

Trafficking for Forced Labour and Labour Exploitation in Estonia

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Chapter 1: Introduction

Trafficking in human beings for the purpose of forced labour has received relatively little attention compared to trafficking for sexual exploitation as the latter has been the focus of previous studies related to human trafficking in Estonia¹.

Trafficking in human beings and labour exploitation for the purposes of forced labour is more difficult to identify than sexual exploitation. This is to a great extent due to the absence of legal regulations, the fact that forced labour is even more hidden than sexual exploitation and that there is no comprehensive awareness of the nature of the problem among the population.²

The movement of labour has continued to increase within and into the EU and there is an increase in various forms of labour exploitation, especially of migrant workers. Cases of involuntary labour have become the topic of the day, where the victims are forced, by deceit, abuse of violence or by taking advantage of their vulnerable position, to work under conditions materially different from those agreed upon (regarding the remuneration, working hours or nature of work) as well incidents where the identification documents of the victims have been withheld rendering termination of the employment relationship and leaving the country difficult. Such experiences damage the physical and mental well-being of the victim and often cause irreversible consequences to his or her quality of life.³ At the same time, there are no court verdicts on trafficking for forced labour or labour exploitation. Therefore, there is a need to understand the extent and nature of this problem, to systematically collect information on this phenomenon and to enhance cooperation and exchange of information to prevent the crime.

This report looks at labour migration and trafficking into, from and through the country. The victims can be citizens of Estonia or citizens of some other country, while the exploitation can take place also within Estonia (internal trafficking) or

¹ For further information see for example Trummal, A. (2003), 'Alaealiste kaubitsemise seksuaalse eksploateerimise eesmärgil Euroopas: päritoluriigid. Eesti uurimisraport'. Saar, J., et al. (2001). Trafficking in Women and Prostitution in the Baltic States. Social and Legal Aspects'.

² Global report on trafficking in persons, http://www.unodc.org/documents/human-trafficking/Global_Report_on_TIP.pdf.

³ Development Plan for Combating Trafficking in Human Beings 2006-2009, available at <http://www.just.ee/18886>.

in some other country. In 2006, before the economic recession, the common opinion regarding the so-called modern-day slave trade saw Estonia as one of the potential destination countries due to its rapid economic growth and deficit of workforce. Above all, this concerns the residents of the lesser developed republics of the former Soviet Union but also for migrants originating from Asian and African countries.⁴ Since the economic recession the situation in Estonia has changed remarkably. The current report thus is based on the following postulates:

the labour market situation in Estonia has gone through quite a severe negative transformation since the onset of the recession as the unemployment rate has risen by almost 10 per cent since 2007, and the amount of long-term unemployed people has increased; the socio-economic background of the population has thus deteriorated in terms of household living standards, average monthly incomes and working conditions; the risk of Estonian residents being victimised to human trafficking in more developed Western countries persists and potentially even increases.

The present economic crisis and the absence of employment opportunities motivates the potential victims of trafficking to look for employment in other countries. Estonian law enforcement agencies do not have an overview of the Estonians who have gone to work abroad and have become victims of deceit and exploitation.

This report aims to give an overview of the current national situation, offering empirical and legislative analysis pertaining to the subject matter. The information and data used in the report has been collected by expert interviews, from available media sources, at expert meetings and round tables and from relevant literature.

⁴ Development Plan 2006–2009, *op cit.*, *supra* note 3.

Chapter 2: Background and legislative framework

2.1 National definitions

Currently, Estonian law does not provide a specific human trafficking definition. Therefore regulations concerning other related crimes such as enslavement, abduction, illegal transportation of aliens across the state border or temporary border line of the Republic of Estonia, provision of opportunity to engage in unlawful activities, procurement for prostitution and labour fraud are applied in the legal system and criminal proceedings.

Enslaving - Placing a human being in a situation where he or she is forced to work or perform other duties against his or her will for the benefit of another person, or keeping a person in such situation, if such act is performed through violence or deceit or by taking advantage of the helpless situation of the person.⁵

Abduction - Taking or leaving a person, through violence or deceit, in a state where it is possible to persecute or humiliate him or her on grounds of race or gender or for other reasons, and where he or she lacks legal protection against such treatment and does not have the possibility to leave the state.⁶

Fraud - A person who receives proprietary benefits by knowingly causing a misconception of existing facts.⁷

Estonian law does not offer a definition or specific regulation for prohibition of labour exploitation or forced labour. However, the Employment Contracts Act stipulates the principle of equal treatment which basically prohibits discrimination at the work place on any basis. The same act entails provisions for duties of employers which contain reference to prohibition of exploitation at the work place by the employer.

Contract of services - one person (the contractor) undertakes to manufacture or modify a thing or to achieve any other agreed result by providing a service (work), and the other person (the customer) undertakes to pay remuneration therefor.⁸

Authorisation agreement - one person (the mandatary) undertakes to provide services to another person (the mandator) pursuant to an agreement (to perform

⁵ Art 133 Penal Code, RT I 2001, 61, 364, entered into force 1 September 2002.

⁶ *Ibid.*, art 134.

⁷ *Ibid.*, art 209.

⁸ Art 635 Law of Obligations Act, RT I 2001, 81, 487, entered into force 1 July 2002.

the mandate) and the mandator undertakes to pay remuneration to the mandatory therefor if so agreed.⁹

Employment contract - a natural person (employee) does work for another person (employer) in subordination to the management and supervision of the employer. The employer remunerates the employee for such work.¹⁰

The aforementioned contracts are relevant in the subject matter as exploitation may occur in any kind of employment situation, not only in the one that is regulated with the employment contract. The contract on services is very widespread contract, mostly used to regulate short-term employment between employer, i.e. customer and worker, i.e. contractor. The authorisation contract is mostly used to regulate long-term but still temporary employment where the employer, i.e. mandator needs only one specific service from the worker, i.e. mandatory.

2.2 Reflections on the current national situation

2.2.1 Trafficking for forced labour and labour exploitation

According to the TIP report, Estonia is a source country and, to a lesser extent, a destination country for women subjected to trafficking in persons, specifically forced prostitution, and for men and women in conditions of forced labour. Men and women from Estonia are subjected to conditions of forced labour in Spain, Norway, and Finland.¹¹

There are two types of migrant labour that can be exploited – the labour force that has entered a country legally, or in the case of EU, falls under the free movement of labour, and the labour force that has been trafficked or facilitated. The legal situation of migrants can change during their stay in a destination country. Facilitated or trafficked persons may receive a residence permit and migrants that have entered in a country legally may obtain an irregular migrant status once the legal basis of their stay has expired. Either way, on both occasions, the labour can be exploited. Migration policy tends to be mainly occupied with irregular immigrants and does not cover the proportion of exploited migrants who have arrived legally and yet find themselves in highly exploitative work situations (i.e. extra long hours, underpaid work etc).

Due to the global economic recession Estonia is facing challenges of a high unemployment rate, a decrease of average income and the general living standards, and an increase in long-term unemployment. According to Statistics

⁹ *Ibid.*, art 619.

¹⁰ Art 1(1) Employment Contracts Act, RT I 2009, 5, 35, entered into force 1 July 2009.

¹¹ United States Department of State 'Trafficking in Persons Report 2010 – Estonia', available at <http://www.unhcr.org/refworld/country,,,EST,,4c1883f6c,0.html>.

Estonia, in the 2nd quarter of 2010, the estimated number of unemployed persons was 128,000 and the unemployment rate 18.6%. Above all, unemployment is a problem among men. In the 2nd quarter, the unemployment rate of men was 22.6%, and still considerably higher compared to the unemployment rate of women (14.8%)¹². The number of newly registered unemployed persons was decreasing in the last quarters, but long-term unemployment was still growing.

In the 2nd quarter, 58,000 unemployed persons had been looking for a job for one year or more (long-term unemployed), of whom 19,000 had been looking for a job for two years or more (very long-term unemployed). The share of long-term unemployed persons among unemployed persons increased to 46%, the share of very long-term unemployed persons to 15%.¹³ The number of persons who had stopped seeking a job or discouraged persons¹⁴ was also larger in the 2nd quarter than in the 1st quarter (9,000 and 7,000 respectively).¹⁵ Finding a job is increasingly difficult also for young people. In the 3rd quarter of 2009, the unemployment rate of persons aged 15–24 grew to 29.2%. A year earlier it was 14.7%.¹⁶ At the same time, average monthly gross wages in Estonia decreased by almost 10% in the 3rd quarter compared to the 2nd quarter of 2009¹⁷.

Although women have the same legal rights as men under the law and are entitled to equal pay for equal work, these rights are not always observed in practice. While the average educational level of women was higher than that of men, their average pay was generally lower. According to media reports, the difference between the salaries of men and women was more than 20 percent.¹⁸

In the light of the current statistics and overall depressing situation in the labour market the risk of trafficking in persons for forced labour and labour exploitation is remarkably high. According to the International Organization for Migration (IOM), in 2008, an estimated 10,000 to 15,000 Estonian residents had a permanent employment arrangement in a foreign country.¹⁹ With regard to emigration from Estonia, the main reasons for regular migrants are economic considerations, mostly employment.

¹² Press release of Statistics Estonia from 13.08.2010, available at <http://www.stat.ee/37840>.

¹³ *Ibid.*

¹⁴ Discouraged persons are persons that have stopped seeking a job because they did not expect to find one.

¹⁵ Press release of Statistics Estonia, op cit.,supra note 17.

¹⁶ Press release of Statistics Estonia from 13.11.2009, available at <http://www.stat.ee/31268>.

¹⁷ Press release of Statistics Estonia from 25.11.2009, available at <http://www.stat.ee/31230>.

¹⁸ BBC News from 18 July 2007 'EU gender pay gap 'not narrowing'', available at <http://news.bbc.co.uk/1/hi/world/europe/6904434.stm>.

¹⁹ Facts and Figures – Estonia. Available at <http://www.iom.int/jahia/Jahia/activities/europe/nordic-and-baltic-countries/estonia>.

Although no exact data on the number of Estonian residents currently working abroad is available, there are several estimates. According to Statistics Finland data, approximately 21,000 Estonian residents come to work in Finland. Additionally, the Department of Migration of Finland estimates that the number of persons who work and live in Finland on a permanent basis is another 25,000. According to media estimates, the real number of Estonians working in Finland may be up to 100,000.²⁰ A report issued by the Ministry of Social Affairs in December 2010²¹ estimates that 8.5% or about 77,000 of Estonian population aged 15–64 are potential labour migrants²². Of them, 43,000 persons have already applied for employment abroad, studied the language of the destination country etc.

The three labour market risk groups, which are under special attention in the European Employment Strategy are: the long-term unemployed, young people, and older people. They all face higher or lower barriers when entering the labour market, and this should be taken into account by policymakers as they develop employment measures.²³ Therefore, it causes extreme concern to observe that the unemployment rate is increasing amongst young people simultaneously with an increase in the long-term unemployment rate, since they are all particularly vulnerable to the offers of human traffickers, as people with a poor social or economic position (persons who have a low income, little or no education, the unemployed, etc.) are considered to be at risk.

Based on the aforementioned statistical data and gender equality in law and the work place, both, men and women belong to a risk group of trafficking in persons, the trend for Estonia being more of a source country for human trafficking rather than a destination country. Travel-friendly regulations in the Schengen Visa zone, short distances, low travel costs, and the attraction of legitimate employment have lowered the barriers to trafficking to Nordic and other EU countries.

²⁰ Johansson, R. Soomes võib töö olla kuni 100 000 Eesti elanikku. ERR news. Available at: <http://uudised.err.ee/index.php?06221445>.

²¹ Veidemann, B. Eesti tööealise rahvastiku väljarändepotentsiaal aastal 2010. Poliitikaanalüüs. Sotsiaalministeeriumi toimetised nr. 8/2010.

²² Potential labour migrants are defined as persons who are planning to look for employment abroad and who have taken some preparatory steps for the execution of such plans.

²³ Employment and Working Life in Estonia 2008–2009, Series of the Ministry of Social Affairs No 3/2009, pp 27, available at http://www.sm.ee/fileadmin/meedia/Dokumendid/Toovaldkond/toovaldkonna_areng_2008-2009_eng.pdf.

2.2.2 The relevant criminalisations and offences used to prosecute trafficking for forced labour and labour exploitation

According to the US Department of State Trafficking in Persons Report 2008, Estonia falls within “tier 2” which means that the Government of Estonia “does not yet fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.”²⁴

Although Estonian law does not specify human trafficking as a criminal offence, other related crimes such as enslavement, abduction, illegal transportation of aliens across the state border or the temporary border line of the Republic of Estonia, provision of opportunity to engage in unlawful activities, and procurement for prostitution and labour fraud are punishable as criminal offences. The penalties prescribed for such acts range from 5 to 15 years of imprisonment, which are sufficiently high and commensurate with penalties prescribed for other serious crimes, such as sexual assault.

According to the national Reporting on Implementation of Development Plan for Combating Trafficking in Human Beings (reporting period 01.01.2009–31.12.2009)²⁵, 116 criminal offences which may be related to trafficking in human beings were registered in 2009; this is 72 (39%) less than in 2008 (189 registered criminal offences). These cases are mainly related to facilitation of prostitution where persons granted the use of premises for the provision of sexual favours or mediated sexual favours through phone or the Internet²⁶. The most common offences related to trafficking in human beings were unlawful deprivation of liberty (43), manufacture of works involving child pornography or making child pornography available (27), and aiding prostitution (15).

In 2009, authorities conducted three trafficking investigations that concerned sexual exploitation. The cases were prosecuted under the article 133 of the Estonian Penal Code, which refers to enslavement, the most serious trafficking-related crime in Estonian criminal law. However, the traffickers were acquitted in the district court. Over the year 2008, the government extradited three Estonian nationals charged with human trafficking for sexual exploitation to Finland and law enforcement authorities exchanged information on a regular

²⁴ United States Department of State, ‘Trafficking in Persons Report 2010 – Estonia’, op cit., supra note 16.

²⁵ Development Plan 2006–2009, op cit., supra note 3.

²⁶ Development Plan for Reducing Violence for Years 2010-2014, available at http://www.just.ee/orb.aw/class=file/action=preview/id=52311/Development_Plan_for_Reducing_Violence_for_Years_2010-2014.pdf.

basis with counterparts from Sweden, Denmark, Norway, Finland, the United Kingdom, and Poland²⁷.

Thus far there are no forced labour or labour exploitation cases that have reached an Estonian court. Most of the potential human trafficking cases end up in court as fraud cases and do not deal with exploitative situations or human trafficking issues.

The US Department of State has recommended Estonia to draft a trafficking-specific criminal statute that incorporates a definition of trafficking in persons in conformity with the UN Palermo Protocol; implement the approved plan to establish formal procedures for identifying victims among vulnerable populations; and maintain efforts to train police to identify potential victims and refer them for assistance²⁸.

At the moment, there is no specific institution in Estonia that would deal with human trafficking for forced labour or labour exploitation. We have several institutions that are connected with the phenomenon one way or the other, depending on their jurisdiction.

The Citizenship and Migration Division of Police deals with migration control in Estonia and aims to detect irregular migrant workers. However, it does not control working conditions of migrant labour in Estonia. The Centre of Extradition detains irregular migrant workers who have been detected by the Citizenship and Migration Division but is not involved in criminal procedures. The Criminal Police deals with pre-trial investigation of human trafficking for labour exploitation or forced labour. However, thus far, according to our expert interviews, they have more expertise in the investigation of cases of trafficking in human beings for sexual exploitation.

The Labour Inspectorate monitors working conditions of employees but is not involved in the legal status of migrant labour nor is it involved in the identification of victims of trafficking in human beings. Therefore there is a great need for an institution with sufficient knowledge, awareness and jurisdiction to identify victims of human trafficking forced labour or labour exploitation and to provide necessary assistance for them. More information about institutions dealing with human trafficking can be found in the separate chapter.

²⁷ United States Department of State, 'Trafficking in Persons Report 2009 – Estonia', available at <http://www.unhcr.org/refworld/country,,,EST,,4a4214bdc,0.html>.

²⁸ *Ibid.*

Chapter 3: Data and methods

3.1 Research questions

The general objective of the FLEX project is to increase the knowledge of trafficking for forced labour in Estonia and to strengthen related cooperation and exchange of information within and between Estonia, Finland and Poland. The country specific objectives regarding Estonian situation include: 1) Assessing the legal understanding of trafficking for forced labour in Estonia through analysis of legislation, court cases and legislative practice 2) Providing opportunities to strengthen cooperation and exchange of information nationally through two national expert meetings and the establishment of a network of national experts and actors. 3) Exploring the nature of trafficking for forced labour and types of exploitation of migrant labour in Estonia through developing and testing a methodology for collecting qualitative and quantitative data. The project aims at answering the following questions:

- 1) Which economic sectors in Estonia are especially affected by labour exploitation (of EU-citizens and/or third country nationals)?
- 2) What kind of exploitative situations exist in Estonia?
- 3) What are the main source countries of migrant labour in Estonia?
- 4) Are there forced labour situations in Estonia and do these situations include elements of trafficking?
- 5) Which economic sectors are especially affected by labour exploitation for Estonian national abroad?
- 6) What are the main destination countries for Estonian nationals?
- 7) What kind of exploitative situations Estonian nationals face abroad?
- 8) How current legal background and legislative means respond to labour exploitation situations and trafficking for forced labour to and from Estonia?
- 9) What is being done to prevent such exploitation and how can the responses be improved?
- 10) Do relevant actors and authorities recognise victims of trafficking for forced labour and are there sufficient mechanisms to assist the victims?

3.2 Data and methods used

Initially the idea was to use two methods for this study: interviews and analysis of court judgements and pre-trial investigations. Unfortunately we were denied access to pre-trial investigation materials and we could not detect any court cases

concerning human trafficking for forced labour and labour exploitation. Therefore the main source and method of the current study are in-depth interviews with experts. Media reports were also used for data collection and one expert seminar was held.

3.2.1 Interviews

In spring and summer 2010, interviews were conducted with 11 representatives of state authorities, law enforcement and police, and with several practitioners. The interviewees represented different sectors and had thus various expertise and different perspectives in the subject matter. The aim was to have as comprehensive coverage of expert areas as possible. Information about existing experts was received in meetings with the Ministry of Justice that has organised round tables of experts of human trafficking and administers an experts working group of national development plans.²⁹ Unfortunately, only one interview with an exploited person was conducted. We also included into the analysis one victim interview conducted in the context of another trafficking-related project and published by the NGO Living for Tomorrow.³⁰

The interviews followed a broad and general standard template³¹ which was, however, modified depending on the interviewee and the kind of information and knowledge they had about the trafficking process. The template consisted of five subsections: 1) exploitation cases, 2) general questions, 3) legislation, 4) identifying and helping victims and 5) data collection and recording. The anonymity of all informants of the study was protected, so that the report does not reveal the interviewee's name, or his/her accurate professional title or place of employment.

Difficulties finding informants

There were difficulties finding informants, especially victims of trafficking, mainly due to the sensitive nature of the topic and the lack of identified victims. The victims of human trafficking were difficult to find as the number of identified human trafficking victims in Estonia is very small. Persons who were trafficked or who had experienced exploitation abroad do not consider themselves as victims. Usually those who have been identified as victims had faced trafficking for sexual exploitation and thus did not match the criteria applied in the current study.

²⁹ Development Plan 2006–2009, op cit., supra note 3 and Development Plan 2010–2014, op cit., supra note 31.

³⁰ Downes, P. et al. "Not one victim more". Tallinn 2008.

³¹ See joint qualitative interview template for expert interviews in Annex 3.

Since there were no court cases of trafficking in human beings for labour exploitation in Estonia, it was not possible to identify persons with an official victim status. Therefore, we tried to find victims in other ways. First, we asked the interviewed experts to bring us together with the victims. Although we were often promised to be given get victims' contact, it never came true. After analysing the situation, we came to the conclusion that the problem was not the lack of cooperation between institutions and researchers but the fact that none of the institutions kept records on relevant cases or potential victims. In practice, it turned out that the contact between (potential) victims and institutions usually takes place in form of consultation which, as a rule, is not recorded at all. In such a situation experts know and are able to talk about several cases and victims, but when it comes to concrete persons or contacts, these are not so easy to identify.

