, five submitted the questionnaire. These respondents represent the following actors: the Police Commissioner, the Directorate of Immigration (DI), the Directorate of Labour (DL), the Ministry of Welfare (MoW), and the Icelandic Red Cross (IRC).

Iceland has a very limited experience in preventing and combating trafficking in persons. Efforts have so far focused mainly on trafficking for sexual exploitation, although some potential cases of trafficking for labour exploitation have also been identified. The current National Action Plan (NAP) from 2009 is currently being evaluated. This NAP has already resulted in the establishment of a national coordinating team. Civil society actors such as trade unions and employers' organisations are not formally included in the current cooperation mechanisms. The lack of resources and capacity, but also insufficient legislation, seem to be some of the issues currently limiting the work on trafficking for labour exploitation.

The findings of this report are divided into two parts. The first part concerns relevant actors with regards to trafficking in persons, as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes

or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

Apart from the five actors who submitted the questionnaire for the survey, several Icelandic authorities and organisations were identified as relevant stakeholders or as existing cooperation partners: municipal Social Services, local health services, the Directorate of Internal Revenue, the Directorate of Customs, the Ministry of Interior (MoI), the Ministry for Foreign Affairs (MFA), the Prime Minister's Office, trade unions (the Icelandic Union of Professional Food and Restaurant Workers and the Icelandic Confederation of Labour were specifically mentioned), the Centre for Women's and Gender Research, the University of Iceland, and NGOs (Stígamót and Samtök um Kvænnaathvarf/Association for Women's Shelters were specifically mentioned).

What follows below is a brief description of the work of the different actors participating in the survey, and their methods for cooperating with other stakeholders.

## Governmental

**National Police Commissioner:** The police have the mandate to investigate cases of trafficking in persons. In terms of cooperation, Police Commissioner stated that they participate in a national coordination team (see Cooperation: Mechanisms below) with MoI, MoW, MFA, DI, Stígamót self-help centre, and the Association for Women's Shelters. In addition, the police seek assistance from other actors on a case-to-case basis, for example DL

and the Directorate of Customs, and describe this cooperation as close<sup>74</sup>.

**Directorate of Immigration:** The representative from DI participating in this survey stated that when it is suspected that an applicant for a residence or work permit could be a victim of trafficking, the case is referred to the police. The directorate mainly cooperates with the police and the Directorate of Labour, primarily through exchanging information and providing assistance on a case-to-case basis<sup>75</sup>.

**Directorate of Labour:** This directorate is a department under the Ministry of Welfare. DL also stated that when it is suspected that applicants for work permits could be victims of trafficking, such cases are reported to the police for further investigations. This is also the case when DL receives information and general tips on suspected cases. The directorate stated that they cooperate with DI, the Police and trade unions, in exchanging information and providing assistance on individual cases<sup>76</sup>.

**Ministry of Welfare:** MoW stated that when DL has identified suspected cases of trafficking in persons, these have also been referred to the ministry who reports such cases to the national coordination team. The work of the ministry on trafficking in persons normally takes place through the national team, of which MoW is a member. The team follows up on individual cases, and members identify possible victims according to a checklist. The team also grants victims with a victim status, collects information on individual cases, and implements training activities. Cooperation with other actors mainly takes place through this coordination team. In addition, MoW refers potential victims identified to local authorities and to

the social services, child protection services, and health services<sup>77</sup>.

## Non-Governmental

**Icelandic Red Cross:** IRC is part of the International Red Cross and Red Crescent Movement. The respondent participating in the survey stated that the organisation is not currently running any specific projects on trafficking in persons. In 2009, IRC in cooperation with the Centre for Women's and Gender Research and the University of Iceland, implemented a research project consisting of interviews, which mapped out the scope of trafficking in persons in Iceland, and which indicated that this is a real problem. When IRC is approached by potential victims of trafficking in persons, the Red Cross cooperates with relevant authorities, other NGOs, and trade unions, based on the consent of the potential victim<sup>78</sup>.

## Cooperation

In Iceland, the national coordination team has a central role in distributing and implementing tasks in the work on trafficking in persons. The team provides tools for identification, implements training efforts, cooperates on individual cases, and collects information.

DL and the police may carry out work place inspections to control the legal status of workers. DI and DL both refer potential cases, identified through work and residence permit applications or other information, to the police, who has the mandate to investigate cases of trafficking in persons. Municipal Social Services and health services under MoW provide victims with an allowance, housing, health care, and social counselling. NGOs also assist in the provision of housing and other victim assistance services. In general, victim assistance resources have mainly been used for victims of trafficking for sexual exploitation.

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<sup>74</sup> Questionnaire 2012: Police Commissioner

<sup>75</sup> Questionnaire 2012: Directorate of Immigration

<sup>76</sup> Questionnaire 2012: Directorate of Labour

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<sup>77</sup> Questionnaire 2012: Ministry of Welfare

<sup>78</sup> Questionnaire 2012: The Icelandic Red Cross

## Policy and legislation

Most of the respondents were not aware of any legal acts that regulate cooperation between Icelandic actors on trafficking in persons. One of the respondents mentioned legal act **97/2002**, according to which DL is legally obliged to ensure the legal rights of foreigners working in Iceland.

All respondents were aware of the existing **National Action Plan** from 2009 (described further under Mechanisms), which describes cooperation between different authorities. Other relevant policy documents mentioned in the survey were: the Report of the Minister of Social Affairs and Social Security on the Action Plan against Human Trafficking from 2009, the Palermo Protocol of the United Nations Convention on Transnational Organised Crime (UNTOC), UNTOC itself, and the Council of Europe Convention on Action against Trafficking in Human Beings from 2005.

When asked about issues and limitations to the current policies and legislation, two of the respondents stated that the roles of different organisations could be defined more clearly. The role of the national coordination team could also be strengthened and clarified. One respondent stated that the composition of the team should be reviewed. In general, a lack of resources, capacity and knowledge was raised as an issue in implementing the NAP. In addition, it was stated that the police needs a broader mandate for investigating cases of trafficking in persons. The granting of a victim status to potential victims also needs to be defined and described more closely.

## Mechanisms

**National Action Plan:** As was mentioned earlier, there is a National Action Plan against Trafficking in Human Beings, which was approved by the parliament (Althingi) in 2009. This NAP is valid until the end of 2012 and is currently undergoing a revision; evaluating the effects of the plan to this date and looking at

possible improvements. The following NAP will most likely come into effect in 2013, based on this review of the current plan<sup>79</sup>.

The current NAP recommended the establishment of the national coordinating team described below, in order to improve national cooperation. The NAP further includes: the ratification of international treaties; the provision of training for staff of government authorities; protection and assistance efforts, such as developing legislation on the use of temporary residence permits for victims; preventive efforts mainly related to trafficking for sexual exploitation; increased international cooperation; efforts to collect and store data; and activities to increase identification rates. In general, the plan is focused on trafficking for sexual exploitation.

**Working Group:** Since 2009, Iceland has a national team of experts appointed by MoI to coordinate the work on trafficking in persons; the National Specialist and Co-ordination team. The responsibility for establishing this team was initially placed with the Ministry of Social Affairs and Social Security (presently the Ministry of Welfare). The respondents stated that the team is now led by MoI. The team consists of representatives of the police, MoI, MoW, MFA, DI, the Stígarnót self-help centre, and the Association for Women's Shelters (Samtök um Kvennaathvarf).

This working group coordinates and supports the work of the different authorities and organisations, has developed and provided tools for the identification of victims, conducts training efforts, and works on implementing the NAP. The team also grants potential victims with victim statuses and collects information on individual cases. According to the NAP, the function of an emergency team has also been established, which may be assembled to discuss and deal with individual cases. It was mentioned that the Icelandic

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<sup>79</sup> Jóhannesdóttir, A. R., (2009) *Report of the Minister of Social Affairs and Social Security on the Action Plan against Human Trafficking*

Federation of Labour and the Confederation of Icelandic Employers also participate in a “collaborative committee”. It is unclear whether this refers to the national coordination team.

**Memorandum of Understanding (MoU):**

There is not a comprehensive cooperation agreement or MoU in force between the stakeholders. Only one of the respondents stated that they were included in a MoU with other actors, the details of which were not provided.

**National coordinator:** When asked about the mechanism of a national coordinator, all but one of the respondents stated that the national coordination team has this function. One respondent in addition referred to MoI, which appoints the coordination team. One respondent referred specifically to the National Expert on Gender Equality with the Prime Minister’s office, who chairs the team.

**Challenges and limitations**

Most of the respondents experienced no particular limitations in their work on trafficking in persons. Two respondents mentioned a few issues: a lack of cooperation and referral mechanisms, a lack of knowledge, capacity and funding.

Regarding legislation and policy, one respondent stated that since the work of the national coordination team is not described in Icelandic legislation, the mandate of the team is not very clear and its position is weaker than it could be. One respondent stated that the composition of the team should be reviewed. Procedures for granting victim status to potential victims of trafficking are similarly not defined clearly in the current legislation. Working procedures and mandates generally need to be defined more clearly, for the sake of the victims as well as the actors themselves. It was even suggested that additional legislation should be passed concerning referral mechanisms. Due to a limited number of cases encountered, cooperation has mainly

occurred on a case-to-case basis so far, which may need to be formalised.

In light of the limited experience which Icelandic actors have of preventing and combating trafficking in persons, the respondents were generally quite pleased with cooperation efforts so far. However, most of them also agreed that cooperation could be improved. In general, it was stated by several of the respondents that there is a lack of resources and capacity to implement the NAP. There is a need for additional training to increase knowledge on trafficking in persons. General awareness could similarly be improved. It was also mentioned that the limited number of cases identified not necessarily means that Iceland does not have a problem with trafficking for labour exploitation.

**Conclusions**

Iceland has a limited experience in preventing and combating trafficking in persons. Cases of trafficking for sexual, as well as labour exploitation have been identified, although there is a lack of cases of prosecutions on both of these grounds. In general, efforts and discussions have so far focused mainly on trafficking for sexual exploitation. This also goes for the current National Action Plan from 2009, which is currently being evaluated. The NAP has, amongst other things, resulted in the establishment of a national coordinating team, including several authorities and a few NGOs focused on female victims of trafficking. The coordinating team is led by MoI, and chaired by a National expert on Gender Equality with the Prime Minister’s office. Other than these functions, Iceland does not have a national coordinator or an independent rapporteur on trafficking in persons.

There are currently no specialised units with authorities focusing on trafficking in persons in general, nor on trafficking for labour exploitation specifically. There is also a lack of legislation and policy which clearly defines and

describes the roles, mandates and cooperation procedures of authorities in combating trafficking in persons. Due to this lack of regulations, but also due to limited experience, cooperation has so far mostly taken place on a case-to-case basis. This seems to have worked well so far, but cooperation may need to be formalised further in order to increase identification rates and to increase efficiency. An MoU with the actors participating in the national coordination team may also be helpful in defining the roles and mandates of the different stakeholders.

As one of the respondents stated, the low number of identified cases does not necessarily mean that Iceland does not have a problem with trafficking in persons in general, nor with trafficking for labour exploitation specifically. These low identification rates could also be due to a lack of general awareness and a lack of identification and referral procedures, particularly in working on trafficking for labour exploitation. Although the national coordination team has taken steps to provide

training and tools for the identification of victims, such as a checklist, the respondents in this survey suggested that more training and awareness-raising is needed.

Civil society actors such as trade unions and employers' organisations are not formally included in the current cooperation mechanisms. No such actors are included in the coordination group, nor mentioned in the NAP. The Directorate of Labour is similarly not included in the coordination team, although it was mentioned as a relevant actor in identifying potential victims of trafficking for labour. Civil society actors, as well as government authorities, working on labour market issues and the rights of workers and migrants, need to be included in working groups as well as in planning. Such actors are instrumental in identifying and referring victims of trafficking for labour, and would also be helpful in developing assistance structures for such victims, whose needs are significantly different from the needs of victims of trafficking for sexual exploitation.

## Relevant Icelandic departments and organisations

### Invited actors who participated in the study:

- **Police Commissioner** (Ríkislögreglustjórinn)
- **Directorate of Immigration** (DI- Útlendingastofnun: Asylum department)
- **Directorate of Labour** (DL- Vinnumálastofnun: Fraud and Work Permit Department)
- **Ministry of Welfare** (MoW- Velferðarráðuneytið: Department of Welfare Services)
- **Icelandic Red Cross** (IRC)

### Other invited actors:

- Directorate of Internal Revenue (Ríkisskattstjóri)
- Ministry of Interior (MoI- Innanríkisráðuneytið)
- Prime Minister's Office (Forsætisráðuneytið)
- Icelandic Federation of Food and Restaurant Workers (Matvæla- og Veitingafélag Íslands)
- Icelandic Confederation of Labour (Alþýðusamband Íslands)

### Other actors mentioned by respondents:

- Confederation of Icelandic Employers (Samtök Atvinnulífsins)
- Municipal Social Services
- Local health services
- Directorate of Customs (Tollstjóri)
- Ministry for Foreign Affairs (MFA: Utanríkisráðuneytið)
- Centre for Women's and Gender Research
- University of Iceland
- NGOs (Stigamot and Samtök um Kvennaathvarf/ Association for women's shelters were specifically mentioned)

## Findings

Six Latvian respondents submitted the questionnaire for the survey for this study<sup>80</sup>. These respondents represented: the State Border Guard, the State Police, the Ministry of Interior (MoI), the Ministry of Welfare (MoW), the Free Trade Union Confederation, and the NGO “Shelter “Safe House”” (Safe house).

Latvia is mainly a source country for victims of trafficking, and as such, struggles with issues of reintegration and rehabilitation of victims. There has been a National Action Plan (NAP) on Trafficking in Persons since 2004, which has helped in creating cooperation mechanisms and resources. In general, the respondents seemed to be fairly content with the existing structures, despite admitting that more could be done within practically all areas. Trafficking for labour exploitation has only recently been included in the discussions and work on trafficking in persons.

The findings of this report are divided into two parts. The first part concerns relevant actors in combating trafficking in persons as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the

purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

Apart from the six actors who submitted the questionnaire for this survey, at least seventeen other authorities and organisations were mentioned as relevant stakeholders, or as existing cooperation partners: the State Revenue Service, the Labour Inspectorate, Municipality police offices, the Office of Citizenship and Migration Affairs, the State Employment Agency (NVA), the Welfare Department of the Riga Municipality, Riga City Council, the Ministry of Education and Sciences, the Ministry of Economics, the Ministry of Health, the Ministry of Foreign Affairs (particularly the Consular Department and Latvian embassies), the Ministry of Justice (MoJ), the General Prosecutor’s Office, the Prosecutor’s Office of Liepaja City, International corporations, the Employers’ Confederation of Latvia, and NGOs (the Resource Centre for Women “Marta” (Marta) and International Organisation for Migration-IOM Latvia were specifically mentioned).

What follows below is a brief description of the work of the different actors participating in the survey, and their methods for cooperating with other stakeholders.

## Governmental

**State Police:** For the survey for this study, the state police in Latvia were represented by a respondent from the specialised investigation unit on trafficking in human beings. There are

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<sup>80</sup> For the Latvian report, the questionnaires were distributed to the national actors, as well as collected, directly by the national delegate of the TF-THB.

also specialised units with the regional police offices<sup>81</sup>.

In cases of labour exploitation or forced labour, the State Police, State Border Guard and Municipality Police are responsible for initiating a criminal investigation. In this work, the respondent explained that the State Police cooperate with the Labour Inspectorate, the State Border Guard, the municipality police offices, the Office for Citizenship and Migration Affairs, and NGOs. Cases may be referred to the police by the Labour Inspectorate or NGOs which encounter victims of trafficking, while joint workplace inspections are conducted with the police, Border Guard, the Office of Citizenship and Migration Affairs, and the Labour Inspectorate. These inspections are carried out in order to examine the legal status of foreign employees, and to detect illegal migrants as well as potential victims of trafficking. In addition, the State Police prepare an annual report for internal use, regarding their activities within the field of trafficking in persons<sup>82</sup>.

**State Border Guard:** According to Latvian Immigration law, the State Border Guard have the mandate as well as obligation to control the legal status of individuals throughout the country. This work is conducted through immigration control, but also through inspections of workplaces during working hours. There are further criminal investigation units which collect intelligence in order to provide the immigration control units with information to support their work<sup>83</sup>.

The Border Guard stated that they co-operate with other authorities, such as: the State Police, the Labour Inspectorate, the State Revenue Service, and the Office of Citizenship and Migration Affairs. They also cooperate with NGOs such as Safe House and Marta.

Joint inspections take place with immigration control units of the State Border Guard and other authorities. The cooperation with Safe House consists of providing the organisation with information on the responsibilities and rights of immigrants, in order to facilitate the development of their support services. Concerning the cooperation with Marta, the State Border Guard have taken part in preventive efforts such as the distribution of information to immigrants at border control areas<sup>84</sup>.

**Ministry of Welfare:** The Labour Department of MoW; consisting of the Labour Market Policy Unit and the Labour Relations and Labour Protection Policy Unit, participated in the survey for this study. The role of the department was described as one of developing policy on forced labour and labour exploitation, usually in cooperation with other authorities as well as civil society actors. Both units are responsible for the incorporation of EU regulations and international law into domestic legislation, as well as for the general development of Latvian legislation within this area<sup>85</sup>.

Within the area of labour exploitation, the Labour Market Policy Unit cooperates and coordinates efforts with the Legal Department of NVA.<sup>86</sup>

**Ministry of Interior:** MoI has been appointed by the Cabinet of Ministers as the authority responsible for coordinating the implementation of the Programme for Prevention of Human Trafficking for 2009-2013. This includes the coordination of the inter-departmental working group, prevention efforts, policy implementation, and providing information. The Sectoral Policy Department of MoI participated in the survey for this study<sup>87</sup>.

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<sup>81</sup> Questionnaire 2012: State Police: Investigation Unit for Trafficking in Human Beings

<sup>82</sup> Ibid.

<sup>83</sup> Questionnaire 2012: State Border Guard: Criminal Investigation Board

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<sup>84</sup> Questionnaire 2012: State Border Guard: Criminal Investigation Board

<sup>85</sup> Questionnaire 2012: Ministry of Welfare

<sup>86</sup> Ibid.