The second approach we used was to try to reach victims of trafficking for labour exploitation directly. We did manage to identify, via media and experts working with victims, a few returned migrants who had been victims of labour exploitation abroad. After we had contacted these victims several times by email and telephone, they eventually refused to be interviewed, although we explained them all the confidentiality and anonymity measures that we have taken in this project. There was also a case where trafficking victims were only willing to give an interview a high fee. Our position was that it was not advisable to give any remuneration to respondents³² in this type of research as it might raise doubt about the reliability and adequacy of the information provided by the informants.

The single conducted victim interview followed the broad and general standard template³³ but it was also modified to suit to interviewee's individual circumstances and the kind of information and experience the informant had with the trafficking and exploitation process. The template consisted of five subsections: 1) background information, 2) recruitment, 3) nature of exploitation, 4) getting help and 5) returning to the home country. The anonymity of this person is protected, so that the report does not reveal the interviewee's name, place of employment or the exact profession.

³² The FLEX project turned to the European Commission regarding the possible remunerations to respondents under this project. The EC said in their email sent 26/08/2010 that the Commission does not have an official regulation as whether to remunerate interviewees or not. Projects that intend to collect data from victims of crime should take into account the fact that respondents may not wish to provide the data required, and that this is their right. All projects, regardless of their nature, must consider carefully the ethical questions that may arise. The EC further emphasizes that all projects should take a human rights-based approach to implementation and all methodologies used should pass the test of ethical conduct.

³³ See joint qualitative interview template in Annex 5. In addition to the shared questions, we also had questions regarding recruitment and possible use of facilitation firms in Estonia and also questions regarding returning back to Estonia and how it was handled.

3.2.2 Court verdicts and pre-trial investigations

The second method planned to be applied in the study was to analyse court verdicts and pre-trial investigations pertaining to trafficking for forced labour and labour exploitation.

Court verdicts

Between the years of 2004–2010 no court cases matching the criteria of the current project, i.e. human trafficking for forced labour or labour exploitation were found. Human trafficking related cases that had reached the court within the given time frame were related to trafficking for sexual, not labour exploitation.

After further research it was evident that most of the cases that might be concerned with labour exploitation or forced labour end up in court based on the fraud article in the Penal Code, although they might entail trafficking. Most of the victims are forced by deceit, violence or by taking advantage of their vulnerable position, to work under conditions materially different from those agreed upon (regarding the salary, working hours or nature of work). Persons who have found job opportunities abroad via employment facilitators are often defrauded as they are compelled to pay several fees to facilitators, because they have insufficient knowledge about their rights.

Although we carried out cross-referencing of existing court verdicts that might include elements of human trafficking, we could not find any cases that would contain sufficient information to identify relevant elements. Thus, in order to detect cases relevant to the current study, an in-depth legal analysis of existing fraud cases together with pre-trial investigation materials needs to be conducted.

Our reasoning applies to potential labour exploitation and forced labour cases that are being prosecuted in the labour dispute committee. As the Estonian Labour Employment Contracts Act does not entail a specific provision prohibiting exploitation, court cases concerning equal treatment should be analysed as they might entail elements of labour exploitation or forced labour. However, as the amount of these kinds of cases is large and the analysis requires a lot more time and attention, we were unable to do this in the current project.

Pre-trial investigations

No relevant pre-trial investigations were used in this study as the access to the materials was denied. In 2003, Estonia enacted the Personal Data Protection Act to protect the fundamental rights and liberties of natural persons regarding personal data, above all the right to protection of private life. According to the Act, sensitive personal data comprise information about committing an offence or victimisation to an offence before a public court hearing, defining the decision in the matter of the offence or termination of the court proceeding as sensitive

personal data. Therefore, processing pre-trial investigations fall under severe restrictions provided in the law. Authorities are not permitted to communicate any sensitive personal data to third parties without the consent of the person concerned. Therefore, we were not allowed access to the relevant pre-trial investigation materials, not even for the purpose of conducting research.

3.2.3 Other relevant data

Several authorities (foreign missions, medical institutions, shelters, etc) as well as the third sector deal with cases of human trafficking. However, no systematic collection of information on the cases and victims of human trafficking has been organised at the state level. During the national expert meeting potential sources of information were discussed. The Labour Inspectorate receives phone calls and emails regarding exploitative labour situations in Estonia but thus far they have not kept a record of received data. The Citizenship and Migration Bureau can provide statistics on the nationalities and numbers of employment permits issued that might lead to potential situations of exploitation of migrant workers. However, we were not able to detect any relevant cases for the purpose of the current study.

3.2.4 Media reports

Media reports on trafficking for labour exploitation and forced labour from 2004 until 2010 were collected systematically. The three major daily and weekly newspapers were used in the analysis: Eesti Päevaleht, Postimees, Eesti Ekspress. Data were also collected from websites and advertising papers³⁴ as well as relevant Estonian Public Broadcasting programs. See chapter 5.1 for more information.

3.2.5 Seminars

One national expert meeting was organised in February 2010 in order to discuss various types of exploitation of migrant labour in Estonia as well as to discuss and identify possible cases of trafficking for forced labour and labour exploitation with experts who may have come across such cases in their daily work. A further objective of meeting was also to find possible additional data sources as well as additional experts to be interviewed for the research.

This was the first national expert meeting to be organised by the University of Tartu. The meeting provided a first forum for a discussion on this topic. It was generally agreed that little is known of this phenomenon. The first direct positive

³⁴ Papers that only publish adverts, e.g Kuldne Börs, Soov.

result of the national experts meeting was that it established a network of national actors that deal with migrant labour and labour exploitation, trafficking for forced labour and labour exploitation. This was an important step towards raising awareness about the phenomenon in Estonia. The second national expert meeting will be held in January 2011 to present the final report in a national context.

Meanwhile, the Ministry of Justice organised a round table of national experts of human trafficking in May 2010. In this round table, we presented some preliminary findings of the current project. The objective of the round table was to introduce the new national development plan for reducing violence for year 2010–2014 and to discuss the document called “The Analysis of Definition and Crime of Human Trafficking”, which was drafted by the Ministry of Justice.³⁵

3.2.6 Analysis of data

When possible, the interviews were recorded and transcribed. When the respondent refused the use of the voice recorder, the interview answers were recorded by hand. All interviews were coded using a qualitative analysis software package Atlas TI. We used free coding, meaning that we approached our data without a set of existing codes. The set of codes that emerged as a result of coding, were combined into code families.³⁶

Additionally, minutes made during the project regional seminar were used to complete the analysis. The biggest problem for the current analysis was small amount of cases and difficulties reaching victims of trafficking for labour exploitation. In such a way most of the analysis is unfortunately based on second-hand information and experience. However, as we learned from the expert interviews, this situation is directly related to the perception of the problem of trafficking for labour exploitation in Estonia.

3.3 Ethical questions related to the study

The topic of human trafficking is a very sensitive field for research. Therefore, the data collected during the project must be approached, analysed and reported bearing in mind multiple ethical issues.

³⁵ “The Analysis of Definition and Crime of Human Trafficking”, Ministry of Justice, Criminal Statistics and Analysis Division, Tallinn 2010.

³⁶ The following code families were formed: problematization of trafficking for labour exploitation; push-pull factors for the labour migration; economic sectors involved; countries involved; actors involved; victim status; who becomes a victim; victim assistance; elements of exploitation; institutions involved; and criminal procedure.

Interviewing Estonian citizens who have experienced labour exploitation abroad or migrants who have experienced labour exploitation within Estonia was one part of the project. We were interested to know how they found out about the job, what the working conditions were like, and how the situation was resolved.

The information gained from the interviews was treated in a confidential way. We did not share the information with outsiders and followed all relevant standards of data management as stipulated in the Personal Data Protection Act. In the final publication the information is presented in such a manner that no individual interviewees can be recognised. Participation in the interviewing process was voluntary. Interviewees were free to withdraw from the interview at any point or decline to answer any particular question if they wanted.

We recorded all the interviews and transcribed them afterwards. The recording was stored on a removable disk which did not leave the University of Tartu premises. The transcription was also stored electronically and this too is kept within the confines of the University of Tartu premises. Excerpts from some of the interviews may be used to illustrate certain features of the more general picture in reports to the European Commission and to other academic audiences but no respondent will be identifiable in any report or publication. We expect that we will need to keep the data for up to five years (in order that transcripts can be verified in cases of uncertainty and to be used as ‘proof of activity’ on our part). After that the material will be destroyed.

Chapter 4: Legislative analysis

According to the US Department of State Trafficking in Persons Report 2010, Estonia falls within “tier 2” which means that the Government of Estonia does not yet fully comply with the minimum standards for the elimination of trafficking; however, it is making significant efforts to do so.

4.1 Procedural issues of labour exploitation cases

Estonia lacks a trafficking-specific law. Existing laws do not adequately prohibit and punish all forms of human trafficking, including the transportation, harbouring, obtaining, or recruitment of a trafficking victim and the use of coercion as a means to traffic a person. The lack of a specific human trafficking provision in the Estonian Penal Code is seen as a problem by many practitioners and scholars as it creates difficulties in data collection and statistics. Thus far in the statistics relevant crimes have been referred to as crimes that may be related to human trafficking. Therefore it is more complex to compare data and develop interstate cooperation in the prosecution of cross-border crimes. In 2009, Estonia issued official guidelines for identification of victims of trafficking in human beings for practitioners on human trafficking victim identification. The guidelines have served the purpose of awareness raising among law enforcement agents and other practitioners.

The research findings indicate that the focus of legislation and law enforcement agencies was upon sexual exploitation rather than labour. A “visible bias” can be noticed which might have to do with the idea that trafficking for forced prostitution is more likely to be detected than trafficking for forced labour. This is to a great extent due to the absence of legal regulations, the fact that forced labour is even more hidden than sexual exploitation and that there is no comprehensive awareness of the nature of the problem among the population.

It might also derive from the fact that trafficking for forced prostitution has been an open discussion topic for many years and received attention on different levels. Many practitioners and scholars do not believe labour exploitation and forced labour to be a problem in Estonia. The same attitude can also be seen in media reports that mainly associate human trafficking with sexual exploitation cases.

4.1.1 Barriers to criminal proceedings

Victim’s report of a criminal offence

Human trafficking is a crime not easily detected. The victims themselves and third persons only rarely report this crime. The victims are ashamed of their

experience, afraid of the disapproval of the society or the threats of the criminals. Very often victims are under serious influence of the perpetrators (physical or mental) and are afraid to come forward with their situation. This is also reflected in the common attitude of victims who are just being happy to have got back home safely, not wishing to remember the painful and shameful exploitation situations nor go through complicated bureaucracy and court procedures. Very often their financial resources are also limited, as victims have mostly paid their own travel expenses and have not received any salary for the work they have done.

In the cases of migrant labour exploitation in Estonia victims are often illegally present in the country and are scared of possible deportation. This, together with a generally low education level and lack of language skills, makes migrant labour particularly vulnerable to exploitation. The exploited person is usually employed without a written agreement and should he/she wish to leave is being threatened by the exploiter to be denounced to the police as an illegal immigrant and to be facing deportation.

Victims' perception of exploitation

In terms of forced labour or labour exploitation, people often do not consider themselves to be victims of exploitation. Receiving a remarkably lower salary or working excessive hours is often considered to be an inherent part of the migration process rather than of the exploitation or trafficking process.

In the case of Estonian construction workers in Ukraine³⁷, the persons were living at the workplace in a trailer accommodation without hot water or water closet. According to the interviews, the victims did not complain about their living conditions but considered them rather to be a natural part of simple work abroad. In the same case, persons worked excessive hours at weekends without receiving any salary and did not consider this as labour exploitation.

Cross-border cooperation

Crimes which involve human trafficking are often perpetrated in a foreign country and information on such offences may even not reach Estonia. Therefore, all offences may not be reflected by the official statistics. The clandestine nature of the criminal offence makes it more difficult to get an overview of the situation.

In the case of Ukrainian construction workers mentioned above, criminal proceedings were terminated due to unsatisfactory cross-border cooperation and insufficient mutual assistance in criminal matters with Ukrainian judicial

³⁷ Five Russian-speaking men from Estonia went to work in Ukraine in construction and ended up being exploited by their employer. They submitted the complaint but the case was closed due to the cross-border procedural problems with Ukraine.

authorities. This demonstrates clearly the relevance of common definitions of the criminal offence of human trafficking and labour exploitation across Europe. The lack of adequate provisions in domestic legislations in both countries, Estonia and Ukraine, resulted in controversial perceptions of labour exploitation and forced labour.³⁸ As the exploitation took place in Ukraine and the perpetrator was an Ukrainian citizen, Estonia could not prosecute without the permission of Ukrainian judicial authorities.

First criminal proceeding

As there are no relevant court cases of labour exploitation, forced labour or human trafficking for these purposes, it is difficult to initiate criminal proceedings in the matter. The reason for this is that the first time to start criminal proceeding of a new type of criminal offence raises always many complications. Prosecution faces challenges in finding evidence, approaching witnesses and victims, taking testimonies etc. A lot of attention must be paid to the victims and the information they provide. There is always the possibility that the victims may refuse giving testimony in court since they do not want to face their perpetrators.

As long as the Estonian Penal Code does not entail specific provisions for prosecuting human trafficking, labour exploitation, or forced labour, it is very challenging to start criminal proceedings. This contributes additionally to the general denial of existing problems in regards of the subject matter as described to in chapter 5.³⁹

4.1.2 Identification of relevant cases

The main problem in terms of this project was the lack of relevant court verdicts. Human trafficking related cases that reach the court are usually related to trafficking for sexual and not labour exploitation.

It is evident that most of the cases that might be related to labour exploitation or forced labour end up in court on the basis of the fraud article⁴⁰ in Penal Code. This applies also to cases which might entail elements of trafficking.

From a clear black letter law approach, this arrangement seems justified: people have been deceived into an unfavourable situation by taking advantage of their vulnerability. Victims have lost their money or have not received any salary or

³⁸ Ukrainian authorities declared the case as non-exploitative.

³⁹ Experts still believe that the problem is nearly non-existent since no concrete cases have been detected.

⁴⁰ Art. 209 stipulates fraud as ‘A person who receives proprietary benefits by knowingly causing a misconception of existing facts’, Penal Code, RT¹ I 2001, 61, 364, entered into force 1 September 2002.

work or the nature of work was different from what was agreed upon. These circumstances constitute a fraud case. Considering the generally high threshold of exploitation the exploitation elements may never reach the court as the victims do not report them, and relevant authorities lack knowledge and/or interest to investigate the cases further.

In order to detect cases relevant to the current study an in depth legal analysis of existing fraud cases needs to be conducted. Unfortunately we did not have the time and the resources to do this within the context of current project. We recommend that such a study should be conducted in the near future as this is a potential methodology to detect labour trafficking cases to and from Estonia.

The same issues came up when we tried to detect potential labour exploitation and forced labour cases prosecuted in the labour dispute committee. As the Estonian Labour Employment Contracts Act does not entail specific provisions for prohibiting exploitation, the cases of equal treatment should be analysed as they might entail elements of labour exploitation or forced labour.

4.2 Lack of the legislation

Despite the guidelines for identification of victims of trafficking in human beings, awareness on the topic among practitioners and politicians remains low. In-depth interviews that were conducted during the project with various national experts demonstrated clearly that Estonia should still improve cooperation between different state agencies. Also a specific provision on trafficking incorporating a definition of trafficking in persons in conformity with the 2000 UN Palermo Protocol needs to be developed. Moreover, continued efforts to train practitioners and state agents in the subject matter are important particularly regarding the elements of trafficking for forced labour and labour exploitation.

One of the outcomes of the national expert meeting that took place in February 2010 stated that the lack of a specific trafficking provision hinders investigation and prosecution of potential trafficking cases. The same applies for labour exploitation and forced labour cases, as the current legislation does not provide a definition for labour exploitation or forced labour, nor prohibits labour exploitation *expressis verbis*. However, reference to the prohibition may be found in provisions of several legal acts, e.g. the Employment Contracts Act⁴¹ and the Law of Obligations Act. The latter specifies conditions for contracts for the provision of services that entail several obligatory clauses for the customer and sets rights for the contractor. As many people work under the contract of services or the authorisation agreement and not under an employment contract, it

⁴¹ Art 3 Employment Contracts Act ‘Employers shall ensure the protection of employees against discrimination, follow the principle of equal treatment and promote equality in accordance with the Equal Treatment Act and Gender Equality Act’, RT I 2009, 5, 35, passed on 17 December 2008.

is very important to foresee all the precautions in respective legislation to prevent exploitative situations.

One of the most recent legal developments in terms of prohibiting labour exploitation was the directive of the European Parliament and of the Council providing for minimum standards for sanctions and measures against employers of third-country nationals having an irregular status. The directive stresses the need for more dissuasive sanctions in serious cases, such as persistently repeated infringements, the illegal employment of a significant number of third-country nationals, particularly exploitative working conditions, the employer knowing that the worker is a victim of trafficking in human beings and the illegal employment of a minor.⁴²

In addition to the Penal Code and labour law, an important role in the prevention of migrant labour exploitation in Estonia lies within regulations of migration law. Employment of recent immigrants in the Estonian labour market is governed by the Aliens Act. The amended version of the Act is applicable as of the second half of 2008.

Effective migration surveillance and legislation plays pivotal role in detecting potential exploitative situations. However, strict enforcement of immigration laws could also result in detention and return of migrants to their home countries without assessing whether these individuals are victims of forced labour exploitation.⁴³ The latter might give an argument for perpetrators to use as one of the coercive measures against victims by threatening them with deportation in the case they should turn to law enforcement authorities.

Estonia is one of the countries in the EU that has enforced a strict migration policy. According to the Obligation to Leave and Prohibition of Entry Act, an alien who entered Estonia illegally may be expelled without issuing a precept and without the permission of an administrative court.⁴⁴ Many human trafficking victims can be covered with that regulation.

Providing a reflection period instead of immediate deportation for detected victims is of paramount importance, since many individuals do not identify themselves as victims of trafficking, and arrest and deportation proceedings may reinforce a self-perception as criminals instead of as victims. In many cases

They [trafficking victims] do not know what trafficking is, do not understand their own legal situation, and are convinced that they are criminals. (Expert interview)

⁴² EC directive 2009/52/EC of 18 June 2009. Official Journal of the European Union of 30.06.2009, L168/24.

⁴³ Malpani, R. 'Legal Aspects of Trafficking for Forced Labour Purposes in Europe', ILO 2006, p 32.

⁴⁴ Art 14(3) Obligation to Leave and Prohibition on Entry Act, RT¹ I 1998, 98/99, 1575, entered into force 1 April 1999.

While efforts to enforce immigration laws should be supported, law enforcement and immigration personnel, victims' rights groups and governments must determine whether strict enforcement of immigration laws is antagonistic to providing victims of forced labour with protection and support, or whether these two important goals can be achieved simultaneously.

4.3 Legislation amendments and developments

Estonia has taken further steps to improve its legislation in order to detect human trafficking cases and provide assistance for trafficking victims.

4.3.1 Aliens Act

The fast growth in the demand for external labour during the economic boom in Estonia and the time consuming bureaucratic recruitment process created the need for adjustments in migration policy. Economic experts developed their proposals for a more flexible and simple system for recruitment of migrant workers in 2006–2007. The proposals were incorporated in the Aliens Act and the amended Act entered into force in the summer of 2008. The most important amendment was the institution of a wage criterion for short-term immigrant workers. According to this amendment, employers are required to remunerate aliens employed under a temporary residence permit for employment by paying them remuneration, which is at least equal to the annual average wages as most recently published by Statistics Estonia multiplied by 1.24.⁴⁵

Persons who have come to work in Estonia for a short time (less than six months) have to receive a remuneration, which is at least equal to the most recent average gross monthly wages in the principal sector of economic activity of the employer as published by Statistics Estonia, but may not be lower than the annual average wages in Estonia multiplied by 1.24⁴⁶. Consequently, the gross monthly wages payable to an alien recruited today would be approximately 1,000 euro.⁴⁷

In addition to complying with the wage requirement, an employer has to apply for a permission of the Unemployment Insurance Fund for hiring an alien for a period exceeding six months in one year. The application for this permission can be submitted if the employer has announced a public competition of at least three weeks in duration and has used the national labour facilitation service, but has been unable to find a suitable candidate from Estonia or from the Member States

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ Employment and Working Life in Estonia, op cit., supra note 28.

of the EU and the European Economic Area.⁴⁸ This regulation helps to prevent exploitation of migrant workers who have entered in Estonia legally and have registered their employment for residence permit application procedures.

Another regulation regarding temporary residence permits was enacted in 2007. This regulation stipulates the possibility to provide a temporary residence permit in the case of justifies public interest if the person is a victim or witness in criminal proceedings of a human trafficking offence, provided that the person has given his/her consent to assist ascertaining the evidence-related facts and has interrupted any contact with the suspects or the accused. A temporary residence permit is issued for the period of one year. A person granted such a residence permit has the right to work in Estonia without a work permit. This arrangement helps victims of human trafficking to be integrated in the society and simplifies residence permit applications.

4.3.2 Penal Code

The Ministry of Justice is currently preparing amendments of the Penal Code that would also include a human trafficking-specific criminal provision that incorporates a definition of trafficking in persons in conformity with the UN Palermo Protocol. Unfortunately, implementation of the planned amendments has been postponed thus far.

Prior to the preparation of the amendments, the Ministry of Justice conducted an in-depth analysis concerning experts' opinions of the sufficiency of current legislation, their knowledge and propositions about a potential trafficking provision. All the experts found the absence of human trafficking definition to hinder international cooperation involving both state authorities and non-governmental organizations. The latter is of particular importance as trafficking is usually a cross-border crime. In criminal proceeding prosecutors face difficulties in collecting evidence and proofs especially victims' testimonies as exploited people often refuse to make open statements in court out of fear for perpetrators and potential consequences. This often results in suspended procedure due to undetected evidence or unidentified perpetrators.

Law specialists thought it necessary to introduce a specific human trafficking provision in the Penal Code under the section of crimes against the person. The trafficking definition should derive from the Palermo Protocol.

At the moment, the main legislative difference concerns the consent of the victim. According to article 133 of the Penal Code, which is the most commonly applied article when prosecuting human trafficking related criminal offences, enslaving means “placing a human being in a situation where he or she is forced to work or perform other duties against his or her will for the benefit of another person, or keeping a person in such situation, if such act is performed through

⁴⁸ *Ibid.*

violence or deceit or by taking advantage of the helpless situation of the person⁴⁹

According to the Palermo Protocol and Council of Europe Convention, a person's consent is irrelevant if the criminal act comprises the necessary elements stipulated in the document. Interviewed national experts found that the planned human trafficking regulation should derive directly from the wording in the Palermo Convention thus abolishing the necessity to provide evidence for the lack of the victim's consent.

⁴⁹ Art. 133 Penal Code, RT¹ I 2001, 61, 364, entered into force 1 September 2002.

Chapter 5: Problematism of human trafficking for forced labour and labour exploitation

5.1 Media analysis⁵⁰

For the current media analysis mass media publications were identified from the database of Estonian articles, *Index Scriptorium Estoniae (ISE)*⁵¹. This database contains articles from newspapers, magazines and journals, serial publications, anthologies, and collections from the 1990s on, allowing the full-text to be accessed in free digital archives and Web publications. About 200 new entries are added to the database each day.

Prior to the ISE database, we used on-line versions of the main daily newspapers such as *Postimees*, *Eesti Päevaleht*, *SL Õhtuleht* and the weekly newspaper *Eesti Ekspress*. Additionally we used the news broadcasts of Estonian Broadcasting (*ERR*) for the analysis. Each newspaper has an on-line archive that allows a full-text search of articles. The articles in these archives are not tagged with key words, and therefore the search resulted in a vast amount of articles that needed to be checked for the relevance of their content. The search from full-texts articles did not result in locating any additional items that were not covered by the database ISE. Therefore, for further research we recommend an indexed database for the identification of articles for media analysis. Another positive moment about ISE database is that it also indexes local newspapers that in our case contained interesting information about trafficking for labour exploitation.

Firstly, we needed to decide what kind of key words to use to conduct the search for the relevant material. As the main topic of the current research project was trafficking in human beings (*inimkaubandus*), we started our search for the relevant material with this key word. For the first rough search, we used the ISE, the database of all Estonian articles, maintained by the Estonian National Library. The database indexes all articles in the Estonian press, including regional publications. The publications are indexed regardless of whether they are available on-line or not. The first search was conducted for newspaper articles in Estonian and Russian published since 1 January 2004. We used only one key word: trafficking in human beings (*inimkaubandus*). The search resulted in 171 records.

Secondly, we narrowed down the search and excluded articles that also contained the key word prostitution (*prostitutsioon*). The result was 68 articles. These articles were examined for their contents. Of all 68 articles, only three of

⁵⁰ This part is co-authored by Sirli Spelman.

⁵¹ Available free of charge at <http://ise.elnet.ee>.

them were available on-line. The articles contained no description of cases and their content was of a rather general character: discussion on labour facilitation firms, information about a telephone hot line for victims of trafficking etc. The numbers here are to illustrate the problematisation of the topic of trafficking in Estonia: with a very high probability, “trafficking in human beings” will be perceived as a topic related to the facilitation of prostitution and sexual exploitation.

Using the ISE database, we conducted several searches using various keywords. Some of them we found useful, some of them resulted in broad and irrelevant results. For further research, we recommend the use of following keywords:

- *Inimkaubandus* (trafficking in human beings) – the search resulted mainly in articles concerning trafficking for sexual exploitation; articles concerning more general topics such as awareness rising, legislation requirements etc.
- *Orjastamine* (slavery), *orjatöö* (slave work) – using these key words, one can locate very few specific articles about slavery cases. At the same time *orjatöö* (slave work) would be rather used as a metaphor to describe poorly paid work of rescue workers.
- Combination of key words: *pettus* and *tööotsimine* (deceit and employment seeking); *pettus* and *tööturg* (deceit and labour market); *pettus* and *tööjõud* (deceit and labour); *pettus* and *tööjõu mobiilsus* (deceit and labour mobility) – will help to identify relevant articles. The search results partly overlapped, however, each search helped to locate at least some original articles.
- Some relevant publications could be found using keywords *töö välismaal* (working abroad).
- *Töövahendusfirma* (labour facilitation company), *töövahendus* and *pettus* (labour facilitation and deceit) – with these keywords we managed to find articles describing cases that concerned trafficking or deceit cases involving labour facilitation companies.

We did not find keywords such as *ekspluateerimine* (exploitation), *tööekspluateerimine*, *tööalane ekspluateerimine* (labour exploitation), *tööorjus* (labour slavery) very useful as the search did not result in any relevant publications. We also did not find using the combination of *töö* (work) and some destination country, e.g. *töö ja Soome* (work and Finland) to be very useful for the purpose of the media analysis since it resulted in a vast amount of irrelevant articles.

It can be said that the topic of this study is poorly reflected in the independent Estonian media. Most of the articles about human trafficking are highlighting the problems with prostitution and sexual abuse. Although both, prostitution and sexual abuse are extremely important and relevant topics, the press should also function as “the fourth power” to draw attention to the relatively unexplored matter of forced labour and labour exploitation.

Trafficking in human beings for the purpose of forced labour has received relatively little attention in the media scene compared for example to human trafficking with the purpose of sexual exploitation. The topic of forced labour has become a more important issue to write about in different publications only in the last 4–5 years. Different publications throughout different times have argued that Estonia is a target country, a transit country and a country of origin for the purpose of forced labour and labour exploitation. These articles attempt to provide an overview of the current situation.

There is a discernible pattern among these publications – the main topics of these articles are different cases of involuntary work where victims have been forced (by deceit, violence or taking advantage of their difficult situation) to work under conditions different from what had been agreed upon. These publications also describe the fact that in almost every case the employers have withheld peoples' documents, so that they could not end the employment relationship nor leave the country. Such experiences damage the well-being of the victims and often cause irreversible consequences to their quality of life. Therefore, there is a need to understand the nature of this problem, to collect information regarding this matter and strengthen cooperation to prevent the crime. There were mainly two different approaches in these publications: one described the situation of the victims and the other describing the current situation of the problem (how much information there is about this matter, what has to be done with that information, what are the possible solutions etc).

5.1.1 Presentation of the labour migration issue

There is general agreement in the media about the reasons for labour migration from Estonia. In 2004–2006, the newly opened EU market created new opportunities to earn salaries that were several times higher compared to the Estonian salaries for similar work. In 2009–2010, the context of labour migration is often mentioned in the context of high unemployment rate in Estonia.

In 2004–2006, labour migration was often discussed in terms of unpaid taxes. The restrictions of the movement of labour applied by several countries, e.g. Finland, created a situation in which the workers were not directly employed by the Finnish firms, but were “hired”/posted via labour facilitation firms. This created opportunity for the firms to pay wages well below the average level in the country of destination. In general, workers' rights were not protected at all, and awareness on the issue was very low. Another problematic issue was also taxes, as they were often not paid at all in any country.

The main thing that forces Estonians to look for justice is salary and all related issues. [e.g. When an Estonian firm sent its workers to the Nordic countries, the salaries Estonians received were three times lower]. The

biggest problem, however, is employees who are sent abroad by labour facilitation firms. Facilitators do not know much about laws.⁵²

From the very beginning of our observation period until the end of 2010, the issue of labour facilitation firms still remains the main topic of concern regarding trafficking for labour exploitation from Estonia. According to media accounts, in addition to the already mentioned differences in wages and unpaid taxes, facilitation firms were also involved in frauds. Usually, a person who wants to go abroad signs some sort of agreement with labour facilitators, pays a certain amount of money, supposedly to cover transportation costs, and the story ends there: the person is deceived and will not receive a job or anything else in exchange for the money paid. In the mid-2000s, these firms were often illegal and not registered in the Commercial Register. Persons are also deceived in other ways: the person is sent abroad but no work is provided there; the person is charged for the labour facilitation services, although it is illegal etc. Many articles not only report about concrete fraud cases but they aim at raising awareness of the potential labour migrants regarding the problem in general. For example, *Postimees* published in 2010 several articles to raise awareness about the danger of becoming a victim of trafficking or providing information about victim assistance. Some of the titles of the publications will give a general idea of these warnings:

In trouble abroad. Who will help? – *Välismaal plindris. Kes päästab välja?* PM 12/12/2010.

Experienced women can also become victims of trafficking. – *Inimkaubanduse ohvriks satuvad ka elukogenud naised.* PM 19/10/2010.

Estonian Unemployment Fund: When choosing labour facilitator one should be very careful. – *Töötukassa: töövahendaja valikul tuleb olla ettevaatlik.* PM 08/10/2010.

10 recommendations when seeking employment abroad. – *10 soovitus töövahendajale* PM 21/05/2010.

In the media articles, voice is given to police, lawyers, EURES and NGO representatives. In fact, the Estonian Unemployment Fund, represented by EURES, and the NGO Living for Tomorrow are the main actors in awareness raising publications. Their representatives are sometimes authors of the publications, sometimes they are interviewed by the journalists and in some cases publications inform about events organised by these organisations (either separately or in cooperation).

The problem of trafficking for labour exploitation is often discussed in terms of how legally ignorant people are misled by facilitators. The problem is also

⁵² Narusk, A., "Tööandja saadab piiri taha tööle? Uuri riikide tööseadusi". EPL 28/03/05. Available at <http://www.epl.ee/artikkel/288167>.

discussed in general terms regarding how the labour market functions in Estonia. For example, an article published in the EPL looks at the problem of labour exploitation as part of a more general problem in Estonia – an undeveloped work culture. From the point of view of the employer, this problem also concerns unskilful, non-committed and therefore unreliable employee candidates. From the point of view of the employee, we find too many cases in which workers are deceived or fired without reason and proper notification, salaries are not paid etc.

In general, we cannot blame employees or employers only. And there is no point in blaming at all, because the problem is more general. These are signs of an underdeveloped labour market, and the current hectic and unclear labour market policy of the government and lack of clear vision does not contribute to the development of the market either. Endless disputes between employers, trade unions and government on the topic of Labour Law create bigger uncertainty for entrepreneurs as well as for employees. (...) And in what way can a reciprocal respect between employee and employer merge when the question of survival is more and more one's own business and no certainty could be expected from the state?⁵³

5.1.2 Presentation of the victims of trafficking for labour exploitation

The media articles describe trafficking in human beings for forced labour and labour exploitation from and through the country. The victims are citizens of Estonia as well as citizens of some other country. The exploitation takes place in Estonia as well as in some other countries. Generally speaking, Estonian media do not publish articles from the point of view of the traffickers. Feature articles on individual labourers and trafficking victims are hard to find, because almost all of the media reports are about prostitution and trafficking for sexual exploitation. However, since 2006, articles about victims of trafficking for labour exploitation have become more frequent.

Many of these media reports describe the horrifying situation into which the victims have been tricked. Employers are usually represented as violent and having an important role in the victim's life. There is a distinctive difference between the jobs people are tricked into – male victims are mainly forced to work in the construction sector, while women are trafficked to work as domestic help or au pairs.⁵⁴

⁵³ Rumessen, I., 'Toimetaja pilguga: Kultuuritu tööturu mängeeglid'. Ärileht (EPL supplement) 27/05/2009.

⁵⁴ The most colourful example about forced labour among female victims was the article published in March 2010 describing an Asian landlady who had many young women (probably also from Asia, although the article did not specify this) working for her in inhuman conditions in Russia: "The young women had to work 24 hours a day and they were not paid for it.

The fact that the labour facilitating firms abuse different kinds of people for trafficking is not surprising. One of the articles was about an Estonian deaf-mute man who was promised a well-paid job in Greece. The communication manager of the Central Criminal Police commented the article, saying that this kind of scheme works mainly because people with such a disability have difficulties finding a suitable job in Eastern Europe:

Two of the Ukrainian deaf-mute men were able to get together many deaf-mute people promising them a job in Greece or in different South European resorts. But instead of getting a job, they were forced to pay the dealers monthly fees, and if they did not pay, the dealers threatened to harm the workers' relatives in their home country.⁵⁵

Some of the criminals were caught, but two of the main dealers are still on the loose – they go by the names Clown and Doll.

One of the distinguishing features is the fact that the media draws a link between poverty, exploitation and trafficking. The dominant feature is the presentation of the victims as people who are unemployed, living in poverty or in poor conditions and are marginalized to the point where it is hard to find any solution to their current situation.⁵⁶ Many articles mention the lack of resources to deal with human trafficking. In addition, the lack of regulation of the labour market, specifically employment agencies that act as facilitators for employment abroad, are thought to be part of the problem.

5.1.3 Possible solutions

From the analysis of the media reports, three main solutions proposed to tackle the problems of trafficking emerged: changing the legal basis of sanctions; tightening the existing laws to protect people from being deceived by false job advertisements; and raising public awareness with regards to the dangers of human trafficking. Since poverty and inequality are described as main causes of trafficking for the purpose of forced labour, decreasing such conditions is

Whenever they made a mistake, they were punished. The landlady's daughter had her personal slave – (probably still) a child from Kazakhstan. She also worked 24 hours a day, and still got punished." Although the example describes the situation in Moscow, it feels like it is rather close to home. The impression is created that one day we might hear news about young Estonian girls forced to work in such horrifying conditions.

⁵⁵ Ojakivi, M., (2005) Eesti kurtumm langes ukrainlaste aetud inimkaubanduse ohvriks – <http://www.epl.ee/artikkel/300260> (10.11.2010).

⁵⁶ Annist, A. (2005) Presentation of trafficking for sexual exploitation in the Estonian media from 2001 to 2004. – *Trafficking in human beings for sexual exploitation. An analysis of the situation in Estonia*. Helsinki: IOM, Regional Office for the Baltic and Nordic countries, 77–90.

naturally proposed as necessary to deal with this problem.⁵⁷ Raising awareness is seen as the only concrete measure to improve the situation.

Many articles offered practical advice for people who want to work abroad. These articles assumed that people who had become trafficking victims were unaware of what they were getting themselves into. The desire to work abroad was described as implying potential dangers to those not thoroughly prepared. Some articles even warned that the traffickers often have a way of presenting themselves as nice people who only want to help.

Though awareness raising is a powerful tool, it is not a sufficient solution for this matter. A comprehensive understanding and practical solutions to trafficking people for the purpose of forced labour are still needed. This will need a comprehensive approach where the media can play only one among many other necessary roles.⁵⁸

5.2 Labour migration to Estonia

5.2.1 Evaluation of the extent of labour migration to Estonia

The data collected during the study allows the assumption that cases of exploitation of migrant labour exist in Estonia. However, many practitioners and scholars do not believe labour exploitation and forced labour to be problem in Estonia. As there is no regular data collection and registration and no authorized institution to detect labour exploitation cases, the problematisation from the side of authorities remains non-existent.

One of the results of the National Experts' Meeting that was held during the project indicated a common understanding amongst practitioners' that Estonia is mainly a source country of human trafficking. Many experts did not see Estonia as a destination country because of its poor economic situation and high unemployment rate. The statistics, however scarce, demonstrate an increase in peoples' movement to Estonia for economic and labour reasons mainly from lesser developed former Soviet Bloc countries.

Experts noted the difficulties in collecting data about labour migrants from other EU member states due to the Schengen Visa zone arrangements which hampers the possibilities to detect potential labour exploitation cases in Estonia. This leads to the paradoxical situation where on one hand there is data allowing to make assumptions about cases of exploitation of migrant labour in Estonia. At the same time experts still assess the problem to be nearly non-existent, since no concrete cases have been detected.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*

Another reason supporting the denial of the problematic nature of the subject matter relies on the lack of jurisdiction of law enforcement institutions. Currently, no institution has jurisdiction or legal obligation to control the factual situation at the workplace. The Citizenship and Migration Division of Police controls migrant labour in Estonia only in terms of work permit/residence permit but does not identify victims of human trafficking for forced labour or labour exploitation. At the same time, the Labour Inspectorate controls only contractual labour relations, i.e. they have jurisdiction over work relations that are based on the employment contract and not on an authorisation agreement or a service contract. Interviews with relevant national actors demonstrated that there was a lack of interest towards changing the situation and solving the jurisdiction problems.

5.2.2 Awareness raising

Experts we interviewed emphasised the pivotal role of awareness raising among the general public and the authorities engaged in prevention work. There are national good practises regarding this. The non-profit association Living For Tomorrow Hotline provides support for victims of trafficking in human beings and advises persons who wish to study and work abroad safely. It appears from the calls made to the hotline that in the current economic situation advice is often asked in connection with search for work. The callers seek mainly the work of unskilled labour but there are also many people for whom it does not matter what kind of work to do and under what conditions to work. Thus it is important to educate people, especially young people entering the labour market and to explain them what should be taken into account upon going to work abroad, how to communicate with a recruitment company, etc.

One of the target groups is young people, who should be informed more actively since they do not recognize the potential risks related to trafficking in human beings, e.g. the possibility to become a victim of forced labour or sexual exploitation upon travelling or in connection with studies. Another important activity is the organisation of anti-trafficking training for specialists engaged in the prevention of and fight against human trafficking and assisting trafficking victims. Training should be continuous and systematic.

5.2.3 The number of irregular immigrants coming to Estonia is growing

In order to analyse, prevent and deal with potential exploitation of migrant labour in Estonia, an overview of migration trends would be very important. Unfortunately, lack of reliable migration statistics means there is no clear overview of migration flows or the structure of migration. Regarding legal migrants arriving to Estonia from non-EU member states, information of

migration flows can be gained from residence permit applications that are submitted to the Citizenship and Migration Board. However, there are today no clear estimates of neither irregular nor legal migration influx from EU member states.

Irregular immigration is gaining increasing attention. The Border Guard of Estonia is discovering an increasing number of cases where persons, who have received a Schengen Visa, never come to Estonia or continue to other countries immediately upon arrival. The number of irregular entries has increased as well. Legal labour migration is also on the rise. The expansion of the Schengen Visa area did not lead to an increase in the demand for residence permits in general, but the number of applications for short-term residence permits for the purpose of employment has increased.⁵⁹ The only figure increasing a bit over the past 5 five years (2005–2009) was the number of residence permit applications for the purpose of work. Consequently, also the number of corresponding residence permits issued was growing although only insignificantly.