<sup>87</sup> Questionnaire 2012: Ministry of Interior



The department stated that they cooperate with the State Police, the State Border Guard, the Labour Inspectorate, NVA, the Latvian Free Trade Union, Safe House, the largest Municipalities, the Ministry of Foreign Affairs (MFA), and MoW. This cooperation primarily consists of sharing information, organising events related to the prevention of labour exploitation, and developing legislation as well as policy within this area<sup>88</sup>.

## Non-Governmental

**Free Trade Union Confederation:** This confederation of trade unions educates and provides advice to workers about labour law and work place safety. It further provides advice on a case-to-case basis and legal representation for court proceedings. The Free Trade Union Confederation cooperates with the Labour Inspectorate, the Employers' Confederation, and the State Police. Cooperation consists mainly of sharing information, collecting evidence for legal procedures, and representing clients in court<sup>89</sup>.

**Safe House:** Safe House was the only NGO from Latvia identified and invited to participate in the survey for this study. The NGO Marta was mentioned by some of the respondents in the survey, as was IOM Latvia.

Safe House works with developing support services to victims of trafficking, including trafficking for labour exploitation. The organisation provides rehabilitation and reintegration of victims, promotes the rights of victims, and provides training. Expanding cooperation with authorities and non-governmental organisations is also part of their work<sup>90</sup>.

Safe house cooperates with the State Police in identifying victims of trafficking for labour, collecting evidence and supporting the victim during court proceedings. MoW is responsible

for providing social rehabilitation services, the provision of which is implemented by Safe House. Safe House also cooperates with the Labour Inspectorate in conducting preventive activities such as training and general awareness raising efforts, and with the Welfare department of Riga Municipality, in training social workers and other staff<sup>91</sup>.

With regards to the repatriation of Latvian victims of trafficking, Safe House cooperates with the State Border Guard in meeting victims upon their arrival, and with NVA, in reintegrating victims and finding employment for them. Safe House finally cooperates with the Consular department of MFA and embassies of Latvia, when it comes to the safe return of victims, preventive activities, and training<sup>92</sup>.

## Cooperation

The identification of trafficking for labour exploitation often occurs at the workplace. In Latvia, joint inspections at different workplaces are conducted by the State Border Guard, the Office of Citizenship and Migration Affairs, and the Labour Inspectorate. The initiative to conduct such inspections is usually taken by the authority which initially identifies a suspicious case.

The State Police are responsible for all criminal investigations related to trafficking for labour exploitation or forced labour, while MoW is responsible for social assistance and rehabilitation for victims of trafficking. MoW in its turn, has contracted Safe House to implement rehabilitation and assistance activities.

MoI has been assigned the responsibility to coordinate the implementation of the NAP for 2009-2013, as well as the work and organisation of the Task Force, described further under Working Groups below.

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<sup>88</sup> Ibid.

<sup>89</sup> Questionnaire 2012: Free Trade Union Confederation

<sup>90</sup> Questionnaire 2012: Safe House

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<sup>91</sup> Questionnaire 2012: Safe House

<sup>92</sup> Ibid.

## Policy and legislation

There are regulations in Latvia, which to some extent govern the procedures related to identifying, referring, and assisting victims of trafficking. **Cabinet Regulations No 889, 553 and 458** were mentioned by the respondents: Regulation No 889: *Regulations on Criteria for the Recognition of Victims of Human Trafficking and Procedures for the Administration of Social Rehabilitation Services to Victims of Trafficking in Human Beings*; Cabinet Regulation No 553: *Regarding Work Permits for Third-country Nationals*; and Cabinet Regulation No. 458 on *Procedures for Licensing and Supervision of Merchants - Providers of Work Placement Services*, adopted in 2007.

It was further mentioned in the survey that the **Law on Social Services and Social Assistance** regulates victim assistance and that cooperation between authorities to some extent is governed by the Latvian Administrative Violations Code or even by the Criminal Procedure Law. Cooperation in general between state authorities is also defined through the **State Administration Structure Law**. Immigration law defines the different responsibilities and mandates of authorities on to immigration control and storing data on migration.

In 2004, Latvia launched its first National Action Plan: the State Programme for the Prevention of Trafficking in Human Beings for 2004-2008. In August 2009, the current NAP: **Programme for the Elimination of Trafficking in Human Beings for 2009-2013**, was launched. The NAP and its activities have so far focused on trafficking for sexual exploitation, but the issue of trafficking for labour exploitation is also being addressed.

Another example of a relevant policy document, but also of cooperation between different Latvian actors, are the *Guidelines for identification of human trafficking for the purpose of labour exploitation*, developed by MoI, the State Police, the Labour Inspectorate and Safe House, and published in January 2012. These

guidelines were developed for law enforcement agencies, authorities and NGOs, to increase the identification of victims and the prosecution of perpetrators in cases of trafficking for labour exploitation. They are further intended to improve coordination and communication between different stakeholders.

When asked about limitations to the current legislation and policy on trafficking for labour exploitation in Latvia, the respondents referred mainly to the lack of control mechanisms and the lack of experience and knowledge when it comes to implementing legislation. For example, it was stated that recruitment agencies should be put under stricter control, and that capacity should be increased in order to develop, amongst other things, international cooperation and rehabilitation services. The issue of distinguishing between different forms of trafficking was also raised, and of distinguishing between forced labour and “mere” labour exploitation (without the trafficking element).

## Mechanisms

**National Action Plan:** As has already been mentioned, Latvia has had an NAP on trafficking in persons since 2004. In 2009, the current plan was adopted: Programme for the Elimination of Trafficking in Human Beings for 2009-2013. The aim of the Programme is to plan and implement activities to prevent human trafficking and to provide victims with qualified rehabilitation. MoI is responsible for coordinating the implementation of the programme, which includes 26 measures, out of which at least seven measures concern activities to improve cooperation and coordination between authorities and NGOs. The NAP has been focused mainly on trafficking for sexual exploitation so far, but the issue of trafficking for labour is

increasingly being included in both planning and implementation<sup>93</sup>.

The programme is structured according to five pillars: data collection and research, improving legislation, implementation of preventive measures, improving cooperation between government authorities and NGOs, and developing the actions of law enforcement institutions. These directions are divided into 26 goals or measures to be implemented. The Ministry of Interior is responsible for collecting information from the different implementing partners and for submitting an informative assessment report to the Cabinet of the Ministers annually. The following actors are currently involved in the implementation of the NAP: the State Police, the State Border Guard, the Labour Inspectorate, NVA, the General Prosecutor's Office, the Office of Citizenship and Migration Affairs, the Ministry of Health, MFA, the Ministry of Education and Sciences, the Ministry of Economics, MoW, MoJ, MoI, the Prosecutor's Office of Liepaja City, Riga City Council, the Riga Municipal Police, Safe House, Marta, and IOM Latvia.

**Memorandum of Understanding:** There is no comprehensive Memorandum of Understanding (MoU) between Latvian government agencies concerning the work on trafficking in persons. Nevertheless, there are a few MoUs between smaller constellations of actors, such as a civil society actor(s) and a government authority, which the participating actors stated they found useful.

The Labour Inspectorate and the Employers' Confederation of Latvia have agreed on an MoU concerning the exchange of information and assistance with different activities. The State Police and Safe House signed an Agreement of Cooperation in February 2012,

concerning cooperation on providing support to victims and rehabilitation, but also concerning preventive measures, cooperation during investigations, and training efforts<sup>94</sup>. MoI also signed an MoU with Safe House and other NGOs (Marta, the Latvian Red Cross, and the Missing Child Search Society) in 2008, which governs the involvement of civil society actors in the decision making process, to ensure a balance of interests.

**Specialised Units:** All respondents agreed that there are units specialised on trafficking in person with the police. The Department for Combating Organised Crime (OCCD); the 3rd Unit for Fight against Human Trafficking and Procuring, with the state police, was mentioned. This unit works on all types of trafficking in persons, including trafficking for labour. The unit, based in Riga, consists of nineteen full-time police officers. In addition, there are four full-time police officers based at the different regional offices of the Police, responsible for prevention, training and law enforcement efforts related to trafficking in persons in their region. It was further stated in the survey that a separate unit was established in 2008 with the state police in Riga, consisting of six police officers specifically trained to work on trafficking in persons.

The prosecutor's office was also mentioned as having a specialised unit working specifically on trafficking in persons, including trafficking for labour.

**National coordinator/National Rapporteur:** MoI and MoW serve as lead agencies in the work on trafficking in persons, in that they have been appointed as the responsible authorities for the implementation of the Programme for Prevention of Human Trafficking for 2009-2013.

Latvia has placed a coordinating function with the Sectoral Policy Department of MoI. This department also functions to some extent as a

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<sup>93</sup> Stabina, L (2011) Informative Report on the implementation of Programme for Prevention of Human Trafficking for years 2009 – 2013 in 2009 and 2010 (unofficial translation), Ministry of Interior: Sectoral Policy Department

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<sup>94</sup> This MoU is based on the model MoU provided by CBSS.

National Rapporteur, since it issues reports annually to inform the Cabinet of Ministers of the progress made in implementing the NAP. For these reports, information on progress made and current development is collected from other government departments and civil society actors.

Other tasks of the national coordinator are: to facilitate the exchange of information between different actors, to coordinate the development and implementation of anti-trafficking policies, to organise meetings with implementing partners, and to communicate with international organisations and foreign embassies on the issue. In addition, the national coordinator leads the National Task Force, which is described in more detail below.

**Working Groups:** In 2010, an inter-departmental working group (the National Task Force) was established, which is led by the MoI. This task force includes government authorities, NGOs and other civil society actors: the State Police, the State Border Guard, the General Prosecutor's Office, the Office of Citizenship and Migration Affairs, the Ministry of Health, MFA, the Ministry of Education and Sciences, the Ministry of Economics, MoW, MoJ, MoI, the Prosecutor's Office of Liepaja City, Riga City Council, the Riga Municipal Police, Safe House, Marta, and IOM Latvia. In addition, the following actors have occasionally participated in the meetings and work of the task force, when their expertise or participation has been needed: the Labour Inspectorate, NVA, the Ministry of Defence, the Free Trade Union Confederation, and the Lawyers' Association. The task force coordinates the implementation of the NAP and meets at least 3-4 times per year, in addition to ad hoc meetings when needed. Lately their work has involved trafficking for labour exploitation to a larger extent, as the problem has been recognised as an issue on the rise.

## Challenges and limitations

In general, the respondents participating in this survey stated that they are content with the current cooperation mechanisms, although there is always room for some improvement. It was suggested that improvements are needed within the areas of cooperation, communication, criminal investigations, prosecution, training, awareness-raising efforts, and provision of rehabilitation services.

There is still a lack of knowledge and capacity which affects both policy making and cooperation. For example, cases of trafficking in persons need to be separated more clearly from cases of labour exploitation. Cooperation and referral mechanisms also need to be improved, partly through increasing capacity, resources, and knowledge.

Two respondents stated that their work was limited by the current legislation. Two respondents similarly felt limited by a lack of knowledge and a lack of capacity, while only one respondent felt limited by a lack of cooperation and policy. Other limitations experienced by the respondents were; limited resources and the socio-economic situation in Latvia.

It was suggested that the NAP and the task force be expanded to include institutions working directly with employment issues and workers' rights, such as the Labour Inspectorate and the Free Trade Union Confederation. Identification procedures similarly need to be improved, as the current guidelines have proved challenging, and seeing as more victims need to be identified. In general, the experience in trafficking for labour exploitation is limited. Latvia is a source country, which further complicates the matter, since victim assistance is related to the reception and re-integration of returning victims of trafficking. Perhaps particularly victims of trafficking for labour, do not always see themselves as victims.

## Conclusions

Latvia is mostly a source country of trafficking in persons, while cases within Latvia are rare. As such, Latvia struggles with the reintegration and rehabilitation of the Latvian victims of trafficking who return. There has been a National Action Plan on Trafficking in Persons since 2004, which has certainly helped in creating cooperation mechanisms and resources. Latvia has assigned MoI a coordinating, and to some extent monitoring, function, and has formed a task force to lead the implementation of the current NAP.

In general, the respondents seemed to be fairly content with the existing structures, despite admitting that more could be done within practically all areas. Hence, such concerns were related mainly to the lack of resources, capacity and knowledge. Trafficking for labour exploitation has only recently been included in the discussions and work, which has previously been focused on trafficking for sexual exploitation. There is awareness that different actors need to be included in the work on this particular type of trafficking, and such efforts have been initiated. At the same time, the different stakeholders are aware that more knowledge, particularly concerning trafficking for labour exploitation, is needed.

There have been cooperation efforts between civil society actors and governmental agencies, mainly on prevention activities, such as awareness-raising. NGOs also function as implementing partners for the Ministry of Welfare, and assist the State Border Guard with repatriation efforts. Trade Unions and employers' organisations have only recently been invited to participate in the work governed by the NAP. Nevertheless, there is a growing awareness that it is necessary to include such actors. For example, they have been invited to participate in some of the meetings of the National Task Force. Joint workplace inspections are already taking place in Latvia. This is an excellent approach, and an activity where the work against trafficking in persons could be integrated with the work on other issues encountered.

The existing legislation, policy and mechanisms are less limiting in themselves, than is the lack of experience, knowledge and resources which are needed for it to be implemented in reality. The lack of knowledge contributes to some degree to confusion in distinguishing between different types of trafficking in persons, as well as in distinguishing trafficking for labour exploitation from other types of exploitation (without the trafficking element).

## **Relevant Latvian departments and organisations**

### **Invited actors who participated in the study::**

- **State Border Guard**, Criminal Investigation Board
- **State Police**, Investigation Unit for Trafficking in Human Beings
- **Ministry of Interior** (MoI: Sectoral Policy Department)
- **Ministry of Welfare** (MoW: Labour Market Policy Unit)
- **Free Trade Union Confederation** (Latvijas Brīvo Arodbiedrību Savienība- LBAS)
- **Safe House** (shelter/NGO: Patvērums “Drošā Māja”)

### **Other actors mentioned by respondents:**

- State Revenue Service (Valsts Ieņēmumu Dienests)
- Labour Inspectorate (Valsts Darba Inspekcija- VDI)
- Municipality police offices
- Office of Citizenship and Migration Affairs, (Pilsonības un Migrācijas Lietu Pārvalde-PMLP)
- State Employment Agency (Nodarbinātības Valsts Aģentūra- NVA)
- Welfare Department of the Riga Municipality
- Riga City Council
- Ministry of Education and Science
- Ministry of Economics
- Ministry of Health
- Ministry of Foreign Affairs (MFA: particularly the Consular Department and Latvian embassies)
- Ministry of Justice (MoJ)
- General Prosecutor’s Office (Latvijas Republikas Ģenerālprokuratūra)
- Prosecutor’s Office of Liepāja City
- International corporations
- Employers’ Confederation of Latvia (Latvijas Darba Devēju Konfederācija- LDDK)
- Various NGOs (the Women’s Centre Marta, the Latvian Red Cross, the Missing Child Search Society, and the International Organisation for Migration- IOM Latvia were specifically mentioned).

# LITHUANIA

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## Findings

Seven respondents from Lithuania submitted the questionnaire for the survey which this study is based on. These respondents represented: the State Border Guard Service (SBGS), the State Labour Inspectorate (SLI), the Labour Exchange, the Migration Department, the Ministry of Interior (MoI), the Ministry of Social Security and Labour (MoSSL), and Caritas Lithuania.

Lithuania is a source, destination and, to some extent, transit country for victims of trafficking in persons. Although cooperation mechanisms have been established, such as an interdepartmental working group, and a national action plan, these have so far focused on trafficking for the purpose of sexual exploitation. There is a need to broaden the work, including actors and methods which are relevant in identifying, referring and assisting victims of trafficking for labour exploitation. In general, civil society actors need to be included in national cooperation to a larger extent. For trafficking for labour exploitation, this includes for example trade unions and employers' organisations.

The findings of this report are divided into two parts. The first part concerns relevant actors with regards to trafficking in persons as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes

or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

Apart from the seven actors who submitted the questionnaire for the survey, a number of other authorities and organisations were mentioned as relevant stakeholders or as existing cooperation partners:

The Ministry of Justice (MoJ), the Ministry of Foreign Affairs (MFA), subdivisions under ministries such as the Police Department and the State Tax Inspectorate, the Prosecution Service, municipalities, the Institute of Law, trade unions, the Lithuanian Labour Federation, NGOs and international organisations (IOM Vilnius was specifically mentioned). The participating departments and organisations, as well as their cooperation methods are described below.

## Governmental

**State Border Guard Service:** The main functions of SBGS, within the area of trafficking in persons, are to investigate cases encountered and to work with prevention efforts. SBGS actively trains its staff on this topic, and cooperate with a number of (approximately 25) government departments and civil society actors such as ministries, departments, universities, and NGOs. This takes place through an interdepartmental working group and other meetings, and mainly consists of the exchange of information<sup>95</sup>.

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<sup>95</sup> Questionnaire 2012: State Border Guard Services

**State Labour Inspectorate:** SLI under the Ministry of Social Security and Labour, is one of the departments which implements the National Action Plan (NAP) on Trafficking in Human Beings (described further under Cooperation: Mechanisms). SLI is assigned the function to carry out the control of illegal work. SLI gathers information on cases of labour exploitation, conducts workplace inspections, and has the mandate to enforce labour regulations<sup>96</sup>.

**Labour Exchange:** The Labour Exchange is also a department under MoSSL. The respondent from this department who participated in the survey belonged to the Labour Resources Division of this department. The mandate of the Labour Exchange is to implement policy within the areas of labour market and employment; in particular the state employment guarantees and the payment of unemployment insurance benefits. The department also participates in the implementation of the NAP, by assisting victims of trafficking with employment services, and by monitoring and reporting on these activities<sup>97</sup>.

**Migration Department:** The Migration Department is a department under MoI which has the mandate to grant or extend temporary residence permits to victims of trafficking who cooperate with the institutions of pre-trial investigations and in the criminal proceedings. The department cooperates with the institutions of pre-trial investigations and the courts in issuing such residence permits<sup>98</sup>.

**Ministry of Interior:** MoI in Lithuania has a coordinating function in the efforts to combat trafficking in persons, primarily by implementing the NAP. The function of an advisor on trafficking in human beings has been established in order to organise and coordinate the implementation of the NAP. This advisor also chairs the interdepartmental

working group (described further under Cooperation: Mechanisms) which monitors the implementation. MoI works with all types of trafficking in persons<sup>99</sup>.