If legal migration indicators were on a moderate decline during past years, then the figures describing illegal immigration were plummeting and decreased about 50 percent or more over the past five years. Also a comparison of the same relevant data describing the number of apprehended illegal immigrants in the country with other EU member states revealed that Estonia was having the lowest corresponding ratio in the EU.⁶⁰

5.2.4 Push-pull factors

Even though the average wages in Estonia are significantly lower than the wages earned in the old Member States of the EU, the geographic location and historic ties facilitate immigration to Estonia from the countries of the former Soviet Union. The largest group of recent immigrants who have come to Estonia since 1992 is from Russia. Of EU countries, Finland and Latvia are the main countries of origin of the recent immigrants.

More than half of recent immigrants (65%) are in the best working age, i.e., from 24 to 49 years. Most of the recent immigrants (69%) have come to Estonia for family reasons.⁶¹

The group of recent immigrants, who arrived for the purpose of employment after the year 2000 includes proportionally more skilled workers, managers, professionals and officials than the local Estonian labour force, but the distribution of occupations varies depending on the country of origin. While

⁵⁹ Employment and Working Life in Estonia, op cit., supra note 28.

⁶⁰ Belitshev, E. (2010) “Trafficking for Forced Labour – Estonia as Possible Country of Destination”. Research Paper, University of Tartu.

⁶¹ Järv, K. Uusimmigrandid Eestis. – Immigrantrahvastik Eestis. Vastutav toimetaja Siim Krusell. Tallinn: Statistikaamet, 2009, p. 35–57.

around three quarters of the recent immigrants from the old EU Member States and other developed states were employed as managers, professionals and officials, an equally large proportion of those who arrived from the countries of the former Soviet Union were employed as skilled workers.⁶²

A survey commissioned by the Ministry of Social Affairs and conducted in April 2009 by the company Turu-uuringute AS indicated that specific skills and work experience are the main reason for recruiting workers from third countries. Despite the current economic situation, there is a continuous demand for external labour. Approximately one-fourth of the employers, who had recruited or had considered recruiting migrant labour, stated that the need for migrant labour would prevail in the near future (two or three years). Most migrant workers were recruited in manufacturing, but education and accommodation were also significant sectors from which institutions recruited or considered recruiting migrant workers.⁶³

The data from the Citizenship and Migration Board (CMB) and the Unemployment Insurance Fund confirm that the majority of applicants for work permits in 2009 were metal workers and ship's hull plate installers.

Experts we interviewed also noted education as one of the possible pull factors for immigrants coming to Estonia. Education could be one of the options for young people to leave their own country and enter legally an EU member state. This phenomenon is supported by the decrease of young Estonian people studying in Estonian universities as many of them seek better opportunities in old EU member states as well as the fact that the population of Estonia is ageing significantly over the coming years due to the low birth rate. Immigrants migrating for the purpose of studies may very likely become temporary residents in Estonia. They may see Estonia as a 'gateway' to Western Europe because of its favourable geographic location and geopolitical position (democratic society where it is possible to study and work in Russian) and the opportunity for further migration to Western European countries.

The interviewed experts did not foresee a noticeable increase in asylum seekers or forced migrants coming to Estonia in the nearest future but rather estimated the number to remain on the current level. Of course there is always the risk that the arriving asylum seekers are not bona fide refugees but trying to benefit from their poor situation.

⁶² Krusell, S., 'Välismaalased eesti tööturul. – Ränne.' Vastutav toimetaja Alis Tammur, Helerin Rannala. Tallinn: Statistikaamet, 2009, p. 67–74.

⁶³ Employment and Working Life in Estonia, op cit., supra note 28.

5.3 Labour migration from Estonia

5.3.1 Push-pull factors

Specialists in labour force facilitation have said there is an increased pressure for finding work abroad, because the situation in the Estonian labour market has rapidly deteriorated over the last year⁶⁴. Even though Estonia has no reliable data for evaluating the total immigration and emigration flows, the migration surveys of the Bank of Estonia allow the conclusion that the outflow of labour from Estonia increased in 2008.⁶⁵

In the light of the current statistics, and because of the overall depressing situation in the labour market, the risk of trafficking in persons for forced labour and labour exploitation has grown remarkably. According to the International Organization for Migration (IOM) in 2008, an estimated 10,000 to 15,000 Estonian residents had a permanent employment arrangement in a foreign country.⁶⁶ With regard to emigration from Estonia, the main push factors for regular migrants are economic considerations, mostly employment.

This phenomenon is particularly marked amongst Russian-speaking men from the region of North-Eastern Estonia⁶⁷ where there is the largest Russian-speaking community, the members of which are mostly either non-Estonian citizens or stateless people⁶⁸. Many of them are immigrants or descendants of the Soviet period immigrants in Estonia. In many EU host countries, migrant labour met with difficulties because of the rapidly growing unemployment rate since the economic recession in 2008. Depending on countries of destination, migrant workers are known to be most affected in such sectors (construction, manufacturing, hotels and restaurants) in which unemployment has grown.

⁶⁴ Gavronski, A. Huvi välismaal töötamise vastu on hüppeliselt kasvanud. – ERR uudised, Aktuaalne Kaamera, 12.07.2009, available at <http://uudised.err.ee/index.php?06170843>.

⁶⁵ Employment and Working Life in Estonia, op cit., supra note 28.

⁶⁶ Facts and Figures – Estonia. Available at <http://www.iom.int/jahia/Jahia/activities/europe/nordic-and-baltic-countries/estonia>.

⁶⁷ According to the statistical data provided by the NGO Living for Tomorrow, 54% of the callers in 2009 were men, and 23% of all callers were from the region of North-Eastern Estonia, and 85% of all callers were Russian speaking.

⁶⁸ In Estonia, there are currently approximately 100,000 stateless persons, i.e. people without citizenship. They are mostly descendants of Russian speaking immigrants who migrated to Estonia during the Soviet Union period and were not granted Estonian citizenship after the re-established independence of the Republic of Estonia in 1991. The argument of the Estonian government was based on the fact that the 1940 Soviet occupation was *de jure* illegal and not recognized by the majority of states; therefore, the immigrants who have arrived in the Baltic States during the illegal occupation period after 1940 are considered to be irregular immigrants and not entitled to the Estonian citizenship. The same applies for their descendants.

Due to the poor economic situation, low education level and little knowledge of the Estonian language, Russian-speaking people (mainly men) seek job opportunities abroad.

This trend is also demonstrated in the increased number of telephone calls to the non-profit association Living For Tomorrow Hotline that advises persons who wish to study and work abroad safely. It appears from the calls made to the hotline that in the current economic situation, advice is often asked in connection with search for work. The callers seek mainly unskilled jobs, but there are also many people for whom it does not matter what work to do and under what conditions to work.

An analysis of changes in employment from 2007 to 2008 indicates that an overwhelming majority (89%) of those who had worked abroad for some time during the year before the survey continued to be employed in 2008, and even if unemployed, did not seek to return to Estonia⁶⁹.

This situation can be explained by a number of factors. Return migration flows generally correspond more with economic, social and political developments in the country of origin, and with the ease of circulation, than with economic conditions in the countries receiving immigrants. Migrants often choose to remain in the host countries despite deteriorating labour market conditions in order to preserve social security benefits. The adverse economic and employment situation in the country of origin also discourages them from returning. The ease of circulation and the strength of attachments that migrants maintain with their countries of origin are also important variables that influence return migration.⁷⁰

5.3.2 Main destination countries and sectors involved

Most popular destination countries for Estonian nationals, both Estonian and Russian speaking, are the United Kingdom, Finland, Norway, Germany and Sweden. In the choice of destination country, language skills play an important role (the United Kingdom, Finland and Germany), and so does the geographical proximity to the home country (Finland and Sweden) and the presence of previous networks, relatives or acquaintances in the destination country. The latter is very characteristic for Finland where most people find the job not via labour facilitators in Estonia but through established networks of friends and acquaintances⁷¹.

⁶⁹ Employment and Working Life in Estonia, op cit., supra note 28.

⁷⁰ Papademetriou and Terrazas, 'Immigrants and the Current Economic Crisis', available at http://www.migrationpolicy.org/pubs/lmi_recessionionJan09.pdf.

⁷¹ See relevant information also in the Finnish national report.

According to the expert interviews, construction, seasonal jobs, social care, and cleaning work tend to be most affected by the large number of employed migrant labour and possible labour exploitation cases, or even forced labour.

In the United Kingdom, the most popular sectors tend to be accommodation, cleaning, housekeeping and social care. In Norway they are the fishing industry (men), cleaning (women) and construction (men). In Finland, the main sectors for migrant labour from Estonia continue to be construction (men) and cleaning (women). Most migrant workers are men aged 20–30 years and women aged 40–50. Women, mainly Russian-speaking, seek employment also in seasonal jobs (agriculture) whereas men are interested in unskilled work in construction. According to the interviewed experts of EURES in Tallinn, Ireland was about two years ago one of the most popular destination countries for Estonian nationals. However, this has changed since the economic recession in 2008.

Chapter 6: The nature of exploitation

Our study is mainly focused on migrant workers who have left Estonia for a job abroad. In principle, most of them have volunteered to go, and have actively sought employment abroad. Thus, they have not been forced at gunpoint to go to work abroad. With regard to their exploitation, as in the case of exploited migrant workers in Finland⁷², their initial consent to move and to work is irrelevant. What is central, instead, is that they have been deceived, they are dependent and helpless, and that their working time and leisure time have been controlled. In other words, they have been exploited by their employers or recruiters or other intermediaries.⁷³

Human trafficking for forced labour follows a certain pattern: the worker is looking for work through a seemingly official procedure, but the working conditions are worse than promised, and the worker is subjected to exploitation, be that long working days or sub-standard wages or housing conditions.⁷⁴ The worker is usually not able to leave his/her job as he/she is being controlled by the employer with physical or psychological violence, threats, restrictions of the freedom of movement, or the retention of his/her identification documents.⁷⁵

The following chapter deals with the nature of labour exploitation in the context that Estonian nationals have faced abroad, since Estonia is mainly a country of origin for trafficking for forced labour or labour exploitation. We have structured the chapter keeping in mind the ILO indicators of trafficking of adults for labour exploitation.⁷⁶ The list of indicators distinguishes between deceptive recruitment, coercive recruitment, and recruitment by abuse of vulnerability. As the list of indicators is quite long, we included into our analysis only those that were relevant to cases of trafficking for labour exploitation from Estonia. Indicators of exploitation in the ILO list are: excessive working days or hours, bad living conditions; hazardous work; low or no salary; no respect of labour laws or contract signed; no social protection (contract, social insurance, etc.); very bad working conditions; wage manipulation. Nearly all of these indicators were explicitly mentioned in the experts interviews conducted for the current study. The detailed analysis of recruitment and exploitation indicators is presented below.

⁷² Jokinen et al. (2011). *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 63. Helsinki: HEUNI.

⁷³ Ibid.

⁷⁴ See Surtees (2008) cit. Jokinen et al. (2011). *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 61. Helsinki: HEUNI.

⁷⁵ Jokinen et al. (2011). *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 61. Helsinki: HEUNI.

⁷⁶ ILO (2009). *Operational indicators of trafficking in human beings*. Geneva: ILO.

6.1 Recruitment

In most cases our experts referred to, the victims were recruited in their home country, i.e. in Estonia. How networks and organisations find victims or victims find them, varies from case to case.

6.1.1 Labour facilitation companies

The interviewed experts revealed that most of the victims of labour exploitation or deceit have found out about job opportunities abroad via labour facilitation companies. The most common way of finding job adverts is either via internet or in newspapers. Some contact facilitators on their own initiative, asking whether they have any job offers abroad.

The victim found a job advert on the internet, on a well known jobseekers' website, offering a well paid job in construction in France. (Interview with a victim by the Estonian Public Broadcasting Company)

There have also been cases in which labour facilitation companies put their adverts up in local schools:

A labour facilitation company advertised its services in a general school in Narva, offering to help to find a job abroad for 2,000 EEK. (Expert interview)

According to an interviewed expert, it is very rare that a person finds a job directly from an employer abroad. Mostly, there is no direct contact the with employer at all.

There is always a middleman who takes care of everything, communicates with the employer, collects the fees etc. Basically, he is the one who commits the deceit and sometimes even the exploitation. The victim has no contact to the employer, and very often does not even know who the employer is or where the work place is going to be. (Expert interview)

The common pattern is to take money from the victims. As labour facilitation has to be free of charge in Estonia⁷⁷, facilitators involved in a deceit disguise the fees to be paid for other services such as uploading the victim's CV on a database, consultation etc.

They start by asking 500 EEK for uploading the person's CV on some database or for consultation. Then they go in by asking 3,000 EEK for

⁷⁷ Art 12 Labour Market Services and Benefits Act, RT I 2005, 54, 430, entered into force 1 January 2006

some sort of training, or they sign a “sponsorship contract” with the person, or tell the person that the facilitation contract is already an employment contract. (Expert interview)

Lately, they have been saying that the fees are for finding an accommodation and for the deposit for the accommodation. (Expert interview)

A labour facilitation company, in order to operate legally, needs to be licensed⁷⁸. Experts mentioned that up until a few years ago, the main issue was the lack of a license which made it easier to detect potential companies that break the law and are involved in deceit. However, by now the awareness has improved, and most of the facilitators involved in a deceit are fully licensed and thus not so easily detected any more.

One of the major issues that emerged in the survey was the issue of activity licenses required from labour facilitation companies. Several companies have been found that have been active in the labour market for a decade and have been detected to be problematic and often involved in illegal activities. However, they continue to operate, as after losing their activity license they will just register a new company under a different name and on a different address. Further research would demonstrate clearly that the owner of the company is the same person who owned all the previous ones that lost their activity license because of illegal undertakings.

Many experts thought that activity licences are issued too easily, and that they are being insufficiently controlled. Unfortunately, it remained unclear to the experts which institution is in practice responsible for issuing activity licenses for labour facilitation companies or which institution or organisation has the jurisdiction to execute regular control over their activities. According to the law the Ministry of Social Affairs is responsible for the task.⁷⁹

One of the very common recruitment methods used by facilitators is to exert pressure on the person, rushing him/her into making a decision and signing the documents very quickly without allowing him/her to read the documents previously.

They use the “hastening” technique saying “you don’t have time to think about this offer. If you don’t pay the fees now and sign the contract with us, the job will be gone and given to someone else. You need to leave home tomorrow as the employer needs someone a.s.a.p. (Expert interview)

Many of the cases remain a simple deceit and do not develop into an actual labour exploitation situation. In these occasions, labour facilitation companies

⁷⁸ Art 4 Commercial Code, RT I 1995, 26–28, 355, entered into force 1 September 1995.

⁷⁹ “Tööturuteenuste ja -toetuste seadus” § 39 available at: <https://www.riigiteataja.ee/akt/13337559?leiaKehtiv>.

just deceive people to pay amounts of money promising them to find a job abroad. After the money is received from the victims, they can no longer be reached, i.e. they do not reply phone calls, messages, or emails, and have relocated their office.

It was obvious that this was the kind of office that you can “pack up in 5 minutes and disappear”. (Expert interview)

6.1.2 Other recruitment methods

As mentioned in the previous chapter, people often find job opportunities abroad via personal networks, or acquaintances. One of the patterns that have emerged during the past three years is mostly related with exploitation cases in Finland. In this pattern, an Estonian national woman is married to a Finnish man and they have established a construction company. The woman, as she is usually able to communicate effectively in both Estonian and Russian, and has good knowledge of local systems and legislation in Estonia, is responsible for recruiting labour from Estonia either by internet adverts or through personal networks. As the husband is Finnish, he knows the Finnish system and legislation in terms of how to establish a construction company, to deal with employment contracts, and to find the loopholes in respective labour and corporate legislation.

It can be called a “system of spouses”. An Estonian national woman recruits labour from Estonia. Labour facilitation fees are being usually disguised under “training fees”. The employer, i.e. usually the Finnish national husband, organises the accommodation for labour. Accommodation fees are normally deducted from the wages, however living conditions are below any normal standard. Additionally, such exploiters do not pay the taxes either. (Expert interview)

6.2 Elements of exploitation

6.2.1 No work in the destination country

According to the media sources and expert interviews, one of the most common features regarding labour facilitation is that people are deceived of large amounts of money in exchange of empty promises. This does technically not amount to labour exploitation or forced labour but might create a situation in which the deceived person has no other option but to fall into the trap of labour exploitation or forced labour.

The situation begins as a person enters into a contract with a labour facilitation company, paying the company for their services. In exchange, the company promises the person a job abroad. The deceit techniques were described in more detail in the section on labour facilitation companies above. As a consequence of

the deceit, the person travels to the destination country at his/her own cost, and ends up with nothing. Very often, the person has been promised to be met by a local representative at the airport of the destination country. Upon arrival, no one is waiting for the person and he/she has no information as to where exactly to go, as the victims of deceit have usually not been informed about their employers or the location of work. Facilitators make sure that they remain the only contact of the deceived person.

As the victims tend to have a poor economic background, and they have usually paid all their money and savings to the facilitators (service fees, transport costs etc.), or in a worse case, even taken a loan to go abroad, they find themselves in a very vulnerable situation that might easily ending up in exploitative situations.

There was recently a case where a young man was promised a job in XXX. He spent all his savings to pay the facilitators and had resigned from his job in Estonia. The facilitators had used the hastening technique with him. He was told that someone would meet him at the airport in the destination country. Upon arrival, there was no one expecting him. He didn't speak the language, had no money to get back home, and had no idea of where to go. (Expert interview)

In most cases, the victim's family is not financially in a position to pay for the travel back to Estonia. Unfortunately, we have no information on how these people manage to return to Estonia. The job opportunity that the victim was hoping to have abroad was the last chance to improve the financial situation of the whole family. Therefore, although the situation does not amount to labour exploitation, it creates a situation where the victim becomes even more vulnerable for traffickers and is at risk of becoming the victim of human trafficking for labour exploitation or forced labour.

6.2.2 Actual work differs from the promised one

In many cases mentioned by the experts, persons who have been facilitated abroad end up in work that is quite different from what was initially promised.

Girls were recruited as dancers. At the place they were forced to do cleaning work, working as hostesses, and in some cases were even engaged in prostitution. (Expert interview)

As described in the previous section, victims very often lack resources needed to return home. Thus, they find no better option than to accept the work that has been offered to them, no matter how bad the conditions or how small the salary.

Usually they get a job that is much more difficult and different than the one they agreed to do originally. As they had paid so much money to get there (the country of destination), they accept it and continue working as this is at least some kind of possibility to earn some money to get back home. (Expert interview)

Initially he was being promised a construction job in XXX. But then it turned out to be repair work in some restaurant for 20 euro a week. He was sleeping in the basement of the restaurant and didn't get any wages or food. The employer told him to eat the food from the freezer that had passed the expiration date. Yet he stayed there for the whole week and finished the job. (Expert interview)

We were promised a light job in ship construction. Basically the final refinement work. (Interview with a victim by the Estonian Public Broadcast)

In another case, people were initially promised a job in the accommodation sector in country XXX.

Upon arrival, there was no job, and they were forced to distribute flyers in the streets of city XXX for 2 months. The employer kept them there on false pretences, promising them to start with the job in accommodation next week. (Expert interview)

6.2.3 No written contract or double contract system

Work without a written contract is a very common method of controlling migrant workers. This method is very strongly related to the low awareness of the general public about their basic rights and labour laws whether in Estonia or in any other country.

Working without a written contract is one of the ways to control the worker. Without written proof the worker has major difficulties providing evidence of exploitation to the police, the labour inspectorate, or trade unions. As the experts said, employers very often detain the worker at the work place, promising to sign a contract as soon as possible, be that next day, week or month. The employees continue working without a written contract, as leaving would constitute becoming unemployed.

As employers are very often subject to labour inspectorate or trade unions control, they prepare double contracts: one for the authorities, i.e. labour inspectorate, trade unions, police, and another that is an actual agreement with worker. This is a method commonly used in order to misrepresent the number of working hours, wages or any other working conditions.⁸⁰ Another common method is to sign a “fake-contract” with the worker, and destroy it afterwards, the actual working conditions then becoming completely different from the ones in contract. As the contract has been destroyed, the worker has again no evidence to claim his/her rights.

⁸⁰ See also Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 67–68. Helsinki: HEUNI.

6.2.4 Sub-standard housing conditions

Sub-standard housing conditions may be seen as an indicator of the exploitation of migrant labour, or as an indication of the dependent status of the workers. Since most victims who come from Estonia have a poor or very poor economic background, they have often been accustomed to very modest accommodation standards in their home country and may thus accept lower standards also in the country of destination.

Often the accommodation provided is below normal standards: sometimes it is just more crowded than usual, sometimes the employees live in the workplace or places not suitable for living such as barracks or tents that lack sufficient hygiene and washing facilities, running water, or even electricity. The same issue also occurred and was mentioned repeatedly by several experts in the Finnish report in the cases of migrant labour from Estonia working in Finland.⁸¹

They were living 8 people in one small room and had no washing facilities. (Expert interview)

In the construction industry, the worst cases of sub-standard living conditions were found:

They were living at the work place in a barrack with no running water or washing facilities. Yet, when turning to the police, they never complained about their living conditions but considered them to be “tolerable”. (Expert interview)

We were staying 8 and 11 of us in a very small apartment and slept on the floor. There was no shower. As we didn’t get any salary we couldn’t buy food for days. (Interview with a victim by Estonian Public Broadcast)

There have been cases where people have lived in tents in the winter. (Expert interview)

Providing accommodation enables the employer to monitor his/her employees also outside of working hours, call them to work any time of the day and any day of the week.⁸² No cases where the workers would actually have been locked into the provided accommodation were referred to in the Estonian expert interviews.

⁸¹ Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 85–86. Helsinki: HEUNI.

⁸² *Ibid.*, 87.

6.2.5 Threats

The use of threats may have various forms in the context of labour exploitation. In most cases, the victims have been threatened with the termination of the employment. Many of the experts we interviewed mentioned this kind of threat to be the most common form of exploitation and force. Since employees face the serious risk of having no job whatsoever in their home countries, they agree to work under sub-standard conditions for extensive periods of time.

Experts revealed that giving notice and repeated firing of workers is also one common means of controlling the employees. For some employers, it is easier and cheaper to “recycle” the workers, and to keep recruiting new people continuously, rather than to allow old employees to continue and become more aware of their rights.⁸³ This practice is more evident in the construction sector where people are being hired only for a month or even shorter periods of time without any written contract and fired shortly afterwards for “failing to perform the work duties”. Usually the person receives minimum wages for the short period of work. This “recycling” method enables the employer to complete the job with minimum labour costs.

According to the experts, a very common method applied in Finland by the employers, is to say that if the worker contacts the labour union or labour inspectorate, he/she will get fired right away. The risk of being fired may explain why workers who have experienced different kinds of exploitation never report such cases to the authorities.⁸⁴

6.2.6 Physical violence

Employers and criminals are able to control the victims by using threats and violence as means of control. According to the interviewed experts, it is more common that exploitation of migrant labour involves psychological violence and different kinds of threats than physical violence. One of the interviewed experts had heard of sexual violence committed by the employer during the employment. The expert mentioned two cases where the employer had inflicted sexual abuse to control the worker. Both workers were women.

A Norwegian employer was exploiting sexually this woman for 6 months or even more until she was finally able to turn to the police. (Expert interview)

⁸³ Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 103–104. Helsinki: HEUNI.

⁸⁴ See also Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 104. Helsinki: HEUNI.

A 19 year old girl was working in a casino in Cyprus and was sexually abused by the employer. (Expert interview)

6.2.7 Sub-standard wages, delayed wages or no wages

While cases of physical violence are very rare, economic control is the main means to control the victims of labour exploitation. Economic means such as the underpayment of wages or delays in the payment of wages make the victims dependent of the employer. It is very common that the employer does not compensate extra working hours as stipulated in the respective legislation or collective agreements. There are also cases in which the migrant workers have known that their salary ought to be higher,⁸⁵ but they are in a situation where it is better to accept this little or have nothing.⁸⁵

The men working in construction in Ukraine received no salary whatsoever for their work (expert interview). The same can be noted in the case of the three men working in construction in France (interview with a victim by the Estonian Public Broadcast), and in the case of the two women in seasonal work in Spain (expert interview). However, the problem most often described by the experts concerned Estonian nationals employed in construction work in Finland.

Similar to findings presented in the Finnish national report, our interviews demonstrate that Estonians who look for employment abroad may be satisfied with the pay which is lower than what is paid, for example, to legally employed Finns in Finland or Swedes in Sweden for the same job, as the salaries they would receive in Estonia would still be even lower, or they would not have any work at all.⁸⁶

6.2.8 Long working hours

Many interviewed experts said that it is very common that exploited migrant workers are regularly working for more than the usual 40 hours a week. This was again mentioned particularly regarding Estonian nationals working in Finland.

They work 7 days a week, 3 weeks in a row, no days off. If they're lucky, they get to go to Estonia 2 days a month. (Expert interview)

⁸⁵ Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 91–93. Helsinki: HEUNI.

⁸⁶ *Ibid.*, 92.

Exhausting workers with long working hours is one very efficient means of control as workers get so exhausted that they cannot complain or escape.⁸⁷ They eventually become apathetic.

6.2.9 Retention of passport

According to the ILO, retention of a person's passport or other identity document is one of the central indications of forced labour⁸⁸. In our data, there were a few references to passports having been taken away from the workers. Often employers or facilitators take passports from the victims claiming that they need the document to provide some permits, to arrange for accommodation etc. However, usually the passports are just kept in the possession of the employer in order to control the workers.

Their passports had been taken to provide the workers with some permission to access the construction site. Bizarrely, the workers lived at the construction site and they couldn't say for sure whether the access permission was even necessary or not. (Expert interview)

6.3 Vulnerabilities of victims

As stated in the previous chapters, Estonia is mainly a source country, and to a lesser extent a destination country for trafficking for forced labour and labour exploitation.

Due to the global economic recession Estonia is facing challenges of a high unemployment rate, a decrease in average income and general living standards, and an increase in long-term unemployment. All these consequences of the economic crisis have a major impact on the daily lives and socio-economic status of people in Estonia. This increases the risk of trafficking in persons for forced labour and labour exploitation as economic considerations, mostly employment, are the main reason with regard to emigration from Estonia.

6.3.1 Socio-economic background

Recent research on the labour migration potential conducted by the Ministry of Social Affairs confirmed that the main reasons of looking for employment abroad is to find any kind of job and to earn better wages. Only one-third of those looking for long-time employment and slightly less than one-half of

⁸⁷ See also Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 93–94. Helsinki: HEUNI.

⁸⁸ ILO 2005, op cit., supra note 5.

Estonians looking for long-time employment abroad would want to be employed in a position that corresponds to their qualification. However, the majority would agree with a less qualified job.⁸⁹

In the course of our study, we established that a low socio-economic status is the main risk factor of victims of labour exploitation and forced labour. According to experts, on average people who are actively seeking for a job abroad have either been unemployed for quite some time or are employed in Estonia but subjected to sub-standard working conditions, unpaid wages (for months) and even in debt. What is also important is that work without contract, lower salaries and unpaid wages are not a new situation they usually encounter abroad, since this is what often has been their reality already in Estonia. The salaries they are being paid when they look for employment abroad are in any case better than what they earned in Estonia. This makes the victims obviously more dependent upon the employer, facilitator or exploiter abroad in terms of housing, transport, and employment since they have no financial security or stability and they very often come from families of an even worse economic background.

Experts stated on many occasions how a poor socio-economic background played a pivotal role in a person becoming the victim of deceit or sub-standard working conditions.

People with higher education level never agree to work without a written employment contract or agree to work in sub-standard working conditions. (Expert interview)

I mean he called us and said what can I do? (...) I have no job in Estonia to come to and I have no money to pay for my return trip. (Expert interview)

6.3.2 Language skills

Our study demonstrates that language skills, or more precisely, the lack of them, increase the vulnerability of migrant workers at the hands of exploitative employers and traffickers. A survey conducted by the Ministry of Social Affairs shows that 43% of Estonians looking for employment abroad see that the lack of language skills may be a problem for them.⁹⁰

Experts noted during the interviews that it is much easier for people without language skills to be deceived by labour facilitators.

The contract he signed was in English and the facilitator knew he could not speak any other language but Russian. So it must have been conscious deceit. He [the victim] did not understand what he was

⁸⁹ Veidemann, B. (2010) op. cit., supra note 26.

⁹⁰ Veidemann, B. (2010) op. cit., supra note 26.

signing; only what he had been told by the facilitator. (Expert interview)

As described in previous chapters, most people who wish to emigrate from Estonia are Russian-speaking men from the North-Eastern Estonia region that is mainly a Russian speaking area. Most of the job seekers do not even speak Estonian, and are thus having difficulties of finding information and knowledge about their rights. However, there have been cases of migrant workers from Estonia with language skills who have been exploited anyway.

There was a case of young Russian-speaking men who were detained and deceived and forced to live in sub-standard living conditions in the United Kingdom for 2 months. Despite having good knowledge of English they were still vulnerable at the hands of exploiters. (Expert interview)

6.3.3 Awareness of rights

The studies conducted within the framework of the Nordic-Baltic information campaign against trafficking in women in Estonia in the beginning of the 2000s have shown that young people have an increasing interest in working in a foreign country, and the general understanding is that living abroad always results in a higher standard of living. These studies demonstrate that in general, Estonian people have a poor knowledge of the risk of human trafficking for forced labour and labour exploitation.⁹¹

The study of the labour migration potential shows that in 2010, potential labour migrants were less aware about job opportunities abroad compared to 2006. Only 47% of respondents said they are well or rather well informed about job opportunities abroad, while in 2006 this figure was 60%. Despite the increased number of media reports on the victims deceived by labour facilitation firms, the potential labour migrants do not perceive this problem to be actual. Estonian residents looking for employment abroad are most of all interested in receiving information about vacancies abroad (24%) and general information about formalities when moving abroad (23%). The respondents were not interested in learning more about the background of the employer or the working conditions.⁹²

In our study we established that Estonian people not only have poor knowledge of human trafficking but also about exploitation, labour rights and of human rights in general. Anyone who does not know how to seek a job abroad in a safe manner or how to legally enter into an employment contract may easily be at risk. Traffickers lure victims with the promise of legitimate employment or the

⁹¹ For further information see for example Pajumets, M. (2002) and Espere, K. (2004).

⁹² Veidemann, B. (2010) *op.cit.*, supra note 26.

opportunity to live and study abroad. They tend to befriend victims or attempt to pretend to be legitimate job facilitators⁹³. Experts who were interviewed for the study all referred to cases in which employment facilitators, both illegal and legal, have taken advantage of the ignorance and trust of people and demanded unjustified payment, failed to provide the promised service, violated the rules regarding working conditions, etc.

The low awareness of their basic human rights and labour rights was clearly demonstrated in the cases of Estonian migrant workers in Finland. People are not aware of their right to belong to trade unions nor are they aware of the protection that trade unions can provide in terms of working conditions and workers' rights. Thus, the migrant workers mostly face problems related to the payment of wages, salary discrimination, failure to pay compensations for evening, night, and Saturday and Sunday work, etc. There were also cases, in which the migrant workers have known that their salary ought to be higher, but they are in a situation in which it is better not to complain to the employer and to demand proper wages (see section 6.2.5 on threats).

The low awareness is related to the fact that most people seeking jobs abroad have a low educational level. They are mostly simple workers and 'blue collars' whose knowledge and understanding of complex legal issues such as labour rights, basic employment contract requirements, or non-discrimination stipulations are limited. Very often they feel that they are in no position to require better living standards or working conditions as this would result in unemployment (see section 6.2.5 of threats).

⁹³ United States Department of State, 'Trafficking in Persons Report 2009 – Estonia', op cit., supra note 32.

Chapter 7: Institutions and authorities dealing with human trafficking

7.1 Citizenship and migration division of police

The Citizenship and Migration Division of Police (CMD) elaborates necessary proceeding regulations and draft law proposals that regulate migration surveillance and migration control. The CMD searches information on potential illegal immigrants in Estonia via a systematic internal database control that contains information about issued residence permits for the purpose of work. If a person is allowed to stay in Estonia on the grounds of short-term labour migration permit, regular checks of different databases makes it possible to find out whether the conditions of the residence permit have been breached.

If the validity of the temporary residence permit for the purpose of work has expired, the CMD makes an immediate employment control in order to detect whether the person is still employed in Estonia. With the termination of the residence permit, the person loses legal grounds to stay in the country and thus becomes an illegal immigrant and faces deportation. The CMD also executes random raids at work places that are potentially employing migrant labour (e.g. ethnic restaurants) to check the legal status of the employees. Raids can be performed on the basis of clues and information provided by other authorities such as the Tax and Customs Board, the Border Guard, or from the press.

There have also been cases in which an immigrant has turned to the CMD himself making the request to leave Estonia. By doing so, he/she usually reveals information about his/her employment which can be then investigated further by the CMD officials. However, the problem in terms of potential migrant labour exploitation cases or forced labour in Estonia relies on the fact that the CMD controls migrant labour only in terms of work permit/residence permit, but does not identify victims of human trafficking or forced labour/labour exploitation. This is partly because of the lack of jurisdiction to do so and partly because of the low awareness among migration surveillance officials to identify relevant cases.

7.2 Centre of extradition

Detected illegal immigrants in Estonia are sent to the Centre of Extradition (the Centre) which is a sub-organisation of the Police and Border Guard. The Centre does not interfere with the criminal or migration proceedings of illegal migrants, but only detains persons residing illegally in Estonia, and executes court judgements of deportation.

The Centre is a maximum security area from where detainees are only allowed to leave for procedural (participation in court sessions) or medical reasons (necessary check-ups at hospitals). Sometimes, detainees are permitted to leave the Centre on severe personal grounds such as funerals of a family member. The Centre does not collect any data regarding exploitation of migrant labour or potential human trafficking cases for labour exploitation and forced labour. The Centre is not looking at anything that may have happened to the detainees before they end up in the Centre.

7.3 Estonian embassies abroad

Estonian embassies play an important role in providing assistance to Estonian nationals abroad. As one of the illustrative elements of trafficking in human beings cases for labour exploitation and forced labour is withholding the victim's documents. In order to return to the home country, victims need to have the relevant documents.

Very often victims try to turn to Estonian embassies abroad with a general request for help, as was noted by the experts:

A 19 year old Estonian girl being exploited in XXX country turned to the Estonian embassy in XXX country writing "I am working here in casino and I was being abused. I managed to leave and I have no place to live or any money to buy food nor am I able to buy the return ticket to Estonia. Can you please help me to get back to Estonia?". (Expert interview)

However, the embassy officials apparently lacked experience to identify the victim of labour exploitation who was potentially trafficked, as their answer was: "Please turn to your family in order to get back to Estonia". The embassy did not take any further steps to investigate the matter, nor did they make any effort to report the case to local law enforcement authorities, or inform the girl about victim assistance options. The reaction of the embassy was peculiar especially as the girl gave them all her contact details and used the word 'abuse' which has a very serious meaning.

In another case a husband was contacting the Estonian embassy in XXX to help her wife who was being exploited. The embassy did not believe him and considered the case to be "just a jealous husband chasing her wife abroad". Later, it appeared that the wife had been a victim of both sexual and labour exploitation.

Very often victims find it difficult to turn to an embassy as these are usually located in the capital of the foreign country, while the exploitation may occur in smaller towns "in the middle of nowhere". Many times, victims do not even know where exactly they are, nor do they have facilities, such as access to e-mail or telephone to contact the embassy. Access to an embassy may also be effectively hindered because of the lack of financial resources. Since the

transportation costs are high in most of the destination countries of Estonian nationals. This is aggravated by the fact that victims of exploitation are often not receiving any salary for their work, and they may have spent all their savings to pay high recruitment and/or transportation fees; also they are due to pay excessive fees for accommodation, food or working tools, or they have received a loan or an advance which makes it impossible to leave the employer.

Unfortunately, embassies are not recording data relevant to trafficking in human beings for labour exploitation and forced labour. However, one of the goals in the Government's Development Plan for Reducing Violence for the Years 2010–2014 is to raise the awareness among embassy officials by systematic training to improve their ability to identify victims of human trafficking and labour exploitation and forced labour.

7.4 Labour market organisations

Labour market organisations (including the Labour Inspectorate, the Estonian Chamber of Commerce and Industry, the Estonian Employers' Confederation, the Estonian Unemployment Insurance Fund) have not participated sufficiently in the prevention of labour exploitation so far, and have not received adequate information concerning trafficking in human beings for forced labour.

At the same time, there has not been much discussion on what could be the role of labour market organisations in the prevention of trafficking in human beings. Only rarely, employers have been engaged in discussions on topics related to trafficking in human beings. Consequently, in order to raise the issue of labour exploitation, the efficiency of cooperation shall be improved and first of all education and training shall be provided to the employers in order to prevent potential cases of forced labour. Officials of the Citizenship and Migration Division of the Police have pointed out the need for stricter control in order to inspect the working conditions of workers who have immigrated into Estonia.

7.5 Police

According to our expert interviews, the cases of labour exploitation of migrant workers, and human trafficking are challenging to the crime investigation authorities to investigate. When a case of exploitation of migrant labour has been detected, the case is reported to the police. The case may be reported by, for example, an organisation specialised in helping victims, a private person, or the victim him/herself. Since there are very few police officers who are specialised in the investigation of such offences, the interviewed experts pointed out that

investigations of these crimes may be challenging, or may even be discouraged.⁹⁴

The common awareness among police officers is still considered to be very low, despite the issuance of guidelines for the identification of and provision of support to victims of trafficking in human beings (prepared by the Ministry of Social Affairs in 2009) and training provided by victims' support experts.

According to our experts interviews, the cases that reach the police are very often terminated as criminal proceedings already in the pre-trial investigation phase. This is caused by many different reasons. The lack of time and human resources at the police is now aggravated due to the budget cuts that were introduced after the economic recession in 2008. Thus, the number of police officers was reduced significantly, and many of those who continued their employment suffered from salary cuts. This obviously reduces the work motivation of the police officers. Since the cases of labour exploitation of migrant workers, and human trafficking, are challenging to investigate, the lack of time (as one police officer has now very likely more work assignments than before) slows down or prevents the investigation to be initiated.

Unfortunately, we were only able to conduct one interview with a police officer who admitted that he had very limited experience in investigating labour exploitation and human trafficking cases.⁹⁵

Additionally, the awareness of exploitation and basic human rights is very low among the general public. People do not know how to submit a report on a crime, or sometimes are not even aware of the circumstance that a case could/should be reported to the police. When the victim of exploitation finally overcomes psychological and legal obstacles and approaches the police he/she may not know what exactly to report.

He/she does not go to the police saying "I'm being exploited". He/she goes to the police saying "I haven't received any salary" or "living conditions provided by the employer were really bad". In the first case, the police officer will tell him/her to turn to the Labour Dispute Committee, and in the last case he/she will most likely be laughed at. (Expert interview)

Either way, police officers dealing with cases and victims of human trafficking or labour exploitation need to be very well prepared and trained in order to be able and ready to investigate such case in a professional fashion. Today, however, such professionalism and readiness is absent. Unfortunately, we could not access pre-trial investigation materials as they fall under severe restrictions implied in the law. Authorities are not permitted to communicate any sensitive

⁹⁴ See also Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 116–117. Helsinki: HEUNI.

⁹⁵ This also relates to the criminal proceedings barrier in the first time proceedings that was described in the chapter on the legislative analysis.

personal data to third parties without the consent of the person concerned. It is therefore difficult to comment upon the information given by the experts regarding the lack of capabilities of the police.

7.6 Prosecutor's office

The Prosecutor's Office directs the pre-trial proceedings and ensures the legality and efficiency thereof and represents public prosecution in court.⁹⁶ The authority of a Prosecutor's Office in criminal proceedings is exercised independently by the prosecutor in the name of the Prosecutor's Office, and the prosecutor is governed only by law.⁹⁷

Since there are no relevant court cases of labour exploitation or forced labour or human trafficking for these purposes, criminal proceedings are difficult to initiate. Prosecutors are generally speaking not well aware of the relevant criminal offences, and lack previous experience in prosecuting human trafficking for labour exploitation and forced labour cases.