MoI cooperates with approximately 25 governmental departments and civil society organisations, such as ministries, departments, universities, NGOs and international organisations (IOM was specifically mentioned). Cooperation takes different forms depending on the context and purpose, ranging from direct coordination of implementation efforts, such as policy development, legislative work, and training, to data collection and reporting<sup>100</sup>.

**Ministry of Social Security and Labour:** Within the area of trafficking in persons, MoSSL organises training on the prevention of trafficking in persons and assistance to victims, for social workers and NGOs who provide assistance programmes. Within its competence, the ministry collaborates with government departments in developing policy on prevention and control of trafficking in persons. Since 2002, the ministry has also been cooperating with NGOs focusing on the reintegration of victims of trafficking, and is providing funding for projects on social assistance and reintegration efforts<sup>101</sup>.

## Non-Governmental

**Caritas:** Caritas Lithuania is running an assistance project for victims of trafficking and prostitution. Through this project, Caritas provides victims of trafficking with safe shelter, psychosocial support, legal advice, and job training. Caritas stated that they cooperate with the National Police and the Prosecution Service, on a case-to-case basis and through round table discussions.

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<sup>96</sup> Questionnaire 2012: State Labour Inspectorate

<sup>97</sup> Questionnaire 2012: Labour Exchange

<sup>98</sup> Questionnaire 2012: Migration Department

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<sup>99</sup> Questionnaire 2012: Ministry of Interior

<sup>100</sup> Ibid.

<sup>101</sup> Questionnaire 2012: Ministry of Social Security and Labour



## Cooperation

When asked about the distribution of tasks, some of the respondents stated that this occurred according to competence and functions of stakeholders, while another respondent replied that there is little practical experience of working on the issue of trafficking in persons, and hence the structured distribution of tasks is limited. Laws and regulations definitely seem to play a role in describing the responsibilities of agencies and departments.

SLI carry out work place inspections where cases of trafficking for labour exploitation may be identified. Investigations are carried out by the Border Guard and the Police Department under coordination of the Prosecutor's Office. The Migration Department has the mandate to grant victims temporary residence permits, while the Labour Exchange offers reintegration services. Other victim assistance services are offered by NGOs such as Caritas and IOM. The implementation of the NAP on trafficking in persons is coordinated by MoI, mainly through the interdepartmental working group on trafficking in persons.

Cooperation occurs between government authorities and civil society organisations, such as NGOs and trade unions, although it is somewhat limited. Such cooperation is mostly conducted on a case to case basis, depending on mandates and issues faced. The Police Department and NGOs have signed MoU. It was stated that cooperation with trade unions and NGOs needs to be increased. Although trade unions participate in the implementation of activities, they do not have a leading role.

## Policy and legislation

All but one of the respondents agreed that there is legislation which describes the roles of actors and the procedure for cooperation between them on trafficking in persons. Nevertheless, not many specific examples were provided. Article 40 of the Lithuanian **Aliens Act** "On the legal status of aliens" was

specifically mentioned. According to a paragraph of this article, the Migration Department may issue or extend a temporary residence permit to a victim of trafficking, on the condition that the victim cooperates during the preliminary investigation and criminal proceedings. The **Penal Code** and the **Labour Code** were also mentioned, although not described further. In general, the work of government agencies and departments is governed by individual regulations, describing their mandate. Such regulations also describe to which extent, and how, information is to be shared with other actors.

The respondents stated that there were up to twenty relevant policy documents on trafficking in persons. Nevertheless, only a few were specified. The **National Action Plan on Trafficking in Persons** was mentioned by most of the respondents. The NAP on crime prevention was also mentioned. When asked about issues with the current legislation and policy documents, most of the respondents experienced no issues whatsoever. It was stated though that victims of trafficking for labour are rarely, if ever, identified. The lack of support structures for victims, the lack of identification, and the lack of experience which follows, were also brought up.

## Mechanisms

**Specialised Units:** All respondents stated that the Police and the Prosecution Service have officers specialised in trafficking in persons. Most of them also mentioned specialised units (groups to control illegal work) with the labour inspectorate as well as other agencies, of which only the Migration Department was mentioned. It was furthermore stated by all but one of the respondents that none of these units work on trafficking for labour exploitation. One of the respondents replied that the police and labour inspectorate have units focused specifically on trafficking for labour exploitation.

**Lead Agency:** All respondents agreed that Lithuania has a lead agency for the work on

trafficking in persons, although only one respondent specified that he or she had MoI in mind. Another respondent suggested the Police Department and the Migration Department.

**National Action Plan:** Almost all of the respondents mentioned the NAP as a relevant policy document, and as the basis of the work on this issue. In September 2009, the current plan on trafficking in persons was approved by the Lithuanian government, referred to in English as; the Programme for the Prevention and Control of Trafficking in Human Beings for 2009–2012. For 2005–2008, there was a similar programme. For 2002–2004, Lithuania had a Programme for the Control and Prevention of Trafficking in Human Beings and Prostitution.

The objective of the Programme is to prevent and combat trafficking in persons, through detection and investigations, victim assistance and support. Efforts also include ensuring that victim protection and assistance systems function well, collecting and analysing data, and ensuring effective national and international cooperation within the area<sup>102</sup>. Trafficking for labour exploitation is specifically included through measures such as: analysing existing legal acts on work permits, amending them if necessary; information programmes to prevent the trafficking of vulnerable groups; and training for law enforcement officers, social workers and labour market specialists. MoI, MoSSL, MoJ, MFA, the Ministry of Education and Science, the Prosecution Service, the Police Department, SBGS, the National Courts Administration, the Lithuanian Centre for Human Rights, other authorities, municipalities, NGOs and international organisations participate in the implementation of the NAP.

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<sup>102</sup> European Commission (2012) Website: *Together against Trafficking in Human Beings: Member States: Lithuania*: <http://ec.europa.eu/anti-trafficking/>, accessed 22 June 2012.

**National Coordinator/Rapporteur:** MoI has a coordinating function in the work against trafficking in persons. The function of a National Coordinator was established in 2007 and is held by the vice minister of the interior. The National Coordinator has the mandate to coordinate the implementation of the NAP, to support relations and cooperation between government institutions, NGOs and international organisations, and to report to the government as well as parliament on the implementation of the NAP and the general situation<sup>103</sup>. It was stated in the survey that the coordinator issues an annual report and as such the national coordinator has a reporting function.

The coordinator coordinates the implementation of the NAP mainly through the activities of the interdepartmental working group on trafficking in persons. The respondents agreed that other tasks are conducted by the national coordinator on an ad hoc basis when necessary.

The European Commission<sup>104</sup> describes the Lithuanian coordination system as follows:

- The coordinator oversees all prevention efforts and other activities to fight trafficking in persons.
- The interdepartmental working group, with representatives from MoI and other stakeholders, coordinate the implementation of the current NAP at the national level.
- At the district level, ten police officers have been assigned the task of fighting trafficking in persons, in cooperation with other authorities and NGOs. Some municipalities have set up their own local counter-trafficking groups.

**Working Group:** Just as the respondents agreed that MoI functioned as a coordinating

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<sup>103</sup> European Commission (2012) Website: *Together against Trafficking in Human Beings: Member States: Lithuania*: <http://ec.europa.eu/anti-trafficking/>, accessed 22 June 2012.

<sup>104</sup> Ibid.

agency at the national level, they all stated that there is an interdepartmental working group, and that this is coordinated by MoI. Its main task was described as the implementation of the NAP. One respondent stated that all forms of trafficking in persons are discussed; including trafficking for labour exploitation, while another respondent stated that the working group would address the issue of trafficking for labour exploitation in the future. The actors invited may change depending on the measures implemented, but are presently: MoI, MoSSL, MFA, the Ministry of Education and Science, the Police Department, the Migration Department, SBGS, the Prosecution Service, the National Courts Administration, the Association of Municipalities, and the Institute of Law. The working group meets at least once every six months, although communication via e-mail and phone takes place on a daily basis.

**Memorandum of Understanding (MoUs):**

There is not one all-encompassing MoU on trafficking in Lithuania, for example for the interdepartmental working group. This group was set up from delegates of different responsible actors by the order of the Minister of the Interior. There are however several MoUs existing between two or a few actors, particularly between government departments and NGOs. Existing MoUs between the Police Department and NGOs were mentioned, which govern the implementation and funding of certain projects, as well as the cooperation which they include. MoUs usually regulate the sharing of information and intelligence. One respondent stated that they have agreements on cooperation with nineteen actors in total. Most of these agreements include only two stakeholders, while others include 3-4 actors, of which some may be foreign or international actors. The cooperation between civil society organisations and government authorities is generally governed by MoUs.

## **Challenges and Limitations**

When asked about factors limiting their work on trafficking in persons, only one respondent put forth a suggestion. However, the lack of cooperation was mentioned in different parts of the survey, primarily referring to the cooperation between authorities and unions as well as NGOs. One respondent stated that there is only cooperation between different authorities, and that civil society organisations, which are closer to the workers and potential victims, are not involved.

Lack of knowledge, policy, capacity and referral mechanisms were also mentioned. Although trafficking for labour exploitation is a vast problem, it remains hidden, particularly in comparison with trafficking for the purpose of sexual exploitation. Another issue which was brought up, is that there are official structures which tend to blame victims for not cooperating. Male victims of trafficking for labour exploitation seem to present authorities with new challenges in motivating them to accept assistance and cooperate with law enforcement.

## **Conclusions**

Lithuania is a source, destination and, to some extent, transit country for victims of trafficking in persons, but has also experienced some internal trafficking. There has been an NAP concerning trafficking in persons since 2002, although this plan has focused mainly on trafficking for the purpose of sexual exploitation. Lithuania also has an interdepartmental working group on trafficking in persons and values international cooperation. The main limitations to current cooperation at the national level, is the narrow focus of the current efforts and the inadequate cooperation with civil society actors. Although the concept is said to include trafficking in persons for all purposes, the methods used and actors included are still more relevant for trafficking for sexual exploitation, and less helpful when working on trafficking for labour exploitation. NGOs and other civil society

actors are not included in the interdepartmental working group, which naturally limits their influence and their ability to contribute with knowledge and experience. Apart from generally improving cooperation between government and civil society actors, there is also a need to include a different set of actors in order to identify, refer and assist victims of trafficking for labour exploitation. This includes, for example, trade unions and employers' organisations.

The issue of trafficking for labour exploitation has not been a prevalent issue on the trafficking agenda in Lithuania. The number of cases of trafficking for labour exploitation identified is low, as is the number of referrals made. Improvements are needed in order to

develop identification and referral mechanisms. Identifying male victims has proven particularly challenging. Victims of trafficking for labour exploitation must be identified by alternative actors and measures and in different contexts, such as through working place inspections and the work of trade unions. As with other types of trafficking, victims may not see themselves as victims, but are nevertheless entitled to a legal process as well as assistance and support. Seeing as the assistance offered to victims depends on their cooperation, new approaches and methods are needed to ensure that victims of trafficking for labour exploitation participate in criminal proceedings in a constructive manner, and receive the necessary assistance and support.

## Relevant Lithuanian departments and organisations

### Invited actors who participated in the study:

- **State Border Guard Service** (SBGS- Valstybės Sienos Apsaugos Tarnyba)
- **State Labour Inspectorate** (SLI- Valstybinė Darbo Inspekcija)
- **Labour Exchange** (Lietuvos Darbo Birža- under the Ministry of Social Security and Labour: Labour Resources Division)
- **Migration Department** (Migracijos Departamentas- under the Ministry of Interior)
- **Ministry of Interior** (MoI- Vidaus Reikalų Ministerija)
- **Ministry of Social Security and Labour** (MoSSL- Socialinės Apsaugos ir Darbo Ministerija)
- **Caritas Lithuania** (Project: Aid to the victims of trafficking and prostitution)

### Other actors mentioned by respondents:

- Ministry of Justice (MoJ- Teisingumo Ministerija)
- Ministry of Foreign Affairs (MFA- Užsienio Reikalų Ministerija)
- Police Department (Policijos Departamentas)
- Prosecution Service (Prokuratūra)
- State Tax Inspectorate (Valstybinė mokesčių inspekcija; under the Ministry of Finance)
- Municipalities (the Association of Municipalities)
- Institute of Law (Teisės institutas)
- Trade unions
- Lithuanian Labour Federation (Lietuvos Darbo Federacija)
- NGOs (International Organisation for Migration- IOM Vilnius was specifically mentioned).

## NORWAY

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### Findings

Out of eleven Norwegian respondents asked to participate in the survey, nine completed the questionnaire, while one respondent chose to answer a shorter set of alternative questions. These respondents represented: the Ministry of Justice and Public Security (MoJPS), the National Criminal Investigation Service, Rogaland Police District, Østfold Police District, the Norwegian Labour Inspection Authority (LI), Norsk Arbeidsmandsforbund (NAF: Labour Union), the Norwegian Directorate of Immigration (UDI), the Norwegian Bar Association, International Organisation for Migration (IOM) and National Coordination Unit for Victims of Trafficking (KOM) with the National Police Directorate.

Norway has developed a number of cooperation mechanisms, as well as specialised units, although primarily focused on trafficking for sexual exploitation up until recently. As a consequence, the service providers included in existing working groups have focused mainly on female victims of trafficking for sexual exploitation, and children. Respondents mentioned the lack of capacity as well as knowledge, as the main problems currently limiting their work. A lack of coordination or cooperation was further mentioned by most respondents, referring to cooperation on trafficking for labour specifically. A structure for the referral of such cases is still missing, while some respondents expressed that there was simply a lack of a common strategy.

The findings of this report are divided into two parts. The first part concerns relevant actors in working on trafficking in persons as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on

trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the reports is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

### Actors and mandates

In addition to the ten actors responding to the survey, at least 25 other Norwegian actors were mentioned by the respondents, as cooperation partners, or as relevant stakeholders. These were: the Prosecuting Authority (Påtalemyndigheten), the Ministry of Labour (MoL), the Ministry of Defence, the Ministry of Health and Care Services, the Ministry of Local Government and Regional Development, the Ministry of Foreign Affairs, the Child Welfare Services (under the Ministry of Children, Equality and Social Inclusion), the Tax Administration, the Food Safety Authority, Customs, Reception Centres for asylum seekers, the Norwegian Public Roads Administration, NAV (The Norwegian Labour and Welfare Administration), social services and others at the municipal level, women's crisis centres, law firms, private security companies, other police units, trade unions and employers' organisations, and NGOs (Caritas, Kirkens Bymisjon, SEIF, the Norwegian Red Cross/Røde Kors, Save the Children, the Salvation Army, and Norwegian People's Aid/Norsk Folkehjelp were specifically mentioned).

What follows below is a brief description of the work of the different relevant actors on trafficking in persons for labour exploitation. This includes the respondents in the survey, but also to some extent other relevant actors, as well as the cooperation of the respondents with other actors, as it was described in the survey.

## Governmental

**District Police offices:** Representatives from two local police districts participated in this survey; Rogaland and Østfold. Both districts are represented in the National Reference Group (Kompetansegruppe) of the Norwegian Police on Human Trafficking. Both departments also have the mandate to investigate cases of trafficking in persons within their districts.

The Rogaland Police Department specifically stated their focus on issues of forced labour and social dumping. In this work, their cooperation partners are LI, the Tax Administration, the Food Safety Authority, Customs, reception centres for asylum seekers, the City Council and some other service providers at the municipal level. This cooperation was described as mainly consisting of information-sharing and direct collaboration on particular cases, but also as the distribution of information to private companies<sup>105</sup>.

The Østfold district stated that they investigate all types of trafficking in persons, including trafficking for labour exploitation. In Østfold, a “Cross-service Operational Team” has been established in order to develop cooperation between different departments and service providers, particularly regarding victim assistance. This mechanism has enabled the members of the team to establish a common ground of knowledge and understanding of trafficking in persons. Through this operational team, the local police force

cooperates with child protection services, law firms acting as legal aid, women’s crisis centres, and other public service providers at the municipal level. In addition, Østfold cooperates with KOM at the national level, with other police departments and customs, and with private security companies on identifying potential victims of trafficking in persons and training<sup>106</sup>.

### **National Criminal Investigation Service:**

The role of the National Criminal Investigation Service, under the National Police, is to gather intelligence and to provide analyses of the current situation, in order to support local police departments. This unit focuses particularly on organised crime. The Criminal Investigation Service further has the mandate to initiate an investigation, or to assist the local police if they are requested to. Nevertheless, the main responsibility for investigating crimes of trafficking in persons lies with the local police departments<sup>107</sup>.

It was stated that the department cooperates, and coordinates efforts, with both governmental and non-governmental organisations and agencies such as: LI, the Tax Administration, UDI, and labour unions. The regular meetings of KOM (and its interagency working group) were further mentioned, where it was stated that the participants could raise different topics for discussions, as well as specific problems which could be resolved at a higher level<sup>108</sup>.

**Labour Inspection Authority:** In this survey, the Norwegian Labour Inspection Authority (Arbeidstilsynet) was represented by its Oslo division. LI does not have a direct role in addressing trafficking for labour. The mandate of the department is to address the working environment and working conditions, including: employment contracts, working hours, housing (if this is provided by the

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<sup>105</sup> Questionnaire 2012: Rogaland Police District

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<sup>106</sup> Questionnaire 2012: Østfold Police District

<sup>107</sup> Questionnaire 2012: National Criminal Investigation Service

<sup>108</sup> Ibid.

employer), and overtime. The Labour Inspection Authority also provides information and guidance to migrant workers. LI has the mandate to monitor compliance with the legislation on minimum wage, and the mandate to investigate whether the working conditions of migrant workers correspond with their work permits, according to the Immigration Act on non-EU migrant workers. LI as such has the mandate to demand improvements, and for example issue fines, although it does not have the mandate to use force, which is why the cooperation with law enforcement is necessary.<sup>109</sup>

LI stated that they cooperate closely with the police, who are notified whenever a suspected case of forced labour or trafficking in persons is encountered, and who are generally informed of any suspected criminal activity. Other cooperation partners are: the Tax Administration, UDI, the Food Safety Authority, Customs, the Norwegian Public Roads Administration, NAV, and local fire departments (on issues related to housing). LI also cooperates with civil society actors; employers' organisations, trade unions, and NGOs such as Caritas. Cooperation at the national level mainly consists of the exchange of information and strategic dialogue, while coordinated inspections and control efforts are also carried out with other actors at the local and regional level<sup>110</sup>.