During the criminal investigation, the prosecutor attempts to collect as clear evidence of the crime as possible. The stories of the victims and the suspects are rarely the only evidence available of the matter, and from the prosecution's perspective, documentary evidence is often more important than oral testimony. In investigations of labour exploitation, employers breaking the law are in many ways trying to mislead the authorities regarding, i.e., the length of the working day and the payment of wages, and this may hamper the securing of evidence of the crime committed.⁹⁸

But in the case where it's just employer's word against employee's word, so if there are no records of working hours, no written contract, no evidence of unpaid wages, then we may come across problems regarding the evidence. (Expert interview)

In the court trial, perception and cross-examination problems related to victims may cause problems to the prosecutor's work, and have impact on how successfully the prosecution proceeds in court, and on the outcome of the trial. Being under psychological pressure, victims may easily break down during the cross-examination, and thus change their story during the trial.

As the courts and prosecutors are not familiar with the criminal offence, the outcomes of the first proceedings might be unpredictable. At the moment, human trafficking cases are prosecuted under article 133 of the Penal Code, i.e. as enslavement. The wording of this article stipulates that the victim must end up in

⁹⁶ Art 30 (1) Code of Criminal Procedure, RT¹ I 2003, 27, 166, entered into force 1 July 2004.

⁹⁷ *Ibid.*, art 30(2).

⁹⁸ Jokinen et al. (2011): *Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland*, 121–122. Helsinki: HEUNI.

the exploitative situation against his/her will, which requires the prosecution to provide evidence of the broken will of the victim.

As observed above, victims usually do not consider themselves as victims and very often feel guilt and shame of ending up in the exploitative situation. Thus, for the defence it is very easy to break the victim during the cross-examination. The court's inexperienced perception of the elements of the unknown criminal offence, the unreliability of the victim's testimony, and insufficiently documented evidence might result in acquittal verdict. This is why the first proceeding of a new criminal offence is of crucial importance, especially when it comes to such a sensitive criminal offence as human trafficking or labour exploitation and forced labour.

7.7 The Labour inspectorate

The Labour Inspectorate (LI) is a government agency operating under the Ministry of Social Affairs. Their functions include carrying out administrative proceeding; to approve administrative acts and rules; to carry out extrajudicial proceedings concerning misdemeanours to the extent prescribed by law; to commence criminal proceedings and to carry out urgent investigative actions and to resolve individual labour disputes pursuant to procedure prescribed by law.⁹⁹

However, LI officials have the jurisdiction to control only contractual labour relations, i.e. employees who are working with an employment contract. This gives rise to various issues in data collection and detection of cases of migrant labour exploitation. Firstly, the LI does not have the jurisdiction or competence to detect cases of migrant labour exploitation. The LI has not yet identified 'pure labour exploitation cases' but admit the possibility to have come across clandestine labour exploitation that would need further investigation. However, as one of the experts noted

In order to investigate you need to have a personal motivation and interest in the topic. (Expert interview)

Secondly, raids to work places are being executed upon previous notice to the employer. Although there is no obligation to notify the employer about the planned raid, it is a common working practice. Additionally, raids are being carried out at the registered address of the employer and not at the actual work place where the exploitation may take place. Thirdly, the LI has no legal right to check a persons' identification.

It is impossible to identify whether the person entered into and signed the employment contract is really the same person who is factually working. (Expert interview)

⁹⁹ Official website of The Labour Inspectorate, available at <http://www.ti.ee/index.php?page=10&>.

The only institution that has the jurisdiction for a person's identification is the police.

Unfortunately, police officers are not able to accompany labour inspectors on each raid or not even on the ones where there is a suspicion of labour exploitation or any other breaches of law. (Expert interview)

The LI receives telephone calls and e-mails concerning exploitative labour situations in Estonia, but thus far they have not kept a record of the received data.

7.8 Trade unions

The Estonian Trade Union Confederation (ETUC) operates to ensure that the principle of social justice is respected in society. The EAKL represents the employees' interests in collective agreements and protects employees' rights in employment relations, consults employers on developing a sustainable labour market and the government on developing a socially sustainable economic model.¹⁰⁰

Unfortunately, the role of trade unions has been insignificant in regards of labour exploitation and forced labour cases of migrants in Estonia or raising awareness of liabilities of seeking work abroad. In the course of our project, we were unable to conduct interviews with trade unions representatives. Therefore, the following comments have not been supported by official opinions of trade union representatives.

What was stated above about the lack of interest among labour market organisations towards the topic, applies to the participation of trade unions in the prevention of labour exploitation so far. Also they have not received adequate information concerning forced labour for the purposes of trafficking in human beings.

Our society is not able to provide protection for employees. If an employee turns to the Labour Dispute Committee, he/she will most likely be fired, and the employer receives a reprimand at the most. [...] The development and awareness of communication between employer and employee, work ambience and the culture of employment relations have been neglected in our current society. Maybe it's a question of general democracy development and the lack of experience of employers and employees. (Expert Interview)

¹⁰⁰ Official website of Estonian Trade Union Confederation, available at <http://www.eakl.ee/index.php?pid=418&lang=7>.

At the same time it is rather clear what the role of trade unions could be in the prevention of trafficking in human beings and exploitation or forced labour of migrant workers in Estonia. Issues of trafficking in human beings have been only little discussed with the trade unions. Therefore, in order to raise the issue of labour exploitation, the efficiency of cooperation should be improved, and first of all education and training should be provided to the trade unions in order to prevent potential cases of forced labour and working under forced working conditions.

In conclusion, our study indicates that the main problem regarding the relevant institutions in Estonia seems to be the lack of a state-imposed jurisdiction to control the factual situation at the factual workplace.

Chapter 8: Summary and recommendations

8.1 Summary

In recent years, the issues of trafficking in human beings for labour exploitation and forced labour have been recognised as a new aspect of human trafficking. The objective of the study presented in this report was to analyse the nature of trafficking for forced labour in Estonia, to provide an overview of exploitative situations existing in Estonia, including which economic sectors are especially affected, how such exploitation has been prevented, and whether relevant actors and authorities recognize and identify human trafficking victims for forced labour and labour exploitation.

Since this is a pilot project in the subject matter, we are happy to conclude that the study proved to be successful. Although several legal and practical obstacles prevented us from collecting as much data as we were initially hoping, we were nevertheless able to gather sufficient information for an initial overview of the situation in Estonia. We thus hope that this study provides an initiative and inspiration for further studies concerning trafficking in human beings for forced labour and labour exploitation.

8.1.1 Problems encountered during the study

The main problem we encountered during the study was the unavailability of relevant information. This issue concerned mainly pre-trial investigation materials and court verdicts. The access to the former is prevented by the Personal Data Protection Act that defines information concerning the commission of an offence or victimisation to an offence sensitive personal data before a public court hearing, the decision in the matter of the offence, or the termination of the court proceeding in the matter. Pre-trial investigation materials fall under these restrictions, since they involve sensitive personal data and are not allowed to be shared even for the purpose of research.

Another problem encountered during the current analysis was the lack of relevant cases and court verdicts. Thus, we could not receive any first-hand information but had to rely on second-hand and third-hand information and experience. This is also the reason why the description of cases in our study remains limited since we simply did not have any further information about them. However, as we learned from the expert interviews, this situation reflects the perception of human trafficking for labour exploitation amongst Estonian authorities. As we described also in chapter 5, most of the state authorities do not recognise trafficking in human beings to be a problem for Estonia.

In our study we were faced with difficulties when trying to reach victims of trafficking for labour exploitation and forced labour. This was partly because of

the victims' self-perception and partly due to the lack of an official victim assistance system. Victims of labour exploitation and forced labour very often do not see themselves as victims and thus do not report to any authorities about the experienced exploitation. The problem occurred also because none of the institutions that had come into contact with exploitation victims were keeping records on cases or potential victims. Contact between (potential) victims and institutions usually takes place in the form of consultation that, as a rule, is not recorded at all. In such a situation, we could only rely on the information provided by the experts.

8.1.2 Main findings

Estonia is mainly a source country of human trafficking for forced labour and labour exploitation. To a lesser extent, Estonia is also a destination country for migrants coming from former Soviet Union member states.

Estonia as a destination country

Most migrant workers arriving to Estonia are from former Soviet Union countries and are in general unskilled workers with a low educational level. Mostly, they are employed in the construction sector or the services sector (ethnic restaurants, massage salons etc). Unfortunately, there is very little data available about (potential) migrant labour exploitation and forced labour situations in Estonia. Potential labour exploitation of migrant labour from EU countries is difficult to detect due to the Schengen Visa zone arrangements.

The problematisation from authorities remains non-existent because law enforcement institutions lack jurisdiction. At the current point, no institution has jurisdiction or a legal obligation to control the factual situation at workplaces. Conducted interviews with relevant national actors demonstrated, unfortunately, the lack of interest towards changing the situation.

Estonia as a source country

The most popular destination countries for Estonian nationals, both Estonian and Russian speaking, are the United Kingdom, Finland, Norway, Germany and Sweden. According to the expert interviews, construction, seasonal job, social care and cleaning sectors tend to be those most affected by the large number of employed migrant labour and possible labour exploitation cases or even forced labour.

According to media sources and expert interviews, there is increased pressure for finding work abroad, because the situation in the Estonian labour market has deteriorated rapidly in the last year. The high unemployment rate, the decrease of the average income and the general living standard, and the increase of long-

term unemployment are the factors that have made people to seek for employment abroad and thus increased the risk of trafficking in persons for forced labour and labour exploitation. These vulnerabilities are in general accentuated by the lack of language skills; potential risk group people do not speak at all or speak only very poorly the language of the destination country.

In our study, we established that Estonian people have poor knowledge of human trafficking as well as about exploitation, labour rights and of human rights in general. This is strongly influencing their behaviour as migrant workers.

Media

The topic of our study is in general poorly reflected in Estonian media. This demonstrates a generally low awareness of human trafficking for forced labour and labour exploitation. Most of the trafficking-related articles concern sexual exploitation and prostitution cases.

Media are mainly reporting about deceit and/or fraud cases committed by labour facilitation companies. The voice in the articles is usually given to a few national actors that are more active in the media than state authorities. Such media reflection creates distinctive links between poverty, exploitation, and trafficking, emphasising the problematic socio-economic background of the victims, and stressing that the victims 'share the burden' and guilt in the exploitation.

Legislation

Estonia lacks a trafficking-specific law, and existing laws do not adequately prohibit and punish all forms of human trafficking. This is seen as a problem by many practitioners and scholars as it creates difficulties in data collection and statistics. The research findings indicate that the focus of legislation and law enforcement agencies was upon sexual exploitation rather than labour.

Currently, there are no court verdicts regarding trafficking for forced labour or labour exploitation. Human trafficking related cases that reach the court are usually about trafficking for sexual, not labour exploitation. It is evident that most of the cases that might be related to labour exploitation or forced labour end up in court based on the fraud article¹⁰¹ in the Penal Code even when they comprise trafficking elements.

¹⁰¹ Art. 209 stipulates fraud as 'A person who receives proprietary benefits by knowingly causing a misconception of existing facts', Penal Code, RT¹ I 2001, 61, 364, entered into force 1 September 2002.

8.2 Recommendations

Based on our main findings, we have made recommendations to improve the current national situation in Estonia regarding human trafficking for forced labour and labour exploitation.

Recommendations pertaining to legislation:

- Development and implementation of a human trafficking-specific criminal provision in the Estonian Penal Code that incorporates a definition of trafficking in persons in conformity with the UN Palermo Protocol and Council of Europe convention.
- Conducting an in-depth legal analysis of existing fraud cases and labour discrimination cases together with pre-trial investigation materials in order to detect potential trafficking in human beings for forced labour and labour exploitation cases.
- The issuing of activity licenses to labour facilitation companies should be based on stricter criteria, together with executing regular control over their activities.

Recommendations pertaining to institutions:

- Broadening the jurisdiction of the Citizenship and Migration Division of Police or the Labour Inspectorate so as to require them to control the factual situation at work places in order to identify potential labour exploitation cases or even forced labour situations in Estonia.
- Strengthening the role of trade unions so that they become the institutions that protect the labour rights of Estonian workers abroad and help to prevent migrant labour exploitation in Estonia.

Recommendations pertaining to victim assistance:

- Broadening the role of Estonian embassies abroad by training and general awareness raising to assist Estonian nationals who have become victims of human trafficking for forced labour or labour exploitation.
- Providing Estonian embassies abroad with the obligation to record all data regarding trafficking in human beings for forced labour and labour exploitation, in order to acquire an overview of potential trafficking cases of Estonian workers abroad and to provide them with the necessary assistance.

Recommendations pertaining to data collection:

- Broadening the tasks of the Labour Inspectorate of recording and systematically collecting complaints and data regarding exploitation of migrant labour and Estonian labour, in order to facilitate further research and to acquire an official overview of potential labour exploitation and forced labour situations in Estonia.

Recommendations pertaining to awareness raising:

- Raising the awareness of the general public concerning their human rights, labour rights, and human trafficking by means of developing the trade unions, providing training, and creating study curricula. Relevant national actors should resort to media more often as the 'fourth power' to raise the awareness about the topic.
- Raising the awareness of officials and authorities about the phenomenon by means of systematic professional training to the effect that throughout the chain of proceedings, the specialists dealing with cases of trafficking in human beings obtain a common understanding of the problem of trafficking in human beings, including the identification of victims, and the need and possibilities for referral for professional assistance, and specifications of this procedure.

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Obligation to Leave and Prohibition of Entry Act, RT¹ I 1998, 98/99, 1575, entered into force 1 April 1999.

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Trafficking for Forced Labour: Project Summary and Conclusions

Anniina Jokinen & Natalia Ollus

Summary of project activities

The FLEX project was premised on the fact that in the EU at large trafficking in persons for the purpose of forced labour has received relatively little attention as compared to trafficking for sexual exploitation. Moreover, the movement of labour continues to increase within and to the EU. While documented cases of forced labour and related trafficking remain low, there is evidence of an increase in various forms of labour exploitation of migrant workers.

The aim of this project and joint report was to describe the national situation regarding trafficking for forced labour and labour exploitation in Finland, Poland and Estonia and to improve data collection in order to gather better information on trafficking for forced labour and related phenomena. Our objective was to understand the kind of exploitative work situations that exist in the three countries; whether forced labour situations exist and whether these situations include elements of trafficking; which economic sectors are especially affected; what is being done to prevent such exploitation; whether relevant actors and authorities adequately identify victims of trafficking for forced labour and whether sufficient mechanisms exist to assist the victims.

In this project, we used both a qualitative and quantitative approach to collect information on trafficking for forced labour, e.g. expert and victim interviews, pre-trial investigation materials, court judgements, statistics and media sources. One of the outcomes of the project is a pilot methodology which can be used to carry out research on trafficking for forced labour, as well as to collect data on this phenomenon.

In each of the countries, the project built a network with relevant national actors to inform the process and facilitate access to various data sources. National meetings which were very well attended in all the three countries formed a basis for cooperation and exchange of information at the national level. Participants included representatives from the police, the border guard authority, prosecutor's office, labour inspectorates, immigration service, trade unions, employers' unions, NGOs, etc. The meetings discussed trafficking and labour exploitation and provided a platform for knowledge-sharing between the various actors. For example in Finland, the discussions addressed concrete cases of exploitation of migrant workers and the participants discussed the characteristics and nature of trafficking. Furthermore, challenges relating to the recognition, identification and prevention of the phenomenon, and needs for improvement, were identified. In Poland, the national expert meeting discussed the current legislation as well as

the need to enhance the identification of cases and raise public awareness. The Estonian meeting discussed the problems attached to the oversight and identification of exploitative situations in Estonia, the lack of a criminal provision on trafficking and ways in which victims can be encouraged to seek help from law enforcement and other institutions.

Moreover, throughout the course of the project an international network of contacts was built, resulting in one international expert meeting organised in Helsinki in December 2010. The participants included representatives from the International Labour Organization, United Nations Office on Drugs and Crime, International Organization for Migration, the European Commission, the Council of the Baltic Sea States, and the Bureau of the Dutch National Rapporteur, as well as practitioners and project partners from Finland, Poland and Estonia. The meeting examined how to improve data collection on trafficking for forced labour and the draft pilot methodology was presented and discussed. The meeting also focused on the definition of trafficking for forced labour and participants discussed the differences between trafficking versus exploitation, as well as the elements which constitute the offence of forced labour.

The national reports of all three countries were finalised in early 2011, and the research findings were discussed at national seminars which were well attended with the research being well received by the participants. In Finland, HEUNI organised a seminar in February 2011 entitled “Trafficking in Human Beings in Finnish Work Life” together with the Finnish National Rapporteur and the Central Organisation of Finnish Trade Unions (SAK).¹ The Finnish report was launched at a press conference at the beginning of the seminar and was disseminated to the participants of the seminar who were in excess of 150. The topic and the findings of the report have also been discussed widely in the Finnish media, including in the major newspapers and TV news and as a result, an active discussion on exploitation of migrant workers and trafficking for forced labour is currently taking place in Finland². In Estonia, the findings of the project and the Estonian situation were discussed in a national seminar in February 2011. The seminar also discussed how to incorporate the findings of the research with the current government measures to counteract violence, including trafficking in persons. In Poland, the team organised a national meeting in February 2011 with 40 participants to discuss the issue of trafficking for forced labour and the recommendations regarding identifying and assisting the victims, as well as the role of labour unions and employers’ organisations in tackling the phenomenon.

In the three countries, discussions were also held on the need for further research and studies to be carried out on the topic of trafficking for forced labour. The

¹ The seminar presentations are available at:
<http://www.ofm.fi/intermin/vvt/home.nsf/headlines/2740B79FD50C3DEBC225781E00319AE9?OpenDocument>.

² The Finnish report was presented and discussed in at least twenty internet newspaper articles, in more than twelve print media articles, and in at least seven TV and radio appearances.

pilot methodology, developed under the auspices of the FLEX project, provides suggestions for further data collection and research into trafficking for forced labour.

Pilot methodology

One of the aims of the FLEX project was to describe trafficking for forced labour by using a large variety of different data sources. While many trafficking studies have developed a standardised methodology and indicators on trafficking, this project aimed at producing a comparative methodology which is locally applicable and incorporates both qualitative and quantitative information sources allowing for a more systematic data collection. Keeping this objective in mind, we encouraged innovative thinking throughout the project with regard to possible information and data sources.

The concrete result of the FLEX project is a pilot methodology which allows for describing trafficking for forced labour in a broad sense, and extends to cases beyond those that are known cases of trafficking. In addition, the methodology allows for data collection in situations where there is only limited official data and statistics, or where there are no criminal cases (cases that have entered the court). The methodology thus also allows for the description of potential or suspected cases of trafficking, i.e. situations where there is merely an indication that it might be trafficking.

The pilot methodology is intended to be universal and can be applied in different countries and contexts. The methodology is inherently qualitative in nature and is particularly suitable in situations where there is only limited information available. The focus of the pilot methodology is not solely on the trafficking process, but also incorporates a focus on whether situations of labour exploitation include forced labour and other exploitative outcomes of trafficking.

The pilot methodology consists of three parts:

- a comprehensive table listing possible data/information sources;
- a research methodology which includes the identification of key experts to be interviewed, the identification of relevant criminal cases for analysis, and an analysis of the current social and legal context, and;
- an analysis of the materials using the ILO indicators (ILO 2005b; 2008; 2009b) and existing legal practice.

We have not included the international legal framework in the methodology as such but our methodology is in essence based on the international definition of

trafficking in human beings and forced labour. Thus, the common international definitions form the starting point of the methodology.³

1) Sources of information

In the context of the FLEX project we have tried to identify all the key sources of information on trafficking for forced labour and labour exploitation (see Annex 1). We created a table which lists all potential sources of information identified by the FLEX project members. The aim of the list is to present an overview of how to collect state-of-the-art information on trafficking for forced labour in a comprehensive manner. We realise that not all the information listed in the table is easily or readily available. Some of the information might be difficult for researchers to access. In addition, some of the information may not only refer to trafficking for forced labour, but may instead describe exploitation of migrant labour in a broader sense.

The table in Annex 1 firstly lists the source of information, the prerequisites for the use of the information, as well as the strengths and weaknesses of the information. Finally, the table suggests a possible method of analysis of the data.

The pilot methodology has been used to different degrees in the three country reports but not all the listed sources of information have been used. The table is based on the actual data sources used in the research in the three countries but it also includes a variety of potential data sources, which we could not, due to time and other constraints, use during the course of the FLEX project. However, we hope that the suggested pilot methodology, together with the suggested data sources will provide a basis for additional studies on trafficking for forced labour in the three countries, and also in other countries in the European Union and beyond.

2) Research methodology

The suggested pilot methodology relies on a specific research method. The first element of the method is the identification of key actors and practitioners in the country in question. These actors can provide expertise and information on trafficking for forced labour. In the context of the FLEX project we used national expert meetings as a platform for identifying experts. We invited a variety of experts who either come in direct or indirect contact with the issue of trafficking for forced labour to attend a national expert meeting on the topic. The assumption was that these experts possess valuable information on the phenomenon and that by interviewing them, an insight to the topic can be gained. The first element of the methodology is thus to identify potential expert

³ Key international instruments include the UN Palermo Protocol and the ILO Conventions No. 29 and 105 on forced labour.

interviewees from the group of national experts. The experts can then be interviewed using a specific thematic interview template (see Annex 3).

In addition to experts, it is useful if victims of trafficking or labour exploitation can be interviewed. While important ethical measures must be taken into consideration when interviewing victims of trafficking or other exploitation, these persons have valuable and unique first-hand information. With the exception of one interview, the researchers of the FLEX project interviewed only victims of trafficking (who had been defined as victims of trafficking by some authority). The proposed pilot methodology however suggests that returned migrants or victims of various degrees of labour exploitation be interviewed as well. In this regard, the ILO methodology of interviewing returned migrants (see Andrees & van der Linden 2005; Andrees 2009) provides useful and interesting methodological suggestions.

The proposed research methodology also requires that existing national legislation and legal practice be analysed. In the context of the FLEX project, the Polish team analysed a number of existing court cases on trafficking for forced labour and drew conclusions on the phenomenon based on the characteristics found in the court cases. In Finland, the researchers focused on analysing the definition of trafficking and forced labour in the context of existing court cases on crimes that resemble trafficking (such as extortionate work discrimination). In Estonia, as legislation on trafficking is lacking, the analysis looked at describing the phenomenon at a more general level.

3) Framework of analysis

The ILO indicators (ILO 2005b; 2008; 2009b) form the framework for the analysis (see Ollus & Jokinen 2011, 22–23 for an analysis of the indicators). Based on these indicators, the collected data and information can be analysed vis-à-vis whether they contain elements of trafficking for forced labour or not. These indicators are particularly useful in situations where there are no existing court cases on trafficking for forced labour (as in Finland and Estonia). In Poland, where there were existing court cases on trafficking for forced labour, the existing legal practice was used as a frame of reference.

The pilot methodology is flexible and can be applied in different situations, circumstances and legal contexts. The main idea behind the development of the method was to approach the phenomenon of trafficking for forced labour from the grassroots level, concentrating on finding information beyond existing statistics and official information.

We believe that the proposed pilot methodology complements the existing quantitative data collection recommendations and proposals (e.g. ILO 2009b; IOM & B.MI 2009; Surtees 2009; Vermeulen & Paterson 2010). While the methodology does not provide a template for data collection, it provides a suggestion as to how to qualitatively study trafficking for forced labour and labour exploitation in a variety of settings, and as such, it provides an important

addition to the discussion on the measurement of the phenomenon of trafficking in human beings. A summary of the main findings of the research in the three countries follows.

Summary of the research findings

According to this study, Finland is a destination country, Estonia mainly an origin country and Poland both a destination and an origin country of trafficking for forced labour. The situation in these countries is different with respect to the legislation, practices, actors and agencies involved, but the phenomenon itself shows similar traits in all three countries.

According to the research, the victims come from different countries which tend to be poorer than the destination countries. Both Finland and Poland have been destination countries for people coming from Asia, but it is also clear that people from within the EU, from Eastern Europe and former Yugoslavian countries end up as victims of forced labour in Finland and in Poland. The victims of trafficking identified in this research project usually lack language skills, and many speak only their mother tongue. They end up working in sectors such as agriculture, shipyards, construction, restaurant and service sectors, commerce, different seasonal jobs or as domestic servants..

Often victims are already indebted prior to arriving in the country of destination due to travel costs and different recruitment fees they have paid. Recruitment fees seem to be particularly common for workers coming from Asian countries. However, the Estonian research shows that Estonian workers have also paid recruitment fees. The research in Finland and Poland shows that victims are misled or even deceived by recruiters and intermediaries who make false promises and paint rosy images about the terms of work, length of employment and the salary paid. Sometimes no work is provided in the destination country, or the work is only part-time despite promises of a full-time job.

Research in Finland and Poland shows that the perpetrators are often of the same nationality as the victims. This means that they usually know how to exploit their countrymen and women, to take advantage of them, control and threaten them in different ways. However, it is also evident that some of the perpetrators are natives of the country of destination.

The research shows that victims are exploited in many different ways. Trafficking for forced labour is clearly present in many of the cases studied if one uses the ILO indicators (2005b; 2008; 2009b) on forced labour as a measure of the worst forms of exploitation in trafficking. The victims are usually paid very low salaries without any mandatory compensations or extras. There are also examples of victims receiving no salary at all. General working conditions are often poor, and the accommodation provided by the employers is expensive and often lacks basic amenities.

Victims find themselves under constant supervision and control and they are very dependent on their employer. They often work 6–7 days a week, 8–15 hours a day. Victims may have written work contracts in languages they do not understand. It also seems to be rather common that there are two different work contracts: one in the native language and one in the language of the destination country. These two contracts have different terms of employment and the aim of having two of them is to mislead the authorities in the country of destination into believing that the employee is hired under adequate terms.

The research shows very few indications of situations where the victims are physically locked in the work place. However, there are numerous indications of situations where their freedom of movement is limited in different ways and their passports and money are taken away. Victims are thus isolated from the surrounding society and remain unaware of their own rights and the terms of employment that are acceptable in the destination country. Direct use of violence seems to be somewhat rarer than various subtler forms of control and coercion. The research shows examples where the victims and their families have been threatened. Debt is also a powerful means of control, as it reinforces the victims' dependency on the perpetrators. Debt was present in many of the cases studied in the three countries. These various means of control are used in combinations which render the victims unable to quit the job and leave. As such, they are in a situation of forced labour.

According to the findings of the research, involvement of organised crime groups differ between the three countries. In Poland, there are cases of involvement of organised crime groups, but in the Finnish and Estonian data there were no direct indications of organised crime involvement.

The issue of leased and posted workers also became evident in the research as a potentially vulnerable group to exploitation. The research shows that the terms of employment of leased and posted workers are often precarious. This topic would warrant further research from the perspective of trafficking for forced labour.

Furthermore, problems regarding the identification of victims and cases and the provision of victim assistance are similar in all three countries. The victims of trafficking for forced labour and labour exploitation rarely want to contact authorities on their own. They often do not identify themselves as victims of trafficking and are often afraid of the authorities and of deportation. They hardly ever talk about the exploitation they have encountered even after they have returned home. This was particularly evident in the Estonian research, as the researchers had great difficulties finding informants willing to talk about their experiences of exploitation as migrant workers.

The research in Finland and Poland also shows that criminal investigations concerning the exploitation of migrant workers and trafficking for forced labour are lengthy and complex. At the very latest, problems emerge when the investigation leads abroad, as joint investigations and mutual legal assistance is often time-consuming and cumbersome. Also the attrition rate of cases seems to be high. This reflects the problems that exist during the investigation and again

in the prosecution of cases. Furthermore, the resources of the investigative authorities are often insufficient and most importantly, the law enforcement actors lack expertise to adequately identify cases.

Finally, the three studies confirm the premise that the phenomenon of trafficking for forced labour is particularly hidden. It is clear that the cases that come to the attention of the authorities represent merely the tip of the iceberg in all three countries. There obviously exist therefore huge difficulties in the identification of potential cases. In Poland, where court judgements on trafficking for forced labour do exist, the researchers maintain that there are still major problems in raising the awareness of the authorities and of the general public (Lasocik & Wieczorek 2011). Only very serious cases are identified as trafficking for forced labour in Poland. As such, victims have problems getting the help they need. (Ibid.) The Finnish research shows that while no judgements on trafficking for forced labour have been passed in Finland, the relevant cases are usually dealt with as extortionate work discrimination or as other work-related offences instead (Jokinen et al. 2011). Insufficient awareness on trafficking for forced labour among different authorities and actors, as well as stereotypical thinking hinder the identification of trafficking cases (ibid.). In Estonia, no specific prohibition of trafficking in persons exists (Kask & Markina 2011). The researchers argue that the level of awareness of trafficking for forced labour is not only low among the authorities, but also among the general public. It seems that the problems that arise during the criminal proceedings are attributable to the fact that relevant cases never reach court or are dealt with as fraud cases. (Ibid.) Estonians and Estonian Russians may end up as victims of trafficking or labour exploitation abroad only to return home without reporting the abuse they faced to anyone.

Based on the research findings from Finland, Poland and Estonia, below we finally arrive at some joint conclusions and recommendations about what can be done to counter the phenomenon of trafficking for forced labour and exploitation of migrant workers. We also make suggestions regarding data collection and further research on trafficking for forced labour and labour exploitation.

Conclusions and recommendations

The premise of the FLEX project was that the phenomenon of trafficking for forced labour is interconnected between the project countries of Estonia, Finland and Poland. While Estonians and Poles are among the largest groups of migrant workers that come to Finland, they also travel beyond Finland to the other Nordic countries and to Western and Southern Europe to work. A considerable percentage of Estonians and Poles work abroad, but we do not have comprehensive information about the exploitative situations they may encounter. Clearly, more information is needed on what distinguishes successful migrant workers from those migrants who become victims of exploitation, or at worst, trafficking for forced labour.

- We therefore recommend that following ILO practices (Andrees 2009), a survey on the experiences of returned workers be conducted in Estonia and Poland.
- In Finland, the same experiences could be captured by doing exit surveys at harbours and border crossings on people who are returning to their home countries. This would also improve the data that is available on the exploitation of migrant workers.
- The data collection efforts of various authorities in the three countries need to be streamlined. There is also a need to collect basic data on trafficking for forced labour. This is closely linked to the identification and recognition of cases.

Furthermore, while the volume of trafficking in the North-Eastern sub-region of the EU is not perhaps as high as in other parts of the European Union, we believe that the particular characteristics of trafficking for forced labour in this region are equally useful for understanding the phenomenon elsewhere. The results of the research show that the elements of trafficking for forced labour in Estonia, Finland and Poland are similar to the elements of trafficking for forced labour found in research in other countries in Europe. Our research confirms that the elements of the offence of trafficking for forced labour do not have to include extreme violence, coercion or force, but that victims are effectively exploited through more subtle and psychological means of control.

The research findings also indicate that making the distinction between trafficking for forced labour and other forms of labour exploitation is challenging. While both Finland and Poland have specific legislation criminalising trafficking for forced labour, current legal practice from both countries shows that the implementation of the definition is difficult.

- At least in the case of Finland, further guidelines on the interpretation of the definition of trafficking for forced labour is clearly needed.
- In Poland, there also seems to be a need to further elaborate on what constitutes trafficking for forced labour versus other crimes of work-related exploitation or forced labour as such.
- In Estonia, it is evident that a specific provision on trafficking is needed. Since Estonia is mostly a country of origin, attention should be paid to uncovering illegal recruitment practices and the facilitation of trafficking. To tackle this phenomenon, legal measures should also be taken against those who organise and facilitate such crimes

The research clearly demonstrates that there are real connections and overlaps between exploitative labour conditions and trafficking for forced labour. However, drawing strict lines between these may be counterproductive, especially from the point of view of the victims. Regardless of how the victims' experiences are defined by the criminal justice system, they have been victimised and should be helped.

Moreover, the research shows that cases of trafficking for forced labour are not adequately identified in the three countries. This is certainly the case as well in other parts of the European Union. In order to enhance the identification of victims and cases of serious exploitation, there is a need to improve the general awareness of the phenomenon not only among all the relevant actors, but also among the general public.

- Practitioners, in particular, should be educated about the indicators and the elements which constitute trafficking for forced labour so that they can identify potential victims and cases. Identification is a precondition for investigation, prosecution, conviction and compensation to victims. Mere identification is however not enough.

Victims also need assistance and help to overcome their ordeal and to be able to partake in criminal proceedings. The existing systems of assistance to victims of trafficking tend to focus on victims of sexual exploitation but the needs of victims of labour-related trafficking may be different from the needs of victims of other types of trafficking.

- Specific low-threshold services targeted to victims of trafficking for forced labour are needed in all three countries.

The project findings also indicate that practitioners do not necessarily know what to do when they encounter a potential victim of trafficking.

- National referral mechanisms should therefore be developed in the three countries.
- Finland has a National Rapporteur on human trafficking, and this kind of independent office should also be established in Estonia and Poland.
- In addition, more significant resources for the authorities, NGOs and other actors are needed to combat trafficking. This also requires that trafficking for forced labour be placed high on the political agenda.

Finally, following Andrees (2008), we argue that trafficking for forced labour exists within a continuum of exploitation. It exists in an environment where migrant labour is exploited and abused in many different ways in order to maximise the profits of the employers and their companies. The exploitation of migrant workers may take many forms, but when does simple exploitation turn into trafficking for forced labour? Taking into account the ILO indicators on forced labour as well as the definition of the Palermo Protocol, we have argued in our research that exploitation may turn into trafficking for forced labour when the migrant worker is unable to quit his or her job and step away from the control of the employer. If the worker cannot leave because of his or her dependency on the employer, due to the position of vulnerability and control enforced by the employer, it may be a case of trafficking for forced labour. It is our responsibility to identify such cases and to treat the victims of this crime with respect and dignity and to provide them with the help and assistance they need.

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Annex 1: Pilot methodology table

Information source	Description of the type of information	Preconditions	Strengths	Weaknesses	Suggested research method and analysis
INTERVIEWS					
Expert interviews	<p>Interviews with selected experts within a set thematic framework/template</p> <p>E.g.:</p> <ul style="list-style-type: none"> - Police - Border guards - Prosecutors - Judges - Trade Unions - Employers' organisations - Labour Inspectors - Migration authorities - Work permit authorities - Lawyers/Legal aid - Official victim assistance system - National Rapporteur or equivalent - NGOs (victim assistance, immigrant associations etc) - Faith-based organisations/church 	<p>Careful selection of interviewees, identification of the “best” experts</p> <p>Networking with experts (e.g. through the national expert meetings)</p> <p>Building of trust and motivation to participate (importance of personal contacts and institutional credibility)</p> <p>Suitable thematic interview template</p> <p>Informed consent</p> <p>Selection of interviewers, sensitivity, interviewer training</p>	<p>A variety of sectors and kinds of information (views)</p> <p>Information from the field/grassroots-level</p> <p>Get the opinion of the organisation</p>	<p>Biased information (only know what they know)</p> <p>Don't want to reveal all details they know</p> <p>Hearsay</p> <p>Don't want to mention/reveal weaknesses of their own organisation</p> <p>Don't want to give their own opinion, only the official line</p>	<p>Recorded (if possible) thematic interview</p> <p>Quantitative questionnaires to experts</p> <p>Coding and analysis</p> <p>Thematic analysis, discourse analysis, narrative analysis</p> <p>Quantitative analysis of questionnaires</p>

	<ul style="list-style-type: none"> - Social workers - Ministry of Foreign Affairs/consular officers - Relevant Ministries (Interior, Justice, Social Affairs etc) - Researchers - Union stewards - Recruitment agencies, labour broker companies, employment agencies <p>In addition to experts, there are middlemen, facilitators and those who assist victims (private persons) who could be interviewed with the same thematic framework/template</p>				
Victim interviews	<p>Interviews with identified victims within a set thematic template</p> <p>In addition to victims, there are friends, relatives, acquaintances, witnesses and those who assist victims (private persons) who could be interviewed with the same thematic template</p>	<p>System of assistance for victims of trafficking (to facilitate access to victims)</p> <p>Identification and access to victims through court files, personal contacts etc</p> <p>Building of trust</p> <p>A common language (need to use interpreters)</p> <p>Strict adherence to ethical considerations and confidentiality/anonymity</p>	<p>First-hand, unique and subjective information on exploitation</p> <p>The only source of information on the whole trafficking process, including criminal justice services and victim assistance</p> <p>Information on hidden criminality</p> <p>Opportunity for victim to share their experiences</p>	<p>Risk of trauma to victims (and interviewers)</p> <p>Effect of trauma on the story (inconsistencies and memory-failure)</p> <p>Fear</p> <p>Security risks to victims (and interviewers)</p>	<p>Recorded (if possible) thematic interview</p> <p>Recorded (if possible) life-story interview</p> <p>Quantitative questionnaires to victims</p> <p>Coding and analysis</p> <p>Thematic analysis, discourse analysis,</p>

		<p>Suitable thematic interview template</p> <p>Selection of interviewers, sensitivity, interviewer training</p> <p>Informed consent</p>		<p>Subjective information, exaggeration, down-playing</p> <p>Difficulty for the victim to distinguish between authorities and researchers</p> <p>Language and cultural problems and issues with using interpreters</p> <p>Expectations of victims (remuneration, assistance/help)</p>	<p>narrative analysis</p> <p>Quantitative analysis of questionnaires</p>
Interviews with migrant workers	Interviews with returned or current migrant workers within a set thematic framework/template	<p>Identification and access to migrants through NGOs, work places, labour inspectorates, trade unions, media and social media, etc</p> <p>Building of trust</p> <p>A common language (need to use interpreters)</p> <p>Strict adherence to ethical considerations and confidentiality/anonymity</p>	<p>First-hand, unique and subjective information on experiences and possible exploitation</p> <p>Second-hand information on experiences of other migrant workers</p> <p>Subjective views on motivations to migrate and the migration process (recruitment, employment, conditions etc)</p>	<p>Subjective information</p> <p>Difficulty for the migrants to distinguish between authorities and researchers</p> <p>Language and cultural problems and issues with using interpreters</p> <p>Expectations of migrants (remuneration,</p>	<p>Recorded (if possible) thematic interview</p> <p>Recorded (if possible) life-story interview</p> <p>Quantitative questionnaires to migrant workers</p> <p>Coding and analysis</p>

		<p>Selection of interviewers, sensitivity, interviewer training</p> <p>Suitable thematic interview template</p> <p>Informed consent</p> <p>Migrants' status might affect their willingness to participate in research</p>	<p>Information on hidden criminality</p> <p>Opportunity for migrants to share their experiences</p>	<p>assistance/help, effect of research on overall migration policies and attitudes towards migrants)</p> <p>Risk of trauma to migrants</p> <p>Effect of trauma on the story (inconsistencies and memory-failure)</p> <p>Fear</p> <p>Security risks</p>	<p>Thematic analysis, discourse analysis, narrative analysis</p> <p>Quantitative analysis of questionnaire</p>
Interviews with perpetrators	<p>Interviews with convicted/charged/suspected perpetrators of human trafficking within a set thematic framework/template</p>	<p>Identification and access to perpetrators through media and social media, law enforcement authorities, court files, pre-trial investigation files, prisons, experts and victims, etc</p> <p>Building of trust</p> <p>A common language (need to use interpreters)</p> <p>Strict adherence to ethical considerations and confidentiality/anonymity</p>	<p>First-hand, unique and subjective information on the trafficking chain and process (recruitment, transport, exploitation), modus operandi</p> <p>Subjective views on motivations to exploit (opportunities, market)</p> <p>Second-hand information on experiences of other perpetrators, victims</p> <p>Information on hidden criminality</p>	<p>Too dangerous to interviewers</p> <p>Difficulties to identify and get access to respondents and get their consent</p> <p>Subjective information, inconsistencies, authenticity of the narrative, exaggeration</p>	<p>Recorded (if possible) thematic interview</p> <p>Recorded (if possible) life-story interview</p> <p>Quantitative questionnaires to perpetrators</p> <p>Coding and analysis</p> <p>Thematic analysis, discourse analysis, narrative analysis</p>