**National Coordinating Unit for Victims of Trafficking:** KOM (Koordineringsenheden for Ofre for Menneskehandel) was funded by several ministries in 2006, but is administered by the Organised Crime Unit of the Police Directorate<sup>111</sup>.

The coordinating unit participated in the survey and stated that their role primarily is to

improve coordination between the authorities and other organisations. Hence, the main tasks are: networking (primarily through regular meetings with stakeholders in the field), assistance and guidance to actors, information work through, for example, workshops and seminars, training of staff within different agencies, improving guidelines for cross-disciplinary cooperation, and publishing annual status reports on trends, challenges and areas where more research is needed<sup>112</sup>.

KOM cooperates with the ministries and directorates which are responsible for implementing the National Action Plan against Human Trafficking, and in particular the Directorate of Immigration and LI. In addition, KOM cooperates with the police, the Prosecuting Authority, labour unions, lawyers, and IOM. Future cooperation efforts have been planned with certain foreign embassies in Norway. The cooperation consists mainly of meetings, sharing lessons learnt as well as challenges, improving guidelines for cross-disciplinary cooperation, information and training efforts<sup>113</sup>.

**Directorate of Immigration:** UDI is the central agency of the immigration administration, responsible for regulating migration flows and for processing applications for visa, work permits, residence permits and asylum. UDI is also responsible for providing support to asylum seekers and for the repatriation of migrants. In cooperation with the Ministry of Justice and Public Security, UDI further takes part in policy development<sup>114</sup>.

Although UDI states that working with trafficking in persons is not directly a part of their mandate, the directorate has made some efforts within the area. For example, UDI has established a set of guidelines on the

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<sup>109</sup> Questionnaire 2012: Norwegian Labour Inspection Authority

<sup>110</sup> Ibid.

<sup>111</sup> Norwegian Ministry of Justice and the Police (2011) *United against human trafficking: The Government's Plan of Action against Human Trafficking (2011-2014)*, Norwegian Government Administration Service, Oslo: p. 14

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<sup>112</sup> Questionnaire 2012: National Coordinating Unit for Victims of Trafficking

<sup>113</sup> Questionnaire 2012: National Coordinating Unit for Victims of Trafficking

<sup>114</sup> Questionnaire 2012: Directorate of Immigration

processing of asylum applications in cases of trafficking in persons. They have also established guidelines on identification procedures and routines for providing victims of trafficking with information about support and protection, directed at their own staff, the police, as well as Norwegian embassies. Such guidelines have also been issued specifically for the reception centres for asylum seekers. UDI further stated that they meet regularly with KOM and its partners through the interagency working group<sup>115</sup>.

**The Ministry of Justice and Public Security:** The Ministry of Justice and Public Security has the main responsibility for coordinating all government efforts against trafficking. MoJPS stated that they cooperate with: the Ministry of Labour, the Ministry of Children, Equality and Social Inclusion, the Ministry of Defence, the Ministry of Health and Care Services, the Ministry of Local Government and Regional Development and the Ministry of Foreign Affairs. This cooperation takes place mainly through the work of an inter-ministerial working group (interdepartemental arbeidsgruppe) on trafficking in persons, which MoJPS heads. This group (described further under Cooperation: Mechanisms) includes the departments which have a role according to the National Action Plan (NAP).

### **Non-Governmental**

Civil society actors were mentioned as cooperation partners of almost all governmental actors included in the survey. In terms of respondents, the Norwegian Bar Association, Norsk Arbeidsmandsforbund, and IOM participated in the survey, thereby providing input from the Norwegian civil society on the issues of trafficking in persons for labour.

**Norwegian Bar Association:** The Norwegian Bar Association is a member of the

operational working group coordinated by KOM. Through this working group, the organisation keeps itself updated on international as well as Norwegian practices, regulations and other developments. The Bar Association has previously raised the issue of assistance to victims of trafficking for forced labour. For example, it was included in an alternative report to the United Nations Committee on Human Rights in 2010, where it was stated that Norway needs to focus more on this type of trafficking<sup>116</sup>.

**Norwegian Union of General Workers:** The Norwegian Union of General Workers (NAF) is one of the 21 trade unions affiliated with The Norwegian Confederation of Trade Unions (LO). NAF stated that they have no official mandate to work on trafficking for labour. Nevertheless, NAF, through their work with the labour market and their members, has extensive experience of working with issues such as labour exploitation and forced labour. Their view is that this problem is increasing rapidly, making it difficult to address the individual cases encountered. NAF cooperates with the Labour Inspection Authority and occasionally with NGOs such as Kirkens Bymisjon, SEIF (Self aid for immigrants and refugees), and CARITAS Norway. The cooperation with the Labour Inspection Authority involves referring cases and findings encountered through the work of the trade union, while the cooperation with NGOs involves exchanging information and assisting each other with problems encountered and inquiries<sup>117</sup>.

**International Organisation for Migration:** IOM approaches the issue of trafficking in persons through their work on migration issues, concerning the human rights, and physical and mental well-being of migrants as well as sustainable migration through capacity building of governmental and civil society actors. According to the NAP, IOM in

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<sup>115</sup> Ibid.

<sup>116</sup> Questionnaire 2012: Norwegian Bar Association

<sup>117</sup> Questionnaire 2012: Norwegian Union of General Workers



Norway has been given the mandate to assist victims of all forms of human trafficking with repatriation as well as reintegration support, in cooperation with the Directorate of Immigration<sup>118</sup>.

IOM implements activities in partnership with governmental institutions, NGOs and other international organisations. IOM is part of the operational working group (described further under Cooperation: Mechanisms), which KOM coordinates and takes part in the monthly meetings. They further cooperate with the Labour Inspection Authority, municipalities and NGOs. The cooperation consists mainly of sharing experience and information, developing joint efforts to combat trafficking, and discussions on challenges encountered in the monthly meetings. Twice a year a joint meeting is held, where broader issues are discussed and capacity building efforts take place. Nevertheless, forced labour has not yet been a topic at this bi-annual conference<sup>119</sup>.

## Cooperation

The current distribution of tasks is to some extent defined in the NAP, but appears to be defined more extensively through the cooperation of the KOM working groups. There seems to be no MoU which describes the roles of different actors in Norway. In theory at least, all agencies and organisations faced with a situation which they have reason to believe is a case of trafficking in person, have a responsibility to identify the victim(s) and to refer him or her to the responsible authority. A victim may be identified by any agency, organisation or individual, and as a consequence be entitled to assistance, such as a temporary residence permit, security measures, social and medical assistance. A person identified as a victim will be regarded as such until proven otherwise. The identification may be verified by the Police and

Prosecuting Authority, UDI, or the child protection service (if the victim is underage).

In Norway, the police are the only agency which has the mandate to investigate potential cases of trafficking in persons. The Labour Inspection Authority is one of the actors who might come in contact with cases of trafficking for labour on a front-line officer level, during regular inspections. LI will then refer the case to the relevant local police department. The Labour Inspection Authority also plays a role in preventing trafficking in persons and in collecting information about prevalence and scope. The labour unions might also be involved in cases, primarily as sources of information for the police.

The Directorate of Immigration has the mandate to verify and grant victims of trafficking a temporary or permanent residence permit according to certain criteria. According to the NAP, IOM has been given the mandate to assist victims of all forms of human trafficking with repatriation as well as reintegration support. This is done in cooperation with the UDI.

Assistance seems to be provided by authorities at the municipal level, but also through NGOs as service providers. Some Women's Crisis Centres have begun to provide assistance to male victims of trafficking. Assistance efforts mentioned were for example: assistance with accommodation, medical care, social benefits, and legal aid. Child protection services are involved when the victims are underaged. Both governmental actors and civil society actors mentioned fairly extensive coordination efforts between governmental and non-governmental actors. This coordination seems to concern victim assistance mostly.

## Policy and legislation

Norway has adopted the definitions of the **Palermo protocol** and the council of Europe on human trafficking, including trafficking for

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118 Questionnaire 2012: International Organisation for Migration

119 Ibid.

labour<sup>120</sup>. The concept of social dumping is also used extensively, sometimes to the point where cases which could be cases of trafficking for labour are labelled as cases of social dumping<sup>121</sup>. Hence, potential cases of trafficking for labour are contested even more than cases of trafficking for sexual exploitation, of which Norway has a more extensive experience. The Norwegian legislation lacks a clear definition of social dumping in comparison with human trafficking.

There are regulations and legislation which define the roles of individual agencies in working on trafficking in persons, or closely related issues. For example; the **Immigration Act** (sections 30d, 38d) regulates the assessment of asylum applications in cases of human trafficking. **The Immigration Regulations** (sections 3-8) further govern the conditions for the reflection period which may be given to victims of trafficking. Nevertheless, there is no legislation which regulates or defines cooperation between the different actors. Rather, this is governed by the National Action Plan described below.

When asked about issues or limitations with the current legislation concerning trafficking for labour, most respondents had no comments or offered more general responses.

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<sup>120</sup> Although this was not part of the scope of this study, it should be mentioned that one of the respondents remarked that the Norwegian legislation could be improved when it comes to trafficking for labour, seeing as domestic slavery (labour) is not mentioned specifically.

<sup>121</sup> The term social dumping is widely used in media and in the public discourse in Norway. Most frequently it is used in relation to migrant workers from Eastern Europe being hired to work in the construction sector or with cleaning, who are underpaid, work with no contract or with an unclear contract, and who suffer from generally poor working conditions. Defining a case as social dumping, when in reality it is a case of trafficking in persons, obviously means depriving the victim of the assistance which he or she is entitled to. Social dumping is furthermore considered less serious than trafficking in persons. As several of the respondents pointed out, the distinction between the two concepts needs to be clarified in order for both of them to be used correctly.

For example, it was stated that the capacity and will to follow up on and investigate potential cases, as well as cooperation with other actors is lacking. Another comment was that the legislation does not provide sufficient protection in cases of social dumping, where migrants are forced to settle their cases in civil courts. The issue of defining social dumping versus trafficking in persons, which was mentioned above, was also raised. Frustration seemed to arise particularly because trafficking for labour exploitation seems to increase while it is still given less attention than other types of trafficking in persons.

Regarding regulations of the different roles of actors and cooperation, one respondent raised the lack of flexibility of the current legislation. For example, it was stated that the law which regulates the child care services and its institutions, has not been adapted to accommodate to victims of trafficking. Such victims have specific needs which often challenge the existing structures, thereby making the provision of services complicated.

When asked about policy documents, all but one respondent referred to the previous and current (2011-2014) **National Action Plan against Human Trafficking**, in fact, most of the respondents referred to this as the only relevant policy document. The National Action Plan against Social Dumping was also mentioned by some of the respondents.

In addition, KOM's Guide to Identification of Possible Victims of Trafficking was mentioned, as well as different, unspecified guidelines issued by UDI.

When asked about the existing policy, most of the respondents mentioned issues with implementation, such as a lack of resources allocated to implementation, lack of priorities and cooperation, as well as a lack of knowledge and information. The issue of distinguishing trafficking in persons from cases of poor working conditions was further mentioned, as well as the use of the term social dumping, which, according to one respondent,

makes it difficult to assist some individuals who have been severely exploited.

## Mechanisms

**Specialised Units:** There are specialised units with the police dedicated to trafficking in persons, including trafficking for labour in the cities of Trondheim, Bergen, Østfold and Oslo. The STOP unit in Oslo and the EXIT group in Bergen are anti-trafficking units mostly focused on trafficking for sexual exploitation and begging. LI also has specialised units working on social dumping. It is unclear whether these units also work on trafficking in persons. Specialised units with the Child Protection Service and UDI were mentioned by the respondents, although these units are working with other types of trafficking.

**National Action Plan:** Two National Action Plans were mentioned by the respondents: the Government's Plan of Action against Social Dumping, and the Government's Plan of Action against Human Trafficking. The latter has appeared in two versions, one for 2006-2009, and the second for 2011-2014, with the title; United Against Human Trafficking. The most recent NAP on human trafficking emphasises the need to improve cross-disciplinary cooperation and to develop the competency of different actors. As part of this work, KOM is to be developed further as a coordinator. Focus has further been placed on improving identification rates and referral procedures to ensure that more victims are identified and assisted. The need to improve and increase prevention efforts is also included in the NAP, as is the need to think ahead in terms of "new" forms of trafficking in persons, and changes in *modus operandi*<sup>122</sup>.

**Lead agency:** There is no obvious lead agency in Norway for the work on trafficking

in persons. The respondents mentioned the Police Directorate and the Prosecution Authority, the Labour Inspection Authority, The Ministry of Justice and Public Security, as well as the Directorate of Labour and Welfare. While KOM coordinates the work at the national level, these efforts mainly concern coordination and the sharing of information. The Ministry of Justice and Public Security is similarly responsible for coordinating the efforts of the ministries.

**National Coordinator:** The body which comes closest to a national coordinator in Norway, is the Coordinating Unit for Victims of Trafficking with the police directorate; KOM, which was also mentioned frequently in the survey. This unit was established in 2006 to improve coordination between authorities and other organisations, as well as to share knowledge and lessons learnt. The unit works with networking efforts through regular meetings, guidance and support to the relevant actors, training efforts, and the publishing of annual status reports on trends, challenges and research needs<sup>123</sup>.

Initially, KOM ran two working groups; referred to as the National Project Group and the National Reference Group. From 2011, as KOM was established as a permanent unit, these two units changed names and became the Inter-Agency Working Group (*tverratatlig samarbeidsgruppe*) and the Operational Working Group (*operativ samarbeidsgruppe*)<sup>124</sup>. The groups are described further in the section on working groups below.

In addition, some cities (Oslo, Bergen, Trondheim) have a coordinator at the local level who is responsible for the distribution of tasks, also described below. Norway has no independent national Rapporteur.

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<sup>122</sup> Norwegian Ministry of Justice and the Police (2011) *United against human trafficking: The Government's Plan of Action against Human Trafficking (2011-2014)*, Norwegian Government Administration Service, Oslo.

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<sup>123</sup> Questionnaire 2012: Coordinating Unit for Victims of Trafficking

<sup>124</sup> Correspondence with the Coordinating Unit for Victims of Trafficking, April 2012

**Working Groups:** Most respondents referred to the working groups of KOM when asked about existing working groups. According to the NAP<sup>125</sup>, KOM was initially organised as two working groups; the Project Group; consisting of representatives from governmental agencies and authorities, and the Reference Group; consisting of representatives from authorities as well as civil society actors working as service providers with victims of trafficking. In 2011, as the unit became permanent, rather than project-based, the working groups changed names to: the Inter-Agency working group (translated by the author, in Norwegian: *tverratatlig samarbeidsgruppe*) and the Operational working group (translated by the author, in Norwegian: *operativ samarbeidsgruppe*). The participating actors vary somewhat, but are currently as follows:

***Inter-agency working group:*** The Police Directorate, the National Criminal Investigation Service, the Immigration Department with the National Police, Hordaland police District, Oslo police district, the Prosecuting Authority, UDI, the Directorate of Health, the Directorate for Children, Youth and Family Affairs, the Labour and Welfare Administration, LI, and coordinators from cross-service operational teams from the municipalities of Oslo, Trondheim, Bergen, Stavanger, Kristiansand.

***Operational Working Group:*** The International Organisation for Migration (IOM), the ROSA project, Pro sentret, LOSU, the Norwegian Bar Association, the Red Cross, Kirkens Bymisjon, Save the Children Norway, Salvation Army Norway, NAV- Grünerløkka (The Norwegian

Labour and Welfare Administration), Child Protection Services-Asker, Hvalstad reception centre, the Adora project and representatives of Verger.

These working groups meet once a month, while joint meetings, including both groups, are held twice a year. Meetings are focused on different topics and provide an opportunity for participants to raise general issues as well as particular cases to gain assistance from other actors.

There is also an inter-ministerial working group, including: The Ministry of Labour, the Ministry of Children, Equality and Social Inclusion, the Ministry of Defence, the Ministry of Health and Care Services, the Ministry of Local Government and Regional Development and the Ministry of Foreign Affairs. The working group is chaired by the Ministry of Justice and Public Security, which is responsible for coordinating the efforts of the government against trafficking in persons. The group meets approximately four times per year, while individual members of the group meet more often. Issues are discussed which have been put forward by KOM, as well as other general issues.

**Memorandum of understanding:** There is currently no MoU between stakeholders in Norway. Apart from regulations concerning the individual mandates of the different agencies, the NAP is the one document which more closely defines cooperation between the Norwegian actors. Some respondents stated the need for an MoU which defines the mandates of different actors and describes how these areas relate to each other.

## Challenges and Limitations

The respondents were asked about factors limiting their work on trafficking in persons for labour exploitation, and were given eight alternatives: *legislation, lack of policy, lack of cooperation, lack of referral mechanisms, corruption, lack of knowledge, lack of capacity, and other*. The respondents experienced challenges

<sup>125</sup> Norwegian Ministry of Justice and the Police (2011) *United against human trafficking: The Government's Plan of Action against Human Trafficking (2011-2014)*, Norwegian Government Administration Service, Oslo: p. 14

particularly related to trafficking for labour, in comparison with trafficking for other purposes. In fact, one respondent stated that few efforts have been made concerning trafficking for labour, apart from the creation of the NAP. On this note, one of the respondents also stated that the lack of commitment to identify particularly victims of trafficking for labour, limits the ability to work on the issue.

Out of nine respondents, eight experienced that the lack of capacity provided a limitation. The lack of functioning structures was mentioned. One respondent stated that the work was not regulated and was expected to be carried out in addition to other tasks, without additional resources. In order to work more efficiently specifically on trafficking for labour, more resources would need to be allocated. Several respondents mentioned the lack of specialised units within the police, as well as with other actors to provide assistance, protection and information to victims. The lack of specialised units further makes it more difficult to coordinate prevention measures. The lack of assistance programmes for male victims of forced labour was also mentioned, referring particularly to governmental assistance programmes.

Seven respondents stated that the lack of knowledge and training, particularly on trafficking for labour, constituted a limitation to their work. The lack of knowledge amongst law enforcement agencies was specifically mentioned, as was the limited amount of outreach work concerning trafficking for labour. This lack of knowledge results in inefficient cooperation as well as in victims not being identified. Knowledge seems to be particularly scarce in understanding the underlying causes of trafficking in persons.

Seven respondents also experienced a lack of policy, while only two stated that there was a lack of relevant legislation. The respondents experienced that the lack of policy resulted in a lack of plan and common strategy, as well as in cases not being prioritised by the prosecutors.

The challenge of distinguishing between different phenomena, such as trafficking in persons and social dumping, was also mentioned, since the labelling determines whose responsibility the case becomes and how it should be addressed. The current legislation was similarly described as lacking, since the legal status of a victim will determine his or her access to assistance.

Five respondents out of nine stated that insufficient cooperation limits their work against trafficking for labour, while three respondents described shortcomings in referral mechanisms as a limiting factor. The insufficient cooperation was described as hampering the decision-making process, and was said to originate in a lack of guidelines on cooperation. The coordination of prevention efforts, identification of victims, information and protection efforts was described as particularly poor. The lack of networks and direct contacts was further described, an issue which particularly affects the cooperation between civil society organisations and governmental agencies. Civil society organisations often have access to plenty of first-hand knowledge, but lack the networks and contacts needed to follow up on this information in order to initiate investigations and to prosecute. It was stated that cooperation could be improved through more information about the roles and mandates of different authorities as well as through an increased exchange of knowledge and experience.

## Conclusions

Norway seems to have come quite far in terms of developing a number of cooperation mechanisms for trafficking in persons. There is legislation in place, and the National Action Plan provides a strategy as well as description, to some extent, of the roles of the different actors. There are specialised units within several agencies which are focused on trafficking in persons, as well as NGOs and other civil society actors focused on the issue. Nevertheless, most actors and units have

focused primarily on trafficking for sexual exploitation up until recently. As a consequence, the knowledge and capacity concerning trafficking for labour is limited, and the service providers included in the current working groups have focused mainly on children and female victims of trafficking for sexual exploitation. Hence, there is still a lack of assistance resources for male victims of trafficking.

Respondents mentioned the lack of capacity, knowledge, and policy as the main problems currently limiting their work. Insufficient coordination or cooperation was also mentioned by most of the respondents in different contexts, always referring to cooperation on trafficking for labour specifically. There still seems to be a lack of structure for the referral of such cases, while some respondents even expressed that there was no common strategy.

Cooperation and coordination between civil society organisations and governmental agencies needs to be improved when it comes to trafficking for labour. More specifically, there is a need to extend cooperation and coordination to include actors such as trade unions, tax administration, and employer's organisations who are currently working on trafficking for labour or closely related issues, and who may encounter cases of trafficking without recognising this. Cooperation should perhaps also be extended to other types of NGOs which can provide assistance to victims of trafficking for labour exploitation. Alternatively, capacity building efforts could

be helpful in increasing the understanding of existing service providers on trafficking for labour. Increased cooperation between civil society actors and governmental actors should be aimed at improving victim assistance, as well as referral mechanisms, so that more cases are identified and result in prosecution.

Strengthening those agencies working with closely related issues, such as organised crime and social dumping, could be helpful in preventing and limiting trafficking for labour. At the same time, the distinction between trafficking in persons and other concepts such as social dumping needs to be considered carefully, to avoid prosecuting cases of trafficking as less serious crimes.

An MoU which specifies the roles of each actor, as well as policy and legislation distinguishing trafficking for labour from social dumping more clearly, are examples of measures which could be taken to improve referral procedures and cooperation. An additional suggestion put forward in the survey was for the government to consider establishing a central authority, responsible for verifying the status of victims. It was stated that the low threshold system in Norway sometimes leads to disputes over victim assistance between different agencies.

In general, a dialogue on priorities and future efforts on trafficking for labour was requested by some actors, as well as an increased commitment to work specifically on this type of trafficking, through increased capacity and development.

## **Relevant Norwegian departments and organisations**

### **Invited actors who participated in the study:**

- **Ministry of Justice and Public Security (MoJPS)**
- **National Criminal Investigation Service**
- **Rogaland Police District**
- **Østfold Police District**
- **Norwegian Labour Inspection Authority (LI: Arbeidstilsynet)**
- **Norsk Arbeidsmandsforbund (NAF: Norwegian Union of General Workers)**
- **Norwegian Directorate of Immigration (UDI: Utlendingsdirektoratet)**
- **Norwegian Bar Association**
- **International Organisation for Migration (IOM)**
- **National Coordination Unit for Victims of Trafficking (KOM- National Police Directorate: Prevention and Crime Fighting Section)**

### **Other invited actors:**

- Prosecuting Authority (Påtalemyndigheten)

### **Other actors mentioned by respondents:**

- Ministry of Labour
- Ministry of Defence
- Ministry of Health and Care Services
- Ministry of Local Government and Regional Development
- Ministry of Foreign Affairs
- Child Welfare Services (under the Ministry of Children, Equality and Social Inclusion)
- Tax Administration (Skatteetaten)
- Food Safety Authority
- Customs
- Reception Centres for asylum seekers
- Norwegian Public Roads Administration
- NAV (Arbeids- og Velferdsforvaltinga: The Norwegian Labour and Welfare Administration)
- Social services and others at the municipal level
- Women's crisis centres
- Law firms
- Private security companies
- Other police units
- Trade unions and employers' organisations
- NGOs (Caritas, Kirkens Bymisjon, SEIF, the Norwegian Red Cross/RødeKors, Save the Children, the Salvation Army, and Norwegian People's Aid/Norsk Folkehjelp were specifically mentioned).

## POLAND

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### Findings

Out of eleven Polish respondents asked to participate in the survey, six submitted the questionnaire. These respondents represented: the Investigative Department of the Headquarters of the Polish Border Guard, the Migration Policy Department with the Ministry of Interior (MoI), the Office of the General Prosecutor, the National Labour Inspectorate (PIP), NSZZ Solidarność (Independent and Self-Governing Trade Unions), and the NGO La Strada.

Poland is a source as well as destination country for trafficking in persons, including trafficking for labour exploitation. It is a country which has an ambitious National Action Plan (NAP) and several specialised units focused on all types of trafficking in persons. Nevertheless, the respondents in this survey described a need for further training and capacity building. When it comes to trafficking for labour exploitation specifically, there is also a need to include a different set of actors in discussions, planning and implementation.

The findings of this report are divided into two parts. The first part concerns relevant actors with regards to trafficking in persons as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the reports is on legislation and policy which governs, describes or enhances such cooperation. Hence, the

purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

### Actors and mandates

Apart from the six actors who submitted the questionnaire for the survey, at least 21 authorities and organisations were mentioned as relevant stakeholders or as existing cooperation partners: the Central Investigation Bureau of the General Headquarters of Police, the Central team for Combating Human Trafficking at the Police Headquarters, the section for Illegal Migration and Human Trafficking with the Border Guard headquarters, the Plenipotentiary of the Government for Equal Treatment, the Office for Foreigners, the Office of the Human Rights Defender (Ombudsman), Office of the Children's Rights Defender (Children's Ombudsman), the Chancellery of the Prime Minister, the Ministry of Labour and Social Policy, the Ministry of National Education, the Ministry of Justice (MoJ), the Ministry of Foreign Affairs, the Ministry of Health, the Human Trafficking Studies Centre of Warsaw University, and NGOs (the International Organisation for Migration- IOM- Poland, Caritas Poland, Itaka Foundation- Centre for Missing People; Dzieci Niczyje-Nobody's Children Foundation; Halina Niec Legal Aid Centre; and the HELP Association were mentioned specifically).

### Governmental

**Border Guard:** The respondent representing the Border Guard in this study works with the investigative department, and the unit for combating organised crime. The investigative department has been assigned the task of coordinating anti-trafficking work within the



border guard, one of the law enforcement actors responsible for investigating crimes of trafficking in persons in Poland. The Border Guard is also one of the implementing parties of the NAP against Human Trafficking<sup>126</sup>.

The Border Guard works with identifying and combating smuggling of migrants, which is seen as closely interlinked with trafficking in persons. Hence, efforts to identify victims of trafficking have been integrated into this work. A new mandate has been assigned to the Border Guard which allows them to carry out inspections to verify the legal status of migrants and foreign workers, a task where victims of trafficking in persons may also be identified<sup>127</sup>.

It was stated in the survey that the Border Guard cooperate with the Office of the General Prosecutor, the Police, MoI, the Ministry of Labour and Social Policy, PIP, and different NGOs. La Strada, Nobody's Children Foundation, and Foundation ITAKA were specifically mentioned. While the cooperation consists mainly of exchanging information and training efforts, joint actions are also carried out, and preliminary investigations are conducted in cooperation with the prosecutor's office<sup>128</sup>.

**National Labour Inspectorate (PIP):** The respondent participating in this survey represents the Legality of Employment Department at the Chief Labour Inspectorate (the central unit of PIP). PIP is responsible for supervising the implementation of the labour law, and for carrying out inspections to ensure compliance with this legislation. Inspections are carried out to investigate the working environment and safety issues, but since 2007 they have also covered legality of employment of Polish and foreign employees, as well as other workers and legality of activities of employment agencies. This means that labour inspectors are

presently more likely to identify cases of trafficking for labour exploitation during workplace inspections and inspections of employment agencies.<sup>129</sup>

Since 2008, PIP has attended sessions of inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings, as well as meetings of the Working Group of the Committee for Combating and Preventing Human Trafficking. Through these meetings, and other activities, PIP cooperates, for example, with: MoI, the Office of the General Prosecutor, the Border Guard, the Police, NGOs and the Human Trafficking Studies Centre of Warsaw University. The (public) prosecutor's office is notified whenever labour inspectors (from PIP) encounter what they suspect is a case of trafficking in persons, forced labour or labour exploitation. PIP cooperates with the Border Guard, for example through joint inspections, in investigating the legal status and legality of employment of migrant workers. For this purpose, there is a formal agreement between the two parties (see Cooperation Mechanisms). Training sessions for PIP staff are organized in cooperation with: the Border Guard, MoI, (public) prosecutor offices, and NGOs. In addition, conferences and seminars are organised in cooperation with MoI and the Human Trafficking Studies Centre of Warsaw University on the subject of trafficking in persons.<sup>130</sup>

**The Office of the General Prosecutor:** The department for Organised Crime and Corruption with the Office of the General Prosecutor works with collecting and analysing information on organised crime. Within this area, the department further coordinates the work of other authorities. With regards to trafficking in persons specifically, the General Prosecutor monitors and coordinates criminal investigations provided by the division and Regional Prosecutors' offices, as well as the

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<sup>126</sup>Questionnaire 2012: Border Guard

<sup>127</sup>Ibid.

<sup>128</sup>Ibid.

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<sup>129</sup> Questionnaire 2012: National Labour Inspectorate

<sup>130</sup> Ibid

Appellate Prosecutors' Offices. The department for Organised Crime and Corruption further collects and analyses information from all on-going investigations and existing records and files, as well as monitors the activities of the prosecutor's office within this field<sup>131</sup>.

The Office of the General Prosecutor is a member of the interdepartmental team coordinated by the MoI. The department also takes part in working groups and conducts training for NGOs, prosecutors, judges, police and Border Guard officers.

**Ministry of Interior:** The Unit against Trafficking in Human Beings with MoI is the coordinating body for activities related to trafficking in persons. It is also responsible for the preparation of the NAP<sup>132</sup>.

In 2006, the unit launched the *Programme for Support and Protection for Victims/Witnesses of Trafficking in Human Beings*, which is coordinated by MoI, but implemented by the NGO La Strada. This is an assistance programme to which victims are referred by a representative of the law enforcement authorities, following a contact with them, and on the condition that they break with the perpetrators. This programme is only for the benefit of foreign victims of trafficking<sup>133</sup>.

In 2009, the National Consulting and Intervention Centre for Victims of Trafficking was established as a victim assistance system included in the tasks of MoI, although implemented through the procured services of a non-governmental partner. This partner is currently La Strada. The services, which are offered to both Polish and foreign citizens, include the operation of a twenty-four-hour Helpline, support in the identification of victims of trafficking, victim support during contact with law enforcement bodies and

justice administration, psychological support, access to an interpreter, and legal consultations<sup>134</sup>.

In 2004, an inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings was set up, which serves as a consulting and advisory body to the Prime Minister. This committee is chaired by MoI, and currently consists of representatives from the Ministry of Administration and Digitization, the Ministry of National Education, MoJ, the Ministry of Interior, the Ministry of Labour and Social policy; the Ministry of Foreign Affairs, the Ministry of Health, the Police Headquarters, the Headquarters of the Border Guard, the Internal Security Agency, the Plenipotentiary of the Government for Equal Treatment, and the Office for Foreigners. Additionally, representatives of the following institutions/organizations have been invited to join the work of the Committee: the Chancellery of the Prime Minister, the Chief Labour Inspectorate, the Office of the General Prosecutor, the Office of the Human Rights Defender, the Office of the Children's Rights Defender, La Strada Poland, Caritas Poland, the Itaka Foundation - the Centre for Missing People, Nobody's Children Foundation, Halina Niec Legal Aid Centre, and HELP<sup>135</sup>.

Amongst other tasks, the committee works with assessing the implementation of the NAP and its activities. The committee meets twice a year for this purpose, and to provide proposals for new activities. A working group, consisting of experts from the actors included in the committee, has been established to monitor activities and to manage communication between the actors more regularly<sup>136</sup>.

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<sup>131</sup> Questionnaire 2012: General Prosecutor's Office

<sup>132</sup> Questionnaire 2012: Ministry of Interior and Administration

<sup>133</sup> Ibid.

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<sup>134</sup> Questionnaire 2012: Ministry of Interior and Administration

<sup>135</sup> Ibid.

<sup>136</sup> Ibid.

## Non-Governmental

**La Strada:** This is an international NGO with offices in nine different countries, working mainly with victim assistance. In Poland, La Strada is the implementing partner of MoI in running the National Consulting and Intervention Centre for Victims of Trafficking, as well as the Programme for Support and Protection for Victims/Witnesses of Trafficking in Human Beings for foreign victims of trafficking. The assistance provided through these systems include: shelter, psychological support, medical assistance, social assistance, interpreter services, and legal aid. In addition, La Strada runs a hotline and trains law enforcement officers and other front line officers on trafficking in persons<sup>137</sup>.

La Strada is a permanent member of both the committee for Combating and Preventing Trafficking in Human Beings, and the committee on Victims of Crime. Cooperation therefore consists mainly of sharing information, developing proposals for legislative and operational measures, resolving challenges on an ad hoc basis, planning joint activities such as awareness raising campaigns, and improving guidelines for the assistance of victims<sup>138</sup>.

**NSZZ Solidarność:** Solidarność is a confederation of Polish trade unions and an affiliation of the European Trade Union Confederation as well as the International Trade Union Confederation. Within the area of trafficking for labour exploitation, the organisation works with awareness raising activities amongst its members, and with policy development to improve the legal framework<sup>139</sup>.

Solidarność cooperates with for example: La Strada, the International Trade Union Confederation (ITUC), MoI, and PIP. This cooperation consists mainly of consultation on

specific cases, exchange of information and experiences, and joint awareness raising activities<sup>140</sup>.

## Cooperation

In Poland, a number of actors have been involved in the work on trafficking in persons, mainly through the committee and working group of the Ministry of Interior and Administration. The distribution of tasks is to some extent specified in the NAP which governs the work of these functions. Prevention efforts and efforts to improve legislation are usually conducted by the ministries (e.g. the Ministry of Labour and Social Policy, the Ministry of Interior and Administration, or the Ministry of Foreign Affairs).

The Police and Border Guard are responsible for criminal investigations related to trafficking for labour exploitation. In addition, the Border Guard works with proactively identifying victims of trafficking, through workplace inspections and other tasks. The Labour Inspectorate cooperates with civil society actors in identifying and investigating suspected cases of labour exploitation, including cases with elements of trafficking. As such, PIP may conduct inspections following complaints from NGOs or trade unions, and provides legal advice to such actors. Civil society actors have similarly assisted PIP through the provision of training on trafficking in persons, while PIP staff has provided training sessions for trade unions.

Victim assistance is the responsibility of MoI, while such activities mainly are implemented through its partner, La Strada, as a part of the National Consulting and Information Centre for Victims of Human Trafficking and the Programme for Support and Protection for Victims/Witnesses of Trafficking in Human Beings. In general, there is cooperation between civil society actors and government

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<sup>137</sup> Questionnaire 2012: La Strada

<sup>138</sup> Ibid.

<sup>139</sup> Questionnaire 2012: Solidarność

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<sup>140</sup> Ibid.

departments to provide training and to work with awareness raising efforts.

### Policy and legislation

Trafficking in persons is defined as a crime in Article 189a of the Polish Penal Code. Cooperation within this particular area is governed by a number of regulations and policy documents, rather than by legislation.

**Regulation no. 23** from March 2004 concerned the establishment of the Inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings. This was amended through Regulation no. 36 in June 2011. These regulations specify the participating parties, procedures for the work of the committee, and the duty of government authorities to assist the committee in its work. In addition, there are legal acts defining the mandates and responsibilities of individual agencies in Poland, such as: the Prosecution Act of June 1985, the act on Social Care (Ustawa o Pomocy Społecznej) from 2003 and its amendments, the 2003 Act on Foreigners (Ustawa o Cudzoziemcach), the Police Act, the Act of 1990 on the Border Guard, and the Act on the National Labour Inspectorate. These acts are to some extent relevant to the work on trafficking in persons, even though they do not directly concern the work within this area. One example is the Labour Inspectorate, the mandate of which has been expanded to include the inspection of legality of employment of migrant workers, as well as legality of activities of employment agencies.

Tasks are also distributed through the National Action Plan, which most of the respondents were familiar with. Other relevant policy documents mentioned by the respondents are: a methodology concerning investigations on Trafficking in persons issued by the Office of the General Prosecutor, a methodology for labour inspectors encountering suspected cases of forced labour, additional procedural regulations for labour inspectors, and a migration strategy which is yet to be adopted by the Council of Ministers as a scheme for preparation of acts, and which is intended to

improve security for migrant workers in Poland.

When asked about limitations to, or issues with, the current legislation and policy, one of the respondents replied that the definition of trafficking in persons could possibly be expanded. Several respondents stated that the issue is the implementation of current legislation rather than the legislation in itself. Criminal proceedings are time-consuming, while victims receive inadequate compensation.

The Act of the Border Guard needs to be improved, a process which has been initiated and which is making slow progress. The power of the Border Guard to recognise and prosecute offenders of trafficking in persons is currently not included in their mandate. Hence, the Border Guard are forced to prosecute on other charges, such as illegal entry, or the use of forged documents. On the subject of policy, it was stated that international cooperation needs to be strengthened.

### Mechanisms

**Specialised units:** There is a section for Illegal Migration and Human Trafficking with the Border Guard headquarters. In addition, the Police (Central Unit for Combating Trafficking in Human Beings: the Central Investigation Bureau, General Police Headquarters), the Office of the General Prosecutor (coordinator with the Office for Organised Crime), MoI (Migration Policy Department) all have units specialised on trafficking in persons, including trafficking for labour exploitation. The Police also have a specialised pilot unit within the Voivodship Police Headquarters. At this provincial level, the Ministry of Labour and Social Policy similarly has staff specialised on providing victims with social support. The Border Guard have a coordinator on trafficking in human beings within each regional division. The establishment of pilot units at regional (provincial) level with participation - among

others - of representatives of PIP and NGOs has been planned.

**Lead Agency:** There is no apparent lead agency for the work on trafficking in persons in general, nor on trafficking for labour specifically. In the survey for this study, law enforcement agencies as well as PIP were suggested. Only one of the respondents suggested the Ministry of Interior and Administration, although this authority has a coordinating role within the work on trafficking in persons. Nevertheless, judging from its responsibilities and mandate, MoI should be viewed as a coordinating rather than lead agency.

**National Action Plan:** The Unit against Trafficking in Human Beings with MoI is responsible for preparing the draft National Action Plan against Trafficking in Human Beings. The NAP is then adopted by the Inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings, other departments of MoI, other ministries, and finally, the Council of Ministers. The Inter-ministerial Committee and its working group, both described in further detail below, are responsible for the implementation of the NAP, and for reporting on its progress annually. The NAPs were preceded by the National Programmes for Combating and Preventing Trafficking in Human Beings, which were published every second year between 2003 and 2008.

The NAP for 2011 to 2012 is divided into three parts; awareness raising, capacity building, and victim support. It includes tasks such as the collection and analysis of data, a national conference for practitioners, training efforts for a wide variety of actors (border guard officers, police officers, prosecutors, judges, social assistance workers, officers of the Office for Foreigners, labour inspectors, consular personnel, employment agencies, and trade unions lawyers), awareness raising efforts directed towards Polish and migrant workers as well as students, legislative work, and system improvements. This last task includes

the provision and training of regional coordinators and task forces within law enforcement agencies, as well as the development of a victim assistance system. International as well as national cooperation is mentioned throughout the plan, as is cooperation between civil society and government authorities. Some sections concern direct cooperation to provide services such as victim assistance, while most references are made to cooperation when it comes to providing training and capacity building, and training on cooperation. It should be added that many tasks included in the NAP have been assigned to several departments or organisations<sup>141</sup>.

**Working groups:** As was described earlier, an Inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings was set up in 2004, according to a Prime Minister Regulation. This committee serves as a consulting and advisory body to the Prime Minister. The committee is chaired by MoI, and since 2011 consists of representatives from the Ministry of Administration and Digitization, the Ministry of National Education, MoJ, the Ministry of Interior, the Ministry of Labour and Social policy; the Ministry of Foreign Affairs, the Ministry of Health, the Police Headquarters, the Headquarters of the Border Guard, the Internal Security Agency, the Plenipotentiary of the Government for Equal Treatment, and the Office for Foreigners. Additionally, representatives of the following institutions/organizations have been invited to join the work of the Committee: the Chancellery of the Prime Minister, the Chief Labour Inspectorate, the Office of the General Prosecutor, the Office of the Human Rights Defender, the Office of the Children's Rights Defender, La Strada Poland, Caritas Poland, the Itaka Foundation - the Centre for Missing People, Nobody's Children Foundation,

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<sup>141</sup> The Ministry of Interior and Administration (2010) *National Action Plan Against Trafficking in Human Beings for 2011-2012*

Halina Niec Legal Aid Centre, and HELP<sup>142</sup>. This committee has been assigned the task of assessing the implementation of the NAP (reporting on this annually), as well as to propose new activities in cooperation with government departments, NGOs and local governments. The Inter-ministerial Committee meets twice a year. In addition, more regular communication and monitoring activities take place through a working group, consisting of experts from the different organisations and stakeholders who are members of the committee. The working group has so far created four expert groups, assigned to work specifically on trafficking in children, the collection of statistical data, preventive measures and victim support. So far, the working group and its sub-groups have been involved among others in developing information campaigns, in establishing the National Information and Consultation Centre for Victims of Human Trafficking, and in a project implemented by the International Centre for Migration Policy Development (ICMPD) on the collection of statistics concerning human trafficking.

#### **National Coordinator or Rapporteur:**

According to the NAP<sup>143</sup>, the Ministry of Interior and Administration has been assigned the task of issuing annual reports on the implementation of the NAP on trafficking in persons in Poland. This is the closest thing to a reporting/monitoring function which Poland has. MoI further has a coordinating role, in that it is responsible for the preparation of the NAP, and chairs the inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings, as well as its working group.

MoI coordinates the Programme for Support and Protection for Victims/Witnesses of Trafficking in Human Beings, which is an assistance service offered to foreign victims of trafficking by La Strada. A second assistance

system; the National Consulting and Intervention Centre for Victims of Trafficking, has been coordinated by MoI since 2009, although it is similarly implemented by La Strada.

#### **Memorandum of Understanding (MoU):**

In Poland, there is no comprehensive MoU including a larger group of actors, such as the inter-ministerial committee or working group. Nevertheless, there is an agreement signed by the Border Guard and PIP. This was referred to by the Border Guard, and MoI, in the survey. The agreement was established in 2008, between the Chief Labour Inspector and the Commandant-in-Chief of the Border Guard, and describes the rules of cooperation between the National Labour Inspectorate and the Border Guard. It concerns: the exchange of information and lessons learnt between the two parties, joint inspections being carried out, as well as joint meetings and workshops. The cooperation is to be evaluated annually. It was further stated that similar agreements have been developed at the local level.

#### **Challenges and Limitations**

The factors limiting work on trafficking for labour exploitation are a lack of knowledge, capacity, and . One respondent referred referral mechanisms. In terms of knowledge and capacity building, it was suggested that one or several methodologies (guidelines) should be issued for the actors working on this issue, and that more training should be provided. More specifically, Border Guard officials were said to need more training on how to identify victims of trafficking. There is also a lack of funds for research efforts and victim support.

In terms of cooperation, it was stated that there have been problems creating joint investigation teams, and that, although they have received training by the Ministry of Interior and Administration, the trade unions do not yet take part in this work. The roles of the provincial coordinators within the police

<sup>142</sup> Ibid.

<sup>143</sup> Ibid.

and border guard also need to be strengthened.

The mandate of the Border Guard needs to be expanded in order to enable them to investigate and prosecute cases of trafficking in persons, a process which has been initiated. There is also a lack of trade union representatives working on the issue. This is mainly due to a lack of resources, but also due to a lack of understanding of the role of trade unions. Expectations of the abilities and potential of trade unions have sometimes been unreasonably high when compared to their resources and capacity.

## Conclusions

Poland is a source as well as destination country for trafficking in persons, including trafficking for labour exploitation. Victim assistance programmes have been, and still are, directed largely at foreign citizens. Although this was partly amended in 2009, through the second victim assistance programme, Poland is nevertheless faced with the challenge of effectively assisting both Polish and foreign victims of trafficking for different purposes.

The country has an ambitious and comprehensive National Action Plan and several specialised units focused on all types of trafficking in persons. Nevertheless, there is a need for further training and capacity building. In working on trafficking for labour exploitation specifically, there is also a need to include a different set of actors in discussions, planning and implementation. Steps in that

direction have been taken, but Poland still has some way to go. The NAP is an excellent starting point in working against trafficking in persons. Future efforts should be based on the goals set up in this document, although cooperation efforts specifically may need to go beyond the tasks included.

MoI has a coordinating function and, to some extent, a monitoring function in Poland, but there is no independent National Rapporteur. There is an Inter-ministerial Committee tasked with coordinating and monitoring the progress of the implementation of the NAP. In addition, there is a working group with specialised sub-groups working on the issue of trafficking in persons. This expertise at a higher level needs to be complemented with more awareness-raising and training at a lower level. Additional training is needed, particularly on the subject of trafficking for labour exploitation. This training needs to be directed specifically at NGO and government authority staff members at the front line level, that is: police officers, border guard officers, labour inspectors and social workers, in order for victims of trafficking to be identified and referred to a much larger extent. This includes the identification and referral of returning Polish victims of trafficking. Successful investigations and prosecutions are dependent on effective identification and referral mechanisms. Trade unions, employer's organisations and other actors also need to be included to a larger extent in the identification and referral of cases of trafficking for labour exploitation or forced labour.

## Relevant Polish departments and organisations

### Invited actors who participated in the study:

- **Border Guard** (Headquarters of the Polish Border Guard: Investigative Department, Unit I for Fighting Organised Crime)
- **Ministry of Interior** (Ministerstwo Spraw Wewnętrznych: Unit against Trafficking in Human Beings, Migration Policy Department)
- **National Labour Inspectorate** (Państwowa Inspekcja Pracy: the Legality of Employment Department)
- **Office of the General Prosecutor** (Department for combating Organised Crime)
- **Solidarność** (Independent and Self-Governing Trade Unions/Komisja Krajowa NSZZ)
- **La Strada Foundation** (NGO)

### Other invited actors:

- General Headquarters of Police (Central Investigation Bureau)
- General Headquarters of Police (Central Team for Combating Human Trafficking)
- Border Guard Headquarters (section for Illegal Migration and Human Trafficking)
- International Organisation for Migration (IOM Poland: NGO)
- Caritas Poland (NGO)

### Other actors mentioned by respondents:

- Ministry of Justice (MoJ: department of Human Rights)
- Plenipotentiary of the Government for Equal Treatment
- Office for Foreigners
- Chancellery of the Prime Minister
- Office of the Human Rights Defender/Ombudsman
- Office of the Children's Rights Defender/Children's Ombudsman
- Ministry of Labour and Social Policy
- Ministry of National Education
- Ministry of Foreign Affairs
- Ministry of Health
- Warsaw University (Human Trafficking Studies Centre)
- NGOs (Itaka Foundation- Centre for Missing People; Dzieci Niczyje- Nobody's Children Foundation; Halina Niec Legal Aid Centre; and HELP Association were mentioned specifically).



# THE RUSSIAN FEDERATION

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## Findings

Five Russian respondents submitted the questionnaire used in the survey for this study. These respondents represented: The General Prosecutor's Office, the Investigative Committee, the Ministry of Health and Social Development, the Ministry of Interior (MoI), and ANNA- National Centre for Prevention of Violence.

The Russian Federation is a source, transit and destination country for trafficking in persons, including trafficking for labour exploitation. Although the country participates in international efforts to combat trafficking in persons, there is still a lack of national cooperation mechanisms in terms of policy and coordinating functions. In general, cooperation between government departments is defined through legislation. Nevertheless, some issues with the current legislation were also raised concerning the work on trafficking in persons.

The findings of this report are divided into two parts. The first part concerns relevant actors in working on trafficking in persons, as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second

part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

## Actors and mandates

In addition to the five actors who submitted the questionnaire for the survey, a number of other authorities and organisations were mentioned as relevant stakeholders or as existing cooperation partners: the courts, the Federal Security Service, Social Services, the Federal Migration Service, the Ministry of Foreign Affairs (MFA), the Ministry of Education and Science, the Ministry of Finance, the Ministry of Economic Development, state governments, the Federal Service for Labour and Employment, the Government Commission on Minors and the Protection of their Rights, the Government Commission on the Prevention of Offences, and NGOs working on women's and migrants' rights (the International Organisation for Migration- IOM, the Systry (Sisters) Centre for Victims of Sexual Violence, the Angel Coalition in Moscow, the Perm Centre against Violence and Human Trafficking, and the Baikal Centre for Judicial Reforms were specifically mentioned.

The section below provides an overview of the work and cooperation partners of some of the most relevant agencies and organisation in the Russian Federation.

## Governmental

**General Prosecutor's Office:** The General Prosecutor's Office in Russia has the mandate to investigate, prevent and prosecute criminal acts, including cases of trafficking in persons. It oversees the implementation of laws, and coordinates the efforts of law enforcement agencies to fight crime. The General Prosecutor's office conducts preliminary investigations and leads criminal proceedings

according to the criminal procedure legislation. The President's Decree 1362 from 2004 further established the prosecutor's office as the authority primarily responsible for the implementation of the provisions of the UN Convention on Transnational Organised Crime (UNTOC) and its protocols, related to mutual legal assistance. The Office participates in the implementation of the Plan of the Coordinating Council of General Prosecutors of the Commonwealth of Independent States (CIS) to implement the "Programme of cooperation for the States of CIS in the fight against human trafficking for 2011-2013"<sup>144</sup>.

**Investigative Committee:** The respondent from the Department for International Legal Cooperation, with the Investigative Committee, stated that investigations related to trafficking in persons are put under particular supervision within the Investigative Committee of the Russian Federation, according to the Order on the Investigative Committee from 2007. The investigative departments and specialised investigative bodies assigned to such cases report directly to the office of the Chairman of the Investigative Committee<sup>145</sup>.

The Investigative Committee participates in the meetings of the Joint Commission of the states and the parties to the Agreement on Cooperation between CIS Countries against Illegal Migration. During these meetings, prevention efforts related to illegal migration, cooperation with international organisations within this field, and best practices are discussed. The committee stated that they cooperate with the UN, the Organisation for Security and Co-operation in Europe (OSCE), EU and the U.S. Department of State on the prevention of human trafficking issues. It was further stated that the committee particularly prioritises efforts to protect children from exploitation and child labour. In this work, the committee cooperates with the International

Centre for Missing and Exploited Children, based in the U.S., to be able to transfer knowledge and relevant activities to the Russian Federation. It is unclear who the Russian cooperation partners of the committee are<sup>146</sup>.

**Ministry of Health and Social Development:** The Department for Social Protection of the Population participated in the survey for this study. The Ministry of Health and Social Development is an executive body, whose function it is to develop policy and to implement legislation on public health, labour relations, employment, labour migration, and social protection. The ministry does not have a specific mandate on trafficking in persons in general, or on trafficking for labour exploitation specifically<sup>147</sup>.

The ministry cooperates with international organisations, MoI, the Ministry of Education and Science, MFA, the Ministry of Finance, and the Ministry of Economic Development. The cooperation with national actors mainly consists of sharing data and of harmonising legal acts<sup>148</sup>.

**Ministry of Interior:** Within MoI, there is a unit dealing specifically with trafficking in persons and kidnapping. This unit has been mandated to conduct operational work to identify, counteract, prevent and detect crimes related to trafficking in human beings. In addition, the unit provides practical and methodological support for regional sub-units on identifying cases of trafficking in persons and collecting data<sup>149</sup>.

MoI cooperates with the courts, the General Prosecutor's Office, the Investigative Committee, the Federal Security Service, the Federal Migration Service, and state governments. This cooperation mainly

<sup>144</sup> Questionnaire 2012: General Prosecutor's Office

<sup>145</sup> Questionnaire 2012: Investigative Committee

<sup>146</sup> Questionnaire 2012: Investigative Committee

<sup>147</sup> Questionnaire 2012: Ministry of Health and Social Development

<sup>148</sup> Ibid.

<sup>149</sup> Questionnaire 2012: Ministry of Interior

consists of joint actions, the exchange of information and intelligence, and authorisation from the General Prosecutor's office in the case of preliminary investigations<sup>150</sup>.

## Non-Governmental

**ANNA- National Centre for Prevention of Violence:** ANNA is an NGO which works on gender-based violence and trafficking in persons. It runs a helpline which provides information and counselling to victims. ANNA cooperates with the Ministry of Health and Social Development, the Federal Investigative Committee, and MFA. Cooperation usually takes place on a case-to-case basis, and consists of the provision of social support, exchange of information on the legal status of the victim, and assistance in providing security for the victim or for the staff of the organisation<sup>151</sup>.

**Other NGOs:** NGOs such as counselling centres, women's organisations and migrants' organisations were mentioned as useful cooperation partners in more general terms by all respondents. For example, a network of service providers working specifically with victims of trafficking was mentioned, including NGOs such as: the Syosty Centre for Victims of Sexual Violence, the Angel Coalition in Moscow, the Perm Centre against Violence and Human Trafficking, and the Baikal Centre for Judicial Reforms. These institutions are supervised by the executive bodies of the constituent entities and function as service providers for the government (for example MoI) in identifying and rehabilitating victims of trafficking, and in implementing preventive actions, such as training.

## Cooperation

The distribution of tasks between government departments in the Russian Federation is strictly regulated by existing legislation;

including the Criminal Procedure Code. Government efforts are coordinated by the Ministry of Interior. The Federal Service for Labour and Employment is the authority responsible for monitoring and enforcing the implementation of labour legislation. Nevertheless, inspections may only be carried out where there is an employment contract and where employment relations are not disputed. Workers may file a complaint concerning irregularities with a court or the General Prosecutor's Office. However, labour migrants usually choose to turn to embassies or consulates for legal protection in cases of labour exploitation, and to be issued a new passport when this has been taken from them. Labour migrants may also turn to national diasporas, or occasionally to non-governmental organisations. The Investigative Committee has a particular mandate to investigate and to supervise the investigations of cases of trafficking in persons.

Cooperation between civil society actors and government authorities is not based on any formal agreements, but takes place on an informal and a case-to-case basis. This cooperation was described as important by all respondents. Some NGOs function as service providers for government authorities in providing rehabilitation for victims of trafficking in persons, and in conducting preventive efforts.

## Policy and legislation

The **Penal Code** of the Russian Federation includes provisions on trafficking in persons (article 127.1), the use of forced labour (article 127.2), aiding and abetting acts of illegal migration (article 322.1), and the production, sale, or use of fraudulent documents (article 327). In addition, the Russian Federation has ratified the UN Convention on Transnational Organised Crime and its protocol on Trafficking in Persons (UNTOC). The penal code was amended in 2003 and in 2008, in accordance with UNTOC and the definition of its supplementary protocols on trafficking in persons. The penal code further describes

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<sup>150</sup> Ibid.

<sup>151</sup> Questionnaire 2012: ANNA: National Centre for Prevention of Violence

criminal procedure and cooperation between law enforcement agencies.

Legislation in the Russian Federation describes both the roles of different governmental actors, and the cooperation between them. Article 151 of the **Criminal Procedure Code** defines the bodies (the Investigative Committee, MoI, and the Federal Security Service) responsible for conducting preliminary investigations and investigations of criminal acts as described in the Penal Code, including trafficking in persons. The **Federal Law** defines the role of law enforcement agencies such as the police in preventing and investigating crimes, as well as the role of the prosecutor's office in coordinating law enforcement. In addition, individual regulations issued by governmental decrees determine the mandates of federal executive bodies, such as the Ministry of Health and Social Development. A number of laws relate to immigration rules, international recruitment agencies, and the legal status of migrant workers and foreign citizens within the Russian Federation.

The Russian respondents in the survey for this study did not mention any relevant national policy documents besides the regulations and legal acts described above. A few CIS policy documents were mentioned; the CIS Model Law on Assistance to victims of Human Trafficking; the CIS Agreement on Cooperation in the Fight Against Illegal Migration; and the Programme of Cooperation for the States of CIS in the Fight against Human Trafficking for 2011-2013, which describe organisational, legal, and practical joint actions to fight trafficking in persons and to provide assistance to victims.

When asked about limitations to current policy and legislation, one of the respondents stated that there is a lack of regulations on the support and rehabilitation of victims of trafficking. The issue of accessing assistance systems was also mentioned, as victims were described as increasingly lacking knowledge of the Russian language as well as awareness of

their legal rights. One respondent stated that since legal protection mechanisms are not readily accessible, migrant workers use alternative channels to receive protection from violations, turning to embassies or consulates, national diasporas, or occasionally, non-governmental organisations. The Federal Service for Labour and Employment has been assigned the responsibility for monitoring and enforcing the implementation of labour legislation. However, as was pointed out earlier, this agency is only authorised to carry out inspections if there is an employment contract or where employment relations are not disputed.

## Mechanisms

**Specialised units:** Some of the respondents stated that there are units specialised on trafficking in persons with the police and the prosecutor's office. Nevertheless, the prosecutor's office stated that they were not aware of any specialised units.

**Working groups:** It was explained in the survey for this study, that coordinating and consultative bodies are established on a case-to-case basis by the government, and may consist of representatives of relevant executive agencies, research institutes and civil society organisations. Such coordinating or consultative bodies may also establish working groups if needed. Governmental commissions and councils are established by the president or the government and are chaired by the Prime Minister, other members of the Government, or heads of federal executive bodies. There are presently 41 coordinating and consultative structures under the government of the Russian Federation, of which the Governmental Commission on Children and the Protection of their Rights, as well as the Governmental Commission on the Prevention of Offences, work on human trafficking issues during their sessions.

**Lead Agency/National Coordinator:** The Russian Federation does not have a national rapporteur or a national coordinator on

trafficking in persons. Nevertheless, the Ministry of Interior to some extent has a coordinating role, and was suggested as both coordinator and lead agency in the survey for this study.

#### **Memorandum of Understanding (MoU):**

There is no comprehensive MoU between government departments or ministries in the Russian Federation. The Investigative Committee mentioned their close cooperation with the IOM office in Moscow, and the fact that an agreement of cooperation/MoU between these two parties is currently being developed.

#### **Challenges and Limitations**

When asked about issues limiting their work on trafficking in persons, the respondents mentioned lack of knowledge and capacity, as well as lack of legislation, policy, cooperation, and referral mechanisms.

One of the respondents explained that although trafficking in persons has been criminalised in the Russian Federation, there is a lack of provision of rehabilitation and re-integration for victims. Since such measures and responsibilities are not covered by the current legislation, there is no effective referral system and also no budget for victim assistance and rehabilitation.

The Russian Federation is a party to a number of international agreements and conventions on preventing and combating trafficking in persons, regarding which government representatives participate in international working groups.

In general, Russian actors are hampered by lack of experience and knowledge when it comes to trafficking in persons. Particularly law enforcement staff were said to need additional training in order to increase their knowledge and understanding of the issue.

The need for a more extensive exchange of information with law enforcement agencies in other countries, NGOs, and media was also raised.

Although the Federal Service on Labour and Employment is responsible for monitoring and enforcing labour legislation, the role and mandate of this agency is limited. There seems to be issues with the accessibility of assistance and legal systems, as migrant workers often choose to turn to embassies or consulates for legal protection, or to alternative channels such as informal networks of migrant communities. It was stated in the survey that there is a need for a comprehensive inter-agency cooperation between Russian actors. This cooperation should be based on an NAP, or on another formal decision by the government, and should contain clear outlines of the roles and responsibilities of all agencies and NGOs included.

#### **Conclusions**

Cooperation between government departments in the Russian Federation is governed by legislation, but the existing legislation does not clearly define the roles and responsibilities of these departments in working on trafficking in persons. Legislation does not include the provision of victim assistance and support. There is no National Action Plan on trafficking for labour exploitation specifically.

There are a number of NGOs which could be relevant as cooperation partners in working on trafficking for labour exploitation. Although these organisations are already cooperating with government authorities, the cooperation could be formalised as well as expanded. Trade Unions and employer's organisations were neither referred to as cooperation partners by government agencies, nor by NGOs.

## **Relevant Russian departments and organisations**

### **Invited actors who participated in the study:**

- **General Prosecutor's Office**
- **Investigative Committee** (Department for International Legal Cooperation)
- **Ministry of Health and Social Development** (Department for social protection of the population)
- **Ministry of Interior** (MoI)
- **ANNA-** National Centre for Prevention of Violence

### **Other actors mentioned by respondents:**

- Courts
- Federal Security Service
- Social services
- Federal Migration Service
- Ministry of Foreign Affairs (MFA)
- Ministry of Education and Science
- Ministry of Finance
- Ministry of Economic Development
- State governments
- Federal Service for Labour and Employment
- Government Commission on Minors and the Protection of their Rights
- Governmental Commission on the Prevention of Offences,
- NGOs (the International Organisation for Migration- IOM, the “Syosty” centre for victims of sexual violence, the Angel Coalition in Moscow, the Perm Centre against Violence and Human Trafficking, and the Baikal Centre for Judicial Reforms were specifically mentioned.)

## SWEDEN

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### Findings

Out of nine Swedish respondents asked to participate in the survey, five completed the questionnaire, while two respondents were interviewed in person, and one chose to answer a shorter set of alternative questions. These respondents represented: the Border Police, the National Criminal Police, the Tax Agency in Gävle, the head office of the Tax Agency in Stockholm, the National Rapporteur on Trafficking in Human Beings, the Migration Board, the Work Environment Authority (WEA), and the National Coordinator against Prostitution and Human Trafficking.

In general, Sweden has established a number of well-functioning coordination mechanisms, and the largest authorities communicate as well as cooperate fairly well. Nevertheless, there is more that needs to be done, particularly on trafficking for other purposes than sexual exploitation. The existing mechanisms and structures need to be developed further, while cooperation also needs to be expanded, to include a set of actors which are currently working on very closely related issues, but who do not see themselves as directly working on trafficking for labour.

The findings of this report are divided into two parts. The first part concerns relevant actors in working on trafficking in persons, as well as their roles and mandates. Seeing as this study has a particular focus on trafficking for forced labour and labour exploitation, some actors have been included in the reports, who are relevant only for this particular type of trafficking, while other actors work on trafficking in persons in general and may even avoid to make a distinction between the different purposes and types of this crime. The second part of the findings concerns existing legislation and policy, as well as their limitations. Since the aim of this study is to

map out national cooperation resources and mechanisms, the focus of the report is on legislation and policy which governs, describes or enhances such cooperation. Hence, the purpose is not to evaluate the legislation on the criminal act as such, although such issues sometimes surfaced in the survey. The second part of the findings section also concerns existing cooperation mechanisms at the national level, such as; institutions, working groups, and coordinators, as well as challenges and limitations identified by the respondents.

### Actors and mandates

In addition to the eight actors responding to the survey, at least eight other Swedish actors were mentioned by the respondents, as cooperation partners, or simply as relevant stakeholders. These were: The Prosecutor's Office (in particular the International Chamber), the National Board of Health and Welfare (social services), the Economic Crime Authority, the Ministry of Labour (MoL), the County Administrative Boards, municipalities, Trade Unions, and NGOs (Crossroads and IOM were specifically mentioned).

What follows below is a brief description of the work of the respondents' organisations on trafficking in persons for labour exploitation, as well as their cooperation with other actors, as described in the survey.

### Governmental

**Border Police:** In some cities in Sweden, the Border Police have been granted the mandate to work on trafficking in persons for other purposes than sexual exploitation, while the police have the mandate to investigate trafficking for sexual exploitation. This is the case in Stockholm, where the Border Police respondent participating in this survey works. As such, the border police work with the

internal control of migrants within Sweden, as well as criminal investigations<sup>152</sup>.

According to the Border Police, the leader of the preliminary investigation of a case determines whether it is a case of trafficking in persons. In this decision, the border police cooperate with the international chamber of the Prosecutor's Office, which either leads the preliminary investigation, or has an advisory role. The border police further cooperate with the Migration Board, which may grant temporary residence permits to victims and witnesses, and with social services in providing the victim with support and assistance. In addition, the Border Police stated that they cooperate with the Tax Agency in identifying illegal work which may contain elements of trafficking in persons<sup>153</sup>.

**National Criminal Police:** The role of the National Criminal Police (RKP: Rikskriminalpolisen) is to collect information on the scope of trafficking in persons in Sweden as well as abroad, to analyse intelligence concerning trafficking in persons and closely related organised crime, as well as to gather and disseminate information about emerging issues related to trafficking in persons to and within Sweden<sup>154</sup>.

RKP cooperates with both Swedish and international law enforcement agencies, as well as other government agencies at the national level. Social Services, The Prosecutor's Office, the Migration Board, the WEA, the Tax Agency, trade unions, and NGOs were also mentioned as cooperation partners. Such cooperation consists mainly of providing victim support, collecting information, and of regulatory interventions on employment conditions<sup>155</sup>.

At the specialised police units in the larger cities, Social Services has staff located within

and working directly with the specific police unit. This enables Social Service staff to incorporate the social perspective into the work of the police on trafficking in persons. It further enables Social Services to be involved in a case from the very beginning of an investigation<sup>156</sup>.

**Tax Agency, Gävle:** In the survey for this study, two respondents from the Swedish Tax Agency were included; one of which represents the local office in Gävle, while the other respondent represented the head office in Stockholm. The Gävle office stated that their role consists mainly of carrying out inspections and initiating an audit or review in cases where trafficking for labour is suspected, usually in coordination with the police investigation. The Gävle office further stated that they cooperate with the National Coordinator and National Team (i.e. the National Methodology Support Team which is described in more detail under Cooperation: Mechanisms), as well as the Economic Crime Authority<sup>157</sup>.

**Tax Agency, head office:** The head office of the Tax Agency declined filling in the questionnaire for the survey, since trafficking in persons is not considered part of their mandate. A set of alternative questions were answered through e-mail correspondence. The tax agency regularly conducts inspections of work places, although strictly related to matters of taxation. Should the agency encounter cases of trafficking in persons during its inspections, this is naturally reported to the police. The Tax Agency further has a national coordinator working on organised crime and illegal labour and is currently discussing the potential need for a National Action Plan concerning these issues. This would, to some extent include victims of

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<sup>152</sup> Interview 2012: National Coordinator against Prostitution and Human Trafficking

<sup>153</sup> Questionnaire 2012: The Border Police

<sup>154</sup> Questionnaire 2012: National Criminal Police

<sup>155</sup> Questionnaire 2012: National Criminal Police

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<sup>156</sup> Interview 2012: National Coordinator against Prostitution and Human Trafficking

<sup>157</sup> Questionnaire 2012: Tax Agency, Gävle



trafficking for labour indirectly, seeing as they are part of the illegal workforce<sup>158</sup>.

**National Rapporteur:** In 1997, the function of a National Rapporteur on Trafficking in Persons was assigned to the National Police Board (RPS: Rikspolisstyrelsen). This role initially concerned trafficking for sexual exploitation, but has gradually been expanded. The responsibilities of the National Rapporteur include: collecting information on trafficking in persons in Sweden as well as abroad, evaluating and disseminating information on new forms of trafficking in persons and *modus operandi*, monitoring the progress made in Sweden, including legislation and policy development, analysing investigations, prosecutions and sentences of perpetrators, organising seminars and training, as well as developing national and international networks<sup>159</sup>.

The National Rapporteur further provides the government with an annual report on the results of counter-trafficking efforts and court rulings, as well as the current development in Sweden. This report also includes recommendations for improvements. The Rapporteur cooperates with Social Services, the Prosecutor's office, the Migration Board, the Work Environment Authority, the Tax Agency, the trade unions, and NGOs. This cooperation consists mainly of the collection of information, support in criminal proceedings, victim support efforts and regulatory interventions concerning employment conditions<sup>160</sup>.

**Migration Board:** The Migration Board stated that their primary role when it comes to trafficking for labour, consists of effectively identifying and referring suspected cases. These are normally referred to the police and social services. Where the leader of a preliminary investigation applies for a

temporary residence permit for a victim of trafficking, this is to be granted by the Migration Board, and normally is. Nevertheless, the issuance of such a permit must be based on the decision of the leader of the preliminary investigation<sup>161</sup>.

The Migration Board also has a pro-active role in preventing trafficking in persons, since the department is responsible for issuing work permits to non-EU migrants. Since January 2012, employers of migrant workers within certain sectors, such as the hotel and restaurant sector, have been subjected to more rigorous control. For example, companies who have previously hired migrant workers from outside the EU must be able to show that they have provided reasonable wages and insurance. Similar efforts have been implemented to prevent the exploitation of migrant workers for berry-picking. In general, the number of work permits issued has decreased as a result of these stricter control measures<sup>162</sup>.

The Migration Board participates in working groups, meetings and seminars concerning trafficking in persons. Cooperation with other governmental agencies normally takes place through the National Methodology Support Team coordinated by the County Administrative Board of Stockholm, and consists of exchanging experience and knowledge in order to improve the referral mechanisms for victims of trafficking<sup>163</sup>.

**Work Environment Authority:** The representative from the Work Environment Authority included in this survey, works mainly with issues of foreign employers as well as employees in Sweden, an area where WEA to some extent functions as a coordinating and advisory agency in relation to other agencies. WEA conducts inspections of workplaces in Sweden, regardless of the origin of the

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<sup>158</sup> E-mail correspondence 2012: Tax Agency, Stockholm

<sup>159</sup> Questionnaire 2012: The National Rapporteur on Trafficking in Human Beings

<sup>160</sup> Ibid.

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<sup>161</sup> Questionnaire 2012: Migration Board

<sup>162</sup> Correspondence with the Migration Board, August 2012

<sup>163</sup> Questionnaire 2012: Migration Board

employer or employee. Nevertheless, the agency experience that they have no mandate as such related to issues of trafficking for labour. This is mainly due to the fact that their mandate is one of investigating and inspecting the work environment, rather than working conditions such as working hours<sup>164</sup>, wages, and contracts<sup>165</sup>.

Although WEA stated that a lack of mandate does not necessarily mean a lack of cooperation with other agencies, it was emphasised that more training and knowledge is needed for their inspectors to actively identify cases of trafficking for labour to a larger extent. Trade union representatives may contact WEA when they encounter a work environment issue beyond the scope of their own work. It was further stated that WEA may contact the police should they encounter any illegal activities or experience a suspicion thereof, although this is not strictly a responsibility formally assigned to the labour inspectors. Joint inspections have been carried out with the Police as well as Social Services and other government agencies within specific areas and sectors, such as the health care sector. WEA has further been assigned to conduct awareness raising initiatives directed at foreign employers as well as employees in Sweden. This enables the authority to conduct general or specific information campaigns and activities concerning temporary work in Sweden, and working conditions such as minimum wages for such workers. Focus has previously been placed on specific sectors, such as the construction sector. Future efforts have been planned for the hotel and restaurant sector, as well as the female workforce in general<sup>166</sup>.

Through previous cases of berry pickers being exploited in the north of Sweden, WEA has

developed cooperation with trade unions, as well as the tax agency, establishing specific contact persons within each agency. This is also the only situation where WEA has defined its own efforts as related to trafficking in persons<sup>167</sup>.

**National Coordinator:** The Swedish National Coordinator against Prostitution and Human Trafficking was appointed in 2009, initially for the duration of the National Action Plan (NAP), and placed with the Stockholm County Administrative Board. The coordinator further administers the National Methodology Support Team (NMT). This task team, as well as the National coordinator is described further under Cooperation: Mechanisms below. The mandate of the coordinator is limited to working against prostitution and trafficking in persons for sexual exploitation, thereby excluding trafficking for other purposes. The Coordinator is mainly responsible for coordinating the operational efforts of different governmental agencies. As such, he, and his staff members facilitate cooperation and communication between different actors as well as mediate between actors in case of disagreements. The coordinator further provides training and technical support to relevant actors<sup>168</sup>.

Cooperation partners include the different police departments and specialised units, municipalities (including social services) and county administrative boards, the Prosecutor's Office, the Migration Board, the Border Police, and NGOs<sup>169</sup>.

## Non-Governmental

**NGOs:** Non-Governmental Organisations were mentioned in more general terms by some of the respondents, including NGOs working with undocumented migrants. Nevertheless, cooperation with NGOs seems

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<sup>164</sup> Working hours along with other working conditions are normally regulated by collective agreements in Sweden. In the cases where such agreements do not exist, WEA nevertheless do look at working hours as well.

<sup>165</sup> Interview 2012: Work Environment Authority

<sup>166</sup> Ibid.

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<sup>167</sup> Ibid.

<sup>168</sup> Interview 2012: National Coordinator against Prostitution and Human Trafficking

<sup>169</sup> Ibid.

to be somewhat limited. Crossroads was mentioned as a project working specifically with migrants from within the EU. The project is run by two NGOs (The Swedish Salvation Army and Stockholms Stadsmission), the City of Stockholm and the Public Employment Service. Although not specifically focused on trafficking for labour, the project does focus on labour issues and labour exploitation, which makes it a potentially interesting actor.

IOM has recently been assigned the task of launching a pilot repatriation project for victims of trafficking in persons, in cooperation with the National Coordinator. Since there is no IOM office in Sweden, this cooperation takes place with the Helsinki office in Finland. It was further stated that the Migration Board previously has been cooperating with IOM on repatriation<sup>170</sup>.

**Trade and Labour Unions:** No respondent from either of the trade unions identified was willing or able to participate in the survey. Trade unions and labour unions were nevertheless mentioned as a cooperation partner in more general terms. Some trade and labour unions, including: Kommunal, the Swedish Trade Union Confederation (LO), the Union for Forestry, Wood and Graphics Industries (GS), and IF Metal, seem to have been working on closely related issues, particularly social dumping, labour exploitation, and the use of migrant workers in Sweden. Some publications could similarly be found on such topics. In particular, some of the trade unions have been involved in the coordinated efforts to assist migrant workers exploited in the berry-picking industry during the past couple of years, for example through offering legal assistance.

## Cooperation

In Sweden, the number of actors actively involved in working against trafficking in persons seems to be fairly limited. The

different roles of authorities are normally described in their different appropriation directions, while legislation to some extent also regulates cooperation between authorities. In some parts of the country, a division has been made between the Police and the Border Police, where the latter is responsible for proactively identifying and investigating trafficking in persons for other purposes than sexual exploitation. In other parts, the police investigate all types of trafficking in persons, for which several specialised units exist. The International Chamber of the Prosecutor's Office normally leads the preliminary investigation. The Migration Board has the mandate to grant victims of trafficking a temporary residence permit only if the leader of the preliminary investigation decides that this is necessary. Since such residence permits are granted only when a preliminary investigation has been initiated, the police and prosecutor in reality have the sole mandate to verify the victim status and to grant an individual victim the right to remain in Sweden as well as the right to assistance. The social service departments of the different municipalities are responsible for providing victim assistance in terms of, for example, protection, accommodation, and medical care. Nevertheless, if no preliminary investigation is initiated, or if such an investigation is dropped, this assistance is limited to emergency health care and repatriation. Using NGOs as service providers for social care and victim assistance is unusual, if not non-existent in Sweden.

## Policy and legislation

Trafficking in persons is included and defined in the Swedish **Penal code**; Chapter 4, Section 1a, as well as, to some extent, in Article 4 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, which is incorporated into Swedish law since 1995. Since 2004, Swedish legislation on trafficking in persons includes internal trafficking, as well as trafficking for other purposes than sexual exploitation.

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<sup>170</sup> Ibid.

Cooperation between governmental agencies is to some extent governed by the **Swedish Administrative Procedure Act (1986:223)**. This legislation does not specifically concern trafficking in persons, but nevertheless states the duty of each agency to assist other agencies. The Swedish Police Act (1984:387), specifically states the obligation of the police to cooperate with the prosecution authorities, social services, and other agencies. The roles and mandates of different agencies are further specified in their individual **appropriation directions**, which establish the objectives to be achieved by the agency, as well as how resources are to be distributed between different activities<sup>171</sup>.

When it comes to policy documents, some of the respondents stated that there is a National Action Plan, while others did not. In reality, there has been a **National Action Plan against Prostitution and Trafficking for the Purpose of Sexual Exploitation**, which covered 2008-2011 and included 36 specific measures. A few of the measures included in the NAP were later extended past 2011, including the coordinating function of the Stockholm County Administrative Board.

In addition, an inter-ministerial working group appointed in 2006, published a report and **draft Plan of Action concerning trafficking for other purposes than sexual exploitation** in 2008 (Ds. 2008:7).

Other policy documents mentioned by the respondents were the following: the so-called Palermo Protocol of the UN Convention against Transnational Organised Crime (UNTOC) on Trafficking in Persons and Smuggling of Migrants, the final reports of all activities included in the NAP, and the appropriation directions. The Stockholm County Administrative Board has further published a set of guidelines, although this is limited to the work against prostitution and

trafficking for sexual exploitation. The Migration Board has also published guidelines for their staff on how to assist victims of trafficking.

When asked about issues concerning policy and legislation, the issue of confidentiality was raised by some of the respondents. A large proportion of the work of different agencies is confidential, a principle which also applies to sharing information with other agencies. Assessing whether information can be disclosed requires confidentiality assessments to be carried out, which sometimes complicates collaboration. It was further stated that the legislation on confidentiality is difficult to interpret, which leads to insecurity and lengthy assessments which may hamper a prosecution.

The limitations to assisting victims were also raised by one of the respondents. The legislation in theory allows any “authorised authority” to identify a victim of trafficking. Nevertheless, providing that victim with anything but emergency assistance is dependent on an on-going preliminary investigation or legal process which the victim has agreed to assist law enforcement actors with. The reflection period which may be granted is similarly related to a legal process, as is the case in many countries. Hence, other agencies such as the Migration Board and Social Services do not have the same mandate in reality to verify the victim status of a person, and to thereby grant him, or her, the access to assistance.

It was further pointed out by several respondents that the mandate of the National Coordinator is limited (through policy documents), to prostitution and trafficking for sexual exploitation. Similarly, it was pointed out that the draft NAP on trafficking for labour exploitation and other purposes from 2008 has yet to be agreed upon and implemented. More measures seem to be needed to address labour exploitation and trafficking for labour. It was for example suggested that employers should be legally

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<sup>171</sup> Swedish Government's website (accessed 02-05-2012), *How Sweden is Governed: Agency Management*: <http://www.regeringen.se/sb/d/9395/a/86412>

obliged to report when they employ foreign workers. This might clarify the situations where recruitment agencies are used in a more or less serious manner, and where it becomes unclear who the employer is and who the employee is.

## **Mechanisms**

**Specialised Units:** Respondents mentioned specialised units within the different regional and national police offices, the Border Police (focused on trafficking for other purposes than sexual exploitation), and the Prosecutor's office (probably referring to the international chamber). "The Labour Inspectorate" was also mentioned, most likely referring to the Work Environment Authority, which is interesting, seeing as WEA do not consider themselves as mandated to work within this area. The Migration Board further has a smaller specialised unit in terms of specialised staff. The Stockholm County Administrative Board was also mentioned as having a specialised unit which is only focused on trafficking for sexual exploitation, meaning the National Coordinator and his staff.

**Lead Agency:** Apart from the coordinating role of the Stockholm County Administrative Board, there is no obvious lead agency in addressing Trafficking in Persons. It should further be reiterated that the coordinating role of the County Administrative Board so far is limited when it comes to trafficking for labour, according to its current mandate. In the survey, both the Migration Board and the Police were suggested as lead agencies in addition to the National Coordinator.

**Working groups:** When asked about working groups on trafficking in persons, the National Methodology Support Team coordinated by the National Coordinator was most frequently mentioned. The NMT includes the police (RPS as well as RKP), specialised units from regional police offices, specialised units within the Social Services at the national, as well as local level, the Prosecutor's Office, the Migration Board, and the Border Police. This

group meets four times per year, in addition to regular contact concerning specific cases.

In addition, there is a working group referred to as the LAMP team, which coordinates the County Administrative Boards. The National Coordinator has also gathered smaller working groups in each County, consisting of one representative from each of the following five authorities: the police, the Prosecutor's Office, the municipality (social services), the County Administrative Board, and the Migration Board. The members of these smaller working groups have also been provided with training.

**Networks:** An information network was also mentioned which consists of governmental agencies, most of which were included in the National Action Plan. This network was previously led by the National Board of Health and Welfare, but is now led by the Stockholm County Administrative Board.

**National Action Plan:** There is currently no NAP in Sweden concerning trafficking in persons. The previous NAP on prostitution and trafficking for sexual exploitation covered 2008 to 2011. A few activities included in this NAP were extended beyond 2011, including the function of the National Coordinator and the other trafficking-related activities with the County Administrative Board. In addition, an inter-ministerial working group appointed in 2006, published a report and draft Plan of Action concerning trafficking for other purposes than sexual exploitation in 2008 (Ds. 2008:7). This draft has yet to be approved by the government and to be implemented by its authorities.

**National Coordinator:** As was mentioned earlier, the National Coordinator against Prostitution and Trafficking in Persons is located with the Stockholm County Administrative Board. In addition, two staff members are working on developing national support structures and a repatriation project in cooperation with IOM. The National coordinator has the mandate to coordinate the work on specific cases when necessary, as well

as to implement general coordination efforts such as information exchange and developing common strategies and methods. The coordinator is able to connect authorities with the relevant experts in order to provide support in a particular case, but may also mediate between authorities with different approaches to the issue. This system is based on the fact that staff members with different authorities at the ground level, such as front-line officers, are gradually trained to recognise trafficking in persons and to be able to identify potential victims. So far, approximately 5000 individuals have received such basic training<sup>172</sup>.

Apart from the national guidelines previously mentioned and training materials, the National Coordinator has developed a questionnaire for the collection of information on trafficking in persons. This document can be used by any authority, while the results are compiled by the intelligence unit of RKP<sup>173</sup>.

**National Rapporteur:** The function of National Rapporteur was placed with RPS in Sweden in 1997. The responsibilities of this rapporteur and her staff include: collecting information on trafficking in persons in Sweden as well as abroad, evaluating and disseminating information on new forms of trafficking in persons and *modus operandi*, monitoring the progress made in Sweden, including legislation and policy development, analysing investigations, prosecutions and sentences of perpetrators, organising seminars and training, developing national and international networks, for example with other rapporteurs within the EU.

The National Rapporteur submits an annual report to the government on the results of counter-trafficking efforts, legal procedures on the matter, as well as the current development in Sweden. Recommendations are furthermore included on how to improve policy, legislation, and activities.

This is a monitoring function which was placed with RPS in order to facilitate access to information. As a consequence, this system has been criticised for providing a mainly police-oriented report based on the findings and experience of police work.

## Challenges and limitations

When asked about the factors that limit their work on trafficking in persons the most, lack of knowledge and lack of capacity were selected most often by the respondents (four and three respondents respectively). In terms of the lack of knowledge, this was a general concern that all authorities could use additional training on the subject, particularly on trafficking for labour. The lack of capacity seems to concern the lack of resources and funding mostly. The lack of assistance, for example shelters specifically for male victims, was also raised.

Only two respondents chose lack of cooperation as a limiting factor, where confidentiality was mentioned as an obstacle. Nevertheless, comments, as well as answers to some of the other questions included in the survey, suggest that the respondents feel that the issue of trafficking for labour exploitation is on the rise, and that there is an increasing need to discuss and provide training specifically on trafficking for this purpose, as well as to gather knowledge and experience within this area. In terms of coordination mechanisms, it was suggested that there is a need to assign one of the national authorities a clearer mandate to coordinate the efforts of other authorities on trafficking for labour.

The lack of legislation, or rather the difficulties faced when prosecuting cases of trafficking in persons, was mentioned by one respondent. Corruption was brought up as a limitation in dealing with other countries, while the lack of policy was also mentioned by at least two respondents. The need in the long run for an MoU or a similar type of agreement on the structural level of cooperation, was raised by some respondents, while others stated that

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<sup>172</sup> Interview 2012: National Coordinator against Prostitution and Human Trafficking

<sup>173</sup> Ibid.

there was no need for an MoU, since the responsibilities of each agency are defined clearly in other policy documents and in legislation.

The issue of victim identification being limited to only a few authorities in reality, as well as the limited mandate of the National Coordinator, are issues which were explained at length in the section on policy and legislation, hence they will not be elaborated upon further in this section. It was suggested that more authorities be granted the mandate to identify victims of trafficking. Apart from the suggestion that the mandate of the National Coordinator be expanded, it was also suggested that more actors should be included in coordination efforts, examples of which would be trade unions, the Tax Agency, and WEA.

## Conclusions

Although Sweden has established a number of seemingly well-functioning coordination mechanisms, there is still work to be done, particularly on trafficking for other purposes than sexual exploitation. There is a need to develop existing mechanisms, while also including actors which are currently working on very closely related issues, but who do not see themselves as working on trafficking for labour.

The Work Environment Authority, for example, has the potential to be more active in this field. Nevertheless, for this to occur, some changes to policy, structure, and resources are

needed. In some of Sweden's neighbouring countries, certain labour inspection units focus only on workplaces employing foreign labour. This may assist in putting aside resources specifically for critical areas. Certain simple improvements, such as training and the availability of tools for labour inspectors, could also assist them in their daily work and increase the ability to identify trafficking for labour. One suggestion would be a checklist to be added to other indicators which the labour inspectors normally look for in a work place. This obviously needs to be combined with training.

In general, there is a need to involve more actors in discussions as well as coordination efforts. For this to happen, the mandate of the National Coordinator needs to be expanded to all forms of human trafficking and not only sexual exploitation. The discussions currently taking place within the Tax Agency suggest that there are specialised units within this agency which will focus on issues of organised crime and illegal work; issues which are closely related to work exploitation and trafficking in persons. Cooperation between government authorities and civil society actors, such as NGOs and trade unions, also needs to be developed further. There is also a need to develop knowledge and training efforts. Such efforts should not be restricted merely to specialised training of those actors working directly on trafficking in persons, but should also be conducted in order to raise general awareness more broadly, with actors who could be instrumental in identifying particularly trafficking for labour.

## **Relevant Swedish departments and organizations**

### **Invited actors who participated in the study:**

- **Border Police** (Gränspolisen)
- **National Criminal Police** (RKP: Rikskriminalpolisen)
- **Gävle Tax Agency**
- **Stockholm Tax Agency** (Skatteverket: head office)
- **National Rapporteur** (RPS: the National Police Board/Rikspolisstyrelsen)
- **Migration Board** (Migrationsverket)
- **Work Environment Authority** (WEA- Arbetsmiljöverket)
- **National Coordinator against Prostitution and Human Trafficking** (County Administrative Board of Stockholm/Länsstyrelsen i Stockholms Län)

### **Other invited actors:**

- NGOs (Crossroads was specifically mentioned, as was IOM offices in neighbouring countries).

### **Other actors mentioned by respondents:**

- Prosecutor's Office (Åklagarmyndigheten: the International chamber)
- National Board of Health and Welfare (Socialstyrelsen)
- Economic Crime Authority (Ekobrottsmyndigheten)
- Ministry of Labour (MoL)
- County Administrative Boards (Länsstyrelser)
- Municipalities (Kommuner)
- Trade Unions



## APPENDIX 1: ACRONYMS AND ABBREVIATIONS

<b>3F</b>	Fagligt Fælles Forbund (Trade Union)
<b>BAT</b>	Bygge- Anlægs- og Trækartellet (Trade union)
<b>BBGM</b>	Berliner Bündnis gegen Menschenhandel
<b>BKA</b>	Bundeskriminalamt
<b>BMAS</b>	Bundesministerium für Arbeit und Soziales
<b>BMFSFJ</b>	Bundesministerium für Familie, Senioren, Frauen und Jugend
<b>CBSS</b>	Council of the Baltic Sea States
<b>CIS</b>	Commonwealth of Independent States
<b>CMD</b>	Citizenship and Migration Division
<b>CMM</b>	Danish Centre Against Human Trafficking (Centre Mod Menneskehandel)
<b>DGB</b>	Deutsche Gewerkschaftsbund (Confederation of German Trade Unions)
<b>DI</b>	Directorate of Immigration
<b>DIS</b>	Danish Immigration Service
<b>DL</b>	Directorate of Labour
<b>ECA</b>	Estonian Competition Authority
<b>EK</b>	Confederation of Finnish Industries
<b>ETUC</b>	Estonian Trade Union Confederation
<b>EURES</b>	European Job Mobility Centre
<b>EVW</b>	Europäisches Verein für Wanderarbeitsfragen: European Migrant Workers' Union
<b>FIS</b>	Finnish Immigration Service
<b>FKS</b>	Finanzkontrolle Schwarzarbeit: Specialised unit with the Federal Ministry of Finance
<b>GS</b>	Union for Forestry, Wood and Graphics Industries
<b>HEUNI</b>	The European Institute for Crime Prevention and Control, affiliated with the United Nations
<b>ILO</b>	International Labour Organisation
<b>IOM</b>	International Organisation for Migration
<b>IRC</b>	Icelandic Red Cross
<b>KOK e.V.</b>	Bundesweiter Koordinierungskreis gegen Frauenhandel und Gewalt an Frauen im Migrationsprozess (German nationwide activist coordination group combating trafficking in women and violence against women in the process of migration)

<b>KOM</b>	The Coordination Unit for Victims of Trafficking
<b>LAMP</b>	Länsstyrelsernas Arbetsgrupp mot Människohandel och Prostitution (Working Group of the County Administrative Boards on Human trafficking and Prostitution)
<b>LFT</b>	Living for Tomorrow
<b>LI</b>	The Labour Inspection Authority
<b>LO</b>	The Danish Confederation of Trade Unions
<b>LO</b>	Landsorganisationen i Sverige (Swedish Trade Union Confederation)
<b>MFA</b>	Ministry for Foreign Affairs
<b>MoEE</b>	the Ministry of Employment and the Economy
<b>MoI</b>	Ministry of Interior
<b>MoJ</b>	Ministry of Justice
<b>MoJPS</b>	Ministry of Justice and Public Security
<b>MoL</b>	Ministry of Labour
<b>MoSH</b>	Ministry of Social Affairs and Health
<b>MoU</b>	Memorandum of Understanding
<b>MoW</b>	Ministry of Welfare
<b>NAF</b>	Norsk Arbeidsmandsforbund
<b>NAP</b>	National Action Plan
<b>NAV</b>	The Labour and Welfare Administration
<b>NEC</b>	Nationalt Efterforskningscenter (National Centre of Investigation)
<b>NGO</b>	Non-Governmental Organisation
<b>NMP</b>	Nationellt Metodstöd mot prostitution och människohandel (National Methodology Support Team)
<b>NVA</b>	State Employment Agency (Nodarbinātības Valsts Aģentūra)
<b>OCCD</b>	The Department for Combating Organised Crime
<b>OECD</b>	Organisation for Economic Cooperation and Development
<b>OSCE</b>	Organisation for Security and Cooperation in Europe
<b>PIP</b>	Państwowa Inspekcja Pracy (National Labour Inspectorate)
<b>RKP</b>	Rikskriminalpolisen (National Criminal Police)
<b>RPS</b>	Rikspolisstyrelsen (National Police Board)
<b>SAK</b>	The Central Organisation of Finnish Trade Unions
<b>SEIF</b>	Self Aid for Immigrants and Refugees

<b>SKAT</b>	Central Tax administration
<b>SM</b>	Sotsiaalministeerium
<b>UDI</b>	The Directorate of Immigration
<b>UNTOC</b>	United Nations Convention against Transnational Organised Crime