		<p>Suitable thematic interview template</p> <p>Selection of interviewers, sensitivity, interviewer training</p> <p>Security of interviewers and interviewees</p> <p>Informed consent</p>		<p>Difficulty for the perpetrator to distinguish between authorities and researchers</p> <p>Risk of trauma (to perpetrator and researcher)</p>	<p>Quantitative analysis of questionnaires</p>
<p>Interviews with employers</p>	<p>Interviews with employers who employ migrant workers within a set thematic framework/template</p> <p>E.g.:</p> <ul style="list-style-type: none"> - Ethnic restaurants - Construction industry - Cleaning - Social and health care - Seasonal work (e.g. agriculture) - Small factories - Transport - Metal industry, shipyards - Fishery and fish-processing - Food processing - Hospitality sector - Market/bazaar work - Farming, agriculture, berry picking - Recruitment and labour mediation agencies 	<p>Identification and access to employers through employer's organisations, trade unions, labour inspectorates, law enforcement authorities, media and social media, court files, pre-trial investigation files, experts and victims, etc</p> <p>Building of trust</p> <p>A common language (need to use interpreters)</p> <p>Strict adherence to ethical considerations and confidentiality/anonymity</p> <p>Suitable thematic interview template</p>	<p>First-hand, unique and subjective information on recruitment of migrant labour, transport, conditions of work</p> <p>Second-hand information on experiences of other employers, exploited migrants</p> <p>Subjective views on motivations to recruit and possibly exploit migrant workers</p> <p>Possible own first-hand information on migration and exploitation</p>	<p>Do not have relevant information or unwillingness to talk</p> <p>Language and cultural problems and issues with using interpreters (if the employer is also a migrant)</p> <p>Difficulty for the perpetrator to distinguish between authorities and researchers</p>	<p>Recorded (if possible) thematic interview</p> <p>Recorded (if possible) life-story interview</p> <p>Quantitative questionnaires to employers</p> <p>Coding and analysis</p> <p>Thematic analysis, discourse analysis, narrative analysis</p> <p>Quantitative analysis of questionnaires</p>

	- Clothing factories and sweatshops	Selection of interviewers, sensitivity, interviewer training Security of interviewers and interviewees Informed consent			
CRIMINAL JUSTICE SYSTEM					
Court judgements	Judgements/decisions of criminal courts, civil courts, labour courts/arbitration courts etc. concerning: <ul style="list-style-type: none"> - Trafficking in human beings - Enslaving - Fraud - Usury - Labour/work exploitation - Extortionate work discrimination - Labour/work discrimination - Violation of worker's rights - Arrangement of illegal immigration/smuggling - Etc. 	Knowledge about existing cases Access to decisions and files Research permits might be needed Open-mind to the possibility of trafficking cases existing under diverging crimes	Legally relevant information Factual information and diverge description of cases, including testimonies Court argumentation on the legal definition of the crime Information on case-law and precedents Witness statements	Differences in the way the decisions/judgements are written and structured Lack of guidelines, inconsistent knowledge, lack of details Differences in court data bases Difficult to access the data bases, non-transparent registration of cases Lack of relevant information Secondary, tertiary information	Text analysis Thematic analysis, typologies Dogmatic (legal) analysis Quantitative analysis of data

Pre-trial investigation materials and prosecution materials	<p>Information on the investigations by law enforcement (police, border guards, prosecution, tax and customs officials and prosecutors) into relevant cases, e.g.:</p> <ul style="list-style-type: none"> - Trafficking in human beings - Enslaving - Fraud - Usury - Labour/work exploitation - Extortionate work discrimination - Labour/work discrimination - Violation of worker's rights - Arrangement of illegal immigration/smuggling - Etc. 	<p>Knowledge about existing cases</p> <p>Access to decisions and files</p> <p>Research permits might be needed</p> <p>Open-mind to the possibility of trafficking cases existing under diverging crimes</p> <p>Selection of suitable cases</p>	<p>Detailed information on victims, witnesses and perpetrators</p> <p>Interrogation protocols with first-hand information on victims, witnesses and perpetrators (but constructed by the officials)</p> <p>A variety of material evidence</p>	<p>Lack of access at all (legal obstacles)</p> <p>If available, limits to using the data (secrecy)</p> <p>If available, sensitivity of the data (what details can be included)</p> <p>The information focuses on finding evidence, not necessarily a comprehensive description of the victim's or suspect's situation</p> <p>Large amount of information, difficult to identify relevant data</p>	<p>Text analysis</p> <p>Content analysis</p> <p>Thematic analysis, typologies</p> <p>Discourse analysis</p> <p>Quantitative analysis of data</p>
INSPECTION REPORTS AND PERMIT AUTHORITIES					
Labour inspection reports	<p>Information on the labour market, violations of labour law, workers' rights and guidelines for improvement</p>	<p>Access to files, data bases</p> <p>Availability of inspection reports and relevant information</p>	<p>Background information on issues in the labour market (especially concerning migrant workers)</p> <p>Information on irregular employment, working conditions and violations</p>	<p>Differences in the way the reports are written and structured</p> <p>Lack of guidelines for reporting, inconsistent knowledge, lack of</p>	<p>Text analysis</p> <p>Content analysis</p> <p>Thematic analysis</p> <p>Discourse analysis</p> <p>Typologies</p> <p>Quantitative</p>

			of workers' rights	<p>details</p> <p>Difficult to access the data bases</p> <p>Difficult to use the data bases</p> <p>Lack of unified recording and storage of information</p> <p>Lack of relevant information</p> <p>Secondary, tertiary information</p>	analysis of data
Reports by ombudsmen, health, tax, social and welfare authorities as well as civil society actors	Information on the conditions of migrant workers in a given country	<p>Access to files, data bases</p> <p>Availability of inspection reports and relevant information</p> <p>Research permits might be needed</p>	<p>Background information on the conditions of issues in the labour market (especially concerning migrant workers)</p> <p>Information on irregular employment, working conditions and violations of workers' rights</p>	<p>Fragmentary data and lack of cooperation and sharing of information between authorities</p> <p>Differences in the way the reports are written and structured</p> <p>Lack of guidelines for reporting, inconsistent knowledge, lack of details</p>	<p>Text analysis</p> <p>Content analysis</p> <p>Discourse analysis</p> <p>Thematic analysis</p> <p>Typologies</p> <p>Quantitative analysis of data</p>

				<p>Difficult to access the data bases</p> <p>Difficult to use the data bases</p> <p>Lack of unified recording and storage of information</p> <p>Lack of relevant information</p> <p>Secondary, tertiary information</p>	
OTHER SOURCES OF INFORMATION					
Media	<p>Stories of exploitation, experiences of migrant workers, description of working conditions, victim assistance, criminal justice efforts etc</p> <p>Sources, e.g.:</p> <ul style="list-style-type: none"> - Newspapers (daily, weekly, national, local, regional) - Trade union magazines - Employer union magazines - Special magazines: newsletters, bulletins - Advertising papers - Ethnic (other language) newspapers 	<p>Access to newspapers (cost)</p> <p>Access to newspaper archives</p>	<p>Cover events and incidents not possible to locate/find anywhere else</p> <p>Interviews with victims, perpetrators, people involved, experts</p> <p>Description of the situation</p> <p>Brings cases to public attention and the attention of authorities</p> <p>Investigative journalism</p> <p>Helps identify other relevant cases and data (pre-trial investigation)</p>	<p>Do not offer an analysis of the information</p> <p>Sensationalist information</p> <p>Time and cost of going through archives</p> <p>Lack of electronic archives</p>	<p>Text analysis</p> <p>Content analysis</p> <p>Discourse analysis</p> <p>Thematic analysis</p> <p>Typologies</p> <p>Quantitative analysis of data</p>

	<ul style="list-style-type: none"> - TV-broadcasts - Radio broadcasts - Internet: newspostals, advertising portals, blogs, discussion fora, social media 		<p>and courts)</p> <p>Helps identify potential interviewees</p>		
Expert meetings	Gathering of people with knowledge of trafficking for forced labour or representing institutions dealing (or supposedly dealing) with the issue	<p>Careful identification, selection and motivation of experts/participants who have information on concrete cases</p> <p>Access to experts</p> <p>Building of trust and motivation to participate (importance of personal contacts and institutional credibility)</p> <p>Participants prepare prior to the meeting (each participant presents available information and the viewpoint of the institution)</p>	<p>Creation of network and awareness-raising</p> <p>Identification of interviewees</p> <p>Face-to-face interaction with representatives of a variety of sectors</p> <p>Possibility that the expert meeting results in enhanced cooperation between actors</p>	<p>Have no information, not willing or allowed to share information</p> <p>Unmotivated to participate</p> <p>Hearsay, only second or third-hand information</p>	<p>Notes, reports and memoranda from the meeting</p> <p>Recording (if possible and if it doesn't affect the meeting)</p>

Annex 2: Infopaper for Expert Interviews (Template)

Labour Exploitation and Trafficking for Forced Labour

The EU-funded project *Trafficking for Forced Labour and Labour Exploitation (FLEX) - towards increased knowledge, cooperation and exchange of information in Estonia, Finland and Poland* was started in November 2009. The FLEX project is coordinated by the European Institute for Crime Prevention and Control (HEUNI) in Finland. The aim of this project is to map the existence of labour exploitation that can be defined as trafficking for forced labour in Estonia, Finland and Poland. The aim of the project is to increase the knowledge of trafficking for forced labour and labour exploitation in Finland/Estonia/Poland and to strengthen cooperation and exchange of information nationally and internationally. The essential goal of the project is also to develop a data collection method for more systematic collection of information on trafficking for forced labour and related crimes. The country report (in Finnish/Estonian/Polish) and the joint 3-country report (in English) are to be published in early 2011.

Interviewing experts who deal with labour exploitation and trafficking for forced labour is one part of the project. We are interested in discussing concrete cases of labour exploitation that you may have encountered in your work and the types of labour exploitation and trafficking for forced labour that citizens of Finland/Estonia/Poland have experienced in other countries, as well as discuss types of exploitation of migrant labour within Finland/Estonia/Poland. We want to know which sectors are particularly vulnerable to exploitation, where are the victims from, how they are recruited, exploited and forced to continue working and what happens to the cases after they have been identified. We would also like to talk about possible data sources, how data is collected and recorded and where we can find additional information on labour exploitation and forced labour.

The information gained from the expert interviews is confidential and professional discretion is maintained. Interviews are reported in the final publications so that the interviewees or their stories cannot be recognised.

If you have any questions about the FLEX project or the interviews, please contact our staff.

Kind regards,

Name

Title

Phone number

E-mail address

Annex 3: Thematic Interview Template for Expert Interviews

1. Have cases of exploitation of (migrant) labour come to your attention - either from the country, to the country or within the country? Please give examples and describe the cases.

ADDITIONAL QUESTIONS IF NEEDED:

- a. What type of exploitation is involved?
- b. Who are the victims: where are they from, are they minors/adults, males/females, can you describe their background?
- c. What is the recruitment process: how do these people find the employment, are there mediators/facilitators involved, fees, subcontracting chains etc; how is the transportation organised; do they transit any countries; what kind of documentation do they have; are they posted workers/leased workers?
- d. Who are the perpetrators/exploiters: where are they from; men/women; part of some larger organisation?

2. Which economic sectors are especially affected by such labour exploitation?

3. How do employers force the employees to work?

ADDITIONAL QUESTIONS IF NEEDED:

- a. What are the methods used?
- b. How are the employees kept under control?
- c. Do employers use violence or threats, or other forms of control?

4. What happened to the workers who were exploited?

ADDITIONAL QUESTIONS IF NEEDED:

- a. Did you help them and how?
- b. Where do the victims end up?
- c. Do they want to stay in Finland/Estonia/Poland?

5. What legislative terms do you use in describing these cases?

ADDITIONAL QUESTIONS IF NEEDED:

- a. Do you think there are forced labour situations involved in these cases of exploitation? (Note to interviewer: if the concept of forced labour is unclear to the respondent, suggest elements of forced labour)
- b. Do you think these situations include elements of trafficking in human beings? (Note to interviewer: if the concept of trafficking is unclear to the respondent, suggest elements of the crime)
- c. How have you recorded/registered these cases?

6. Are you familiar with the national legislation regarding the misuse of foreign labour/human trafficking?

ADDITIONAL QUESTIONS IF NEEDED:

- a. Do you think the current legislation (criminal law and labour law) is sufficient?
- b. Do you find the definitions adequate to deal with the issue?

7. Do you think the assistance and support system for victims of trafficking is sufficient?

ADDITIONAL QUESTIONS IF NEEDED:

- a. Do you think there is need for additional mechanisms to assist victims?
- b. Do you think responses need to be improved, and if so, how?

8. Do you think the relevant actors and authorities are able to recognise/identify victims of trafficking for forced labour?

9. Do victims contact your organisation directly or do you do outreach work to find victims/exploited persons?

10. Have these cases of exploitation been reported to any (law enforcement) authority? If yes, how does law enforcement deal with these cases?

11. Has your organisation/entity collected information on various types of labour exploitation, forced labour, trafficking for forced labour? (also: exploitation of migrant labour etc)?

12. Do you keep any statistics on this issue, any registries, any case files?

13. In order for us to find out more about this phenomenon would you like to suggest to us any additional sources of information or people to interview?

14. How has the economic downturn affected the (labour exploitation/trafficking/forced labour) situation?

15. Why does such labour exploitation exist in Finland/Estonia/Poland? What do you think are the underlying reasons for this exploitation? Why does this phenomenon continue to exist?

16. Is there anything else you would like to add or do you have any additional ideas regarding what should be done to combat labour exploitation and trafficking for forced labour?

Annex 4: Infopaper for Victim Interviews (Template)

The EU-funded project *Trafficking for Forced Labour and Labour Exploitation (FLEX) – towards increased knowledge, cooperation and exchange of information in Estonia, Finland and Poland* commenced in November 2009. The FLEX project is coordinated by the European Institute for Crime Prevention and Control (HEUNI), located in Finland. The project aims to map the existence of labour exploitation that may amount to trafficking for forced labour in Estonia, Finland and Poland. The objective is to increase the knowledge of trafficking for forced labour and labour exploitation in Finland/Estonia/Poland and to strengthen cooperation and exchange of information nationally and internationally. The country report (in Finnish/Estonian/Polish) and the joint 3-country report (in English) are to be published in early 2011.

Interviewing Estonian/Polish citizens who have experienced labour exploitation abroad or migrants who have experienced labour exploitation within Finland/Estonia/Poland is one part of the project. We are interested to know how you found out about the job, what your working conditions were like and how the situation was resolved. [Add/remove specific questions/points according to your local needs.] Your answers will give us valuable information and we are very thankful for your participation.

The information gained from interviews will be treated in a confidential way. We will not share the information with outsiders and will follow all relevant standards of data management. In the final publication the information will be presented in such a manner that no individual interviewees can be recognised. Participation in the interviewing process is voluntary. You are free to withdraw from the interview at any point or decline to answer any particular question if you want.

If you have any questions about the FLEX project or the interviews, please contact our staff.

Kind regards,
Name
Title
Phone number
E-mail address

Annex 5: Thematic Interview Template for Victim Interviews

Can you tell me how long you have been in Finland/Poland/Estonia/Country X?

How long have you worked in Finland/Poland/Estonia/Country X? Where have you worked?

Recruitment

How did you hear about the job? How did you end up working there?

Did get the job through an employment agency or mediation company?

Did you have to pay something (e.g. a mediation fee) to get the job? How much did you pay and to whom?

How did you get a work permit? Who obtained it for you? Did you pay for it?

How did you travel to Finland/Poland/Estonia/Country X? Did you buy the tickets yourself?

Did you have to borrow money to be able to travel to Finland/Poland/Estonia/Country X? How much? Where did you borrow the money?

Did someone meet you at the airport/railway station/harbour etc? Who?

Work

What kind of work did you do? Where?

Did the work/employment correspond to what you were promised?

What were your working hours? What time of the day and how many hours per day? How many days per month?

How many employees were there in the same work place?

What were the working conditions like?

What was your employer like? How did you communicate with him (especially if no common language)?

Were you threatened (with violence, exportation, police etc.)?

Did the employer use violence against you?

Were you able to quit the job at will?

Were you forced to keep working? How?

Did you have your passport/identification papers with you at all times?

Did you tell anyone about the situation?

Salary and employment contract

Did you have a written and signed employment contract? Or just an oral agreement?

How was the salary paid (in cash, to bank account etc.)?

How often where you paid the salary?

Can you tell how much salary you received?

Where you satisfied with the salary?

Did you ever have problems getting the salary?

Was the salary the same as promised?

Did you pay any taxes?

Did you have to pay any part of your salary back to the employer?

Were there any expenses deducted directly from your wages?

Were you able to save anything from your salary?

Did you send money back to your family in your home country?

Housing

Where did you stay/live?

How many of you lived there?

How was the housing arranged?

How much did you pay for the housing?

Were you satisfied with the living conditions?

Did you think you had to pay too much for living there?

How did you commute? (How did you go to work?)

Free time

Did you have any days off?

Were you able to do anything you wanted during your free time or did you have to ask permission from the employer?

Did you get to know any local people? (Did you learn the local language?)

Were you in touch with your family and friends in your home country?

How did your employment end?

Getting help

Did you seek help yourself? Where?

Did you get help? What help did you get?

Are you satisfied with the help you got?

How did the authorities hear about the situation?

Do you know if your case has been investigated and/or prosecuted? If so, do you know how the case is proceeding?

Finally

Have you heard about others who have had problems while working in Finland/Poland/Estonia/Country X?

Do you want to stay in Finland/Poland/Estonia/Country X or do you want to return to your home country or move to another country and work there?

Is there anything else you would like to add?

Annex 6: Questionnaire of analysis of criminal cases in Poland

1. Basic information about offender (age, gender, nationality, educational background, criminal record, etc.)
2. Basic information about victim
 - a) Age
 - b) Gender
 - c) Nationality
 - d) Educational background and profession
 - e) Family situation before he/she became a victim of forced labour
 - f) Did the victim know the local language?
3. Information about the victim's work
 - a) In which economic sector was the victim exploited?
 - b) How was the victim exploited:
 - i. Use of violence or threats of violence against the victim (type of violence, physical/sexual, also threats against family members)
 - ii. Restriction of freedom of movement at the workplace
 - iii. Threats of denunciation to authorities (if irregular status)
 - iv. Debts: were possible costs of transport and recruitment deducted from the victim's salary? Did the victim pay the employer excessive amounts for accommodation, food etc?
 - v. Wages/salary: how much did the victim earn, was the salary paid regularly or not, did the victim receive in-kind payments, were there unlawful deductions from the wage?
 - vi. Were the identity documents of the victim taken by the employer, did the victim have access to his/her documents?
 - c) What were the working conditions?
 - d) How many hours did the victim have to work? Including overtime and weekend work
 - e) Did the victim get work/social protection (contract, insurance, etc.)?
 - f) What was the legal status of the victim at the destination country?
 - g) Were the victim's documents confiscated?
 - h) What were the conditions of the victim's accommodation?
4. How and by whom was the victim identified?
5. What happened to the victim after identification/after the trial?
6. What kind of assistance did the victim receive?
7. Did the victim receive compensation?

8. Was international cooperation used during investigations?
9. Final sentence (if the case is ended with a final court sentence)
10. Brief description of the case facts

Annex 7: Questionnaire for the interviews with the victims of forced labour and for court cases analysis in Poland

1. Brief description of the case facts.
2. Basic information about victim.
 - a) Age
 - b) Gender
 - c) Nationality
 - d) Educational background and profession
 - e) Family situation before he/she stay a victim of forced labour
 - f) Did the victim know the local language?
3. Information about the victim's work
 - a) Working conditions
 - b) How long was the victim exploited?
 - c) Working hours (how many)
 - d) Work/social protection (contract, insurance, etc.)
 - e) Legal status of the victim at the destination country
 - f) Were the victim's documents confiscated?
4. Conditions of the victim's accommodations.
5. How and by whom was the victim identified?
6. What happened to the victim after identification/after the trial?
7. What kind of assistance did the victim receive?
8. Did the victim receive compensation